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Subtitle B—Regulations Relating to Money and Finance (Continued)

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PART 501—REPORTING, PROCEDURES AND PENALTIES REGULATIONS

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AUTHORITY: 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 22 U.S.C. 2370(a), 6009, 6032, 7205; 28 U.S.C. 2461 note; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706; 50 U.S.C. App. 1–44.

SOURCE: 62 FR 45101, Aug. 25, 1997, unless otherwise noted.

Subpart A—Relation of This Part to Other Parts in This Chapter

§ 501.101 Relation of this part to other parts in this chapter.

This part sets forth standard reporting and recordkeeping requirements and license application and other procedures governing transactions regulated pursuant to other parts codified in this chapter, as well as to economic sanctions programs for which implementation and administration are delegated to the Office of Foreign Assets Control. Substantive prohibitions and policies particular to each economic sanctions program are not contained in this part but are set forth in the particular part of this chapter dedicated to that program, or, in the case of economic sanctions programs not yet implemented in regulations, in the applicable executive order or other authority. License application procedures and reporting requirements set forth in this part govern transactions undertaken pursuant to general or specific licenses. The criteria for general and specific licenses pertaining to a particular economic sanctions program are set forth in subpart E of the individual parts in this chapter. Statements of licensing policy contained in subpart E of the individual parts in this chapter, however, may contain additional information collection provisions that require production of specified documentation unique to a given general license or statement of licensing policy.

[62 FR 52494, Oct. 8, 1997]

Subpart B—Definitions

§ 501.301 Definitions.

Definitions of terms used in this part are found in subpart C of the part within this chapter applicable to the relevant application, record, report, procedure or transaction. In the case of economic sanctions programs for which implementation and administration are delegated to the Office of Foreign Assets Control but for which regulations have not yet been issued, the definitions of terms in this part are governed by definitions contained in the implementing statute or Executive order.

Subpart C—Reports

§ 501.601 Records and recordkeeping requirements.

Except as otherwise provided, every person engaging in any transaction subject to the provisions of this chapter shall keep a full and accurate record of each such transaction engaged in, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least 5 years after the date of such transaction. Except as otherwise provided, every person holding property blocked pursuant to the provisions of this chapter or funds transfers retained pursuant to § 596.504(b) of this chapter shall keep a full and accurate record of such property, and such record shall be available for examination for the period of time that such property is blocked and for at least 5 years after the date such property is unblocked.

NOTE: See subpart F of part 597 for the relationship between this section and part 597.

[62 FR 45101, Aug. 25, 1997, as amended at 62 FR 52494, Oct. 8, 1997]

§ 501.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Director, Office of Foreign Assets Control, complete information relative to any transaction, regardless of whether such transaction is effected pursuant to license or otherwise, subject to the provisions of this chapter or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect. The Director may require that such reports include the production of any books of account, contracts, letters or other papers connected with any such transaction or property, in the custody or control of

the persons required to make such reports. Reports with respect to transactions may be required either before or after such transactions are completed. Except as provided in parts 596 and 597, the Director may, through any person or agency, conduct investigations, hold hearings, administer oaths, examine witnesses, receive evidence, take depositions, and require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under investigation, regardless of whether any report has been required or filed in connection therewith.

NOTE: See subpart F of part 597 for the relationship between this section and part 597.

[62 FR 45101, Aug. 25, 1997, as amended at 62 FR 52494, Oct. 8, 1997]

§ 501.603 Reports on blocked property.

(a) *Who must report*—(1) *Holders of blocked property*. Any person, including a financial institution, holding property blocked pursuant to this chapter must report. The requirement includes financial institutions that receive and block payments or transfers. This requirement is mandatory and applies to all U.S. persons (or persons subject to U.S. jurisdiction in the case of parts 500 and 515 of this chapter) who have in their possession or control any property or interests in property blocked pursuant to this chapter.

(2) *Primary responsibility to report*. A report may be filed on behalf of a holder of blocked property by an attorney, agent, or other person. Primary responsibility for reporting blocked property, however, rests with the actual holder of the property, or the person exercising control over property located outside the United States, with the following exceptions: primary responsibility for reporting any trust assets rest with the trustee; and primary responsibility for reporting real property rests with any U.S. co-owner, legal representative, agent, or property manager in the United States. No person is excused from filing a report by reason of the fact that another person has submitted a report with regard to the same property, except upon actual knowledge of the report filed by such other person. Reports filed are regarded as privileged and confidential.

(3) *Financial institutions*. For purposes of this section, the term ''financial institution'' shall include a banking institution, domestic bank, United States depository institution, financial institution, or U.S. financial institution, as those terms are defined in the applicable part of this chapter.

(b) *What must be reported*—(1) *Initial reports*—(i) *When reports are due*. Reports are required to be filed within 10 business days from the date that property becomes blocked. This reporting requirement includes payments or transfers that are received and blocked by financial institutions.

(ii) *Contents of reports*. Initial reports on blocked property shall describe the owner or account party, the property, its location, any existing or new account number or similar reference necessary to identify the property, actual or estimated value and the date it was blocked, and shall include the name and address of the holder, along with the name and telephone number of a contact person from whom compliance information can be obtained. If the report is filed by a financial institution and involves the receipt of a payment or transfer of funds which are blocked by the financial institution, the report shall also include a photocopy of the payment or transfer instructions received and shall confirm that the payment has been deposited into a new or existing blocked account which is labeled as such and is established in the name of, or contains a means of clearly identifying the interest of, the individual or entity subject to blocking pursuant to the requirements of this chapter.

(2) *Annual reports*—(i) *When reports are due*. A comprehensive report on all blocked property held as of June 30 of the current year shall be filed annually by September 30. The first annual report is due September 30, 1997.

(ii) *Contents of reports*. Annual reports shall be filed using Form TDF 90–22.50, Annual Report of Blocked Property. Copies of Form TDF 90–22.50 may be obtained directly from the Office of Foreign Assets Control, by calling the fax-on-demand service maintained by the Office of Foreign Assets Control at 202/

622–0077, or by downloading the form from the ''OFAC Press Releases and Miscellaneous Documents'' file library (''FAC_MISC'') located on the Government Printing Office's Federal Bulletin Board Online via GPO Access (Internet site: *http://fedbbs.access.gpo.gov/libs/fac_misc.htm*). Photocopies of the report form may be used. Requests to submit the information required on Form TDF 90–22.50 in an alternative format developed by the reporter are invited and will be considered by the Office of Foreign Assets Control on a case-by-case basis. A copy of reports filed using form TDF 90–22.50 or in alternative formats must be retained for the reporter's records.

(c) *Reports on retained funds pursuant to § 596.504(b) of this chapter*. The reporting requirements set forth in this section are applicable to any financial institution retaining funds pursuant to § 596.504(b) of this chapter, except that the account name shall reflect the name of the person whose interest required retention of the funds.

(d) *Where to report*. All reports must be filed with the Office of Foreign Assets Control, Compliance Programs Division, U.S. Treasury Department, 1500 Pennsylvania Avenue NW.—Annex, Washington, DC 20220.

NOTE: See subpart F of part 597 for the relationship between this section and part 597.

[62 FR 45101, Aug. 25, 1997, as amended at 62 FR 52495, Oct. 8, 1997]

§ 501.604 Reports by U.S. financial institutions on rejected funds transfers.

(a) *Who must report*. Any financial institution that rejects a funds transfer where the funds are not blocked under the provisions of this chapter, but where processing the transfer would nonetheless violate, or facilitate an underlying transaction that is prohibited under, other provisions contained in this chapter, must report. For purposes of this section, the term ''financial institution'' shall include a banking institution, depository institution or United States depository institution, domestic bank, financial institution or U.S. financial institution, as those terms are defined in the applicable part of this chapter.

(b) *Rejected transfers*. Examples of transactions involving rejected funds transfers include funds transfer instructions:

(1) Referencing a blocked vessel but where none of the parties or financial institutions involved in the transaction is a blocked person;

(2) Sending funds to a person in Iraq;

(3) Transferring unlicensed gifts or charitable donations from the Government of Syria to a U.S. person;

(4) Crediting Iranian accounts on the books of a U.S. financial institution; and

(5) Making unauthorized transfers from U.S. persons to Iran or the Government of Iran.

(c) *When reports are due*. Reports are required to be filed within 10 business days by any financial institution rejecting instructions to execute payments or transfers involving underlying transactions prohibited by the provisions of this chapter.

(d) *What must be reported*. The report shall include the name and address of the transferee financial institution, the date of the transfer, the amount of the payment transfer, and a photocopy of the payment or transfer instructions received, and shall state the basis for the rejection of the transfer instructions. The report shall also provide the name and telephone number of a contact person at the transferee financial institution from whom compliance information may be obtained.

(e) *Where to report*. Reports must be filed with the Office of Foreign Assets Control, Compliance Programs Division, U.S. Treasury Department, 1500 Pennsylvania Avenue NW.—Annex, Washington, DC 20220.

[62 FR 45101, Aug. 25, 1997, as amended 70 FR 34061, June 13, 2005]

§ 501.605 Reports on litigation, arbitration, and dispute resolution proceedings.

(a) U.S. persons (or persons subject to the jurisdiction of the United States in the case of parts 500 and 515 of this chapter) participating in litigation, arbitration, or other binding alternative dispute resolution proceedings in the United States on behalf of or against persons whose property or interests in property are blocked or whose funds

have been retained pursuant to § 596.504(b) of this chapter, or when the outcome of any proceeding may affect blocked property or retained funds, must:

(1) Provide notice of such proceedings upon their commencement or upon submission or receipt of documents bringing the proceedings within the terms of the introductory text to this paragraph (a);

(2) Submit copies of all pleadings, motions, memoranda, exhibits, stipulations, correspondence, and proposed orders or judgments (including any proposed final judgment or default judgment) submitted to the court or other adjudicatory body, and all orders, decisions, opinions, or memoranda issued by the court, to the Chief Counsel, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220, within 10 days of filing, submission or issuance. This paragraph (a)(2) shall not apply to discovery requests or responses, documents filed under seal, or requests for procedural action not seeking action dispositive of the proceedings (such as requests for extension of time to file); and

(3) Report by immediate facsimile transmission to the Chief Counsel, Office of Foreign Assets Control, at facsimile number 202/622–1911, the scheduling of any hearing or status conference in the proceedings whenever it appears that the court or other adjudicatory body may issue an order or judgment in the proceedings (including a final judgment or default judgment) or is considering or may decide any pending request dispositive of the merits of the proceedings or of any claim raised in the proceedings.

(b) The reporting requirements of paragraph (a) of this section do not apply to proceedings to which the Office of Foreign Assets Control is a party.

(c) Persons initiating proceedings subject to the reporting requirements of this section must notify the court or other adjudicatory body of the restrictions set forth under the applicable part in this chapter governing the transfer of blocked property or funds retained pursuant to § 596.504(b) of this chapter, including the prohibition on any unlicensed attachment, judgment, decree, lien, execution, garnishment or other judicial process with respect to any property in which, on or after the applicable effective date, there existed an interest of any person whose property and property interests were subject to blocking pursuant to this chapter or were subject to retention pursuant to § 596.504(b) of this chapter.

§ 501.606 Reporting and recordkeeping requirements applicable to economic sanctions programs.

The reporting and recordkeeping requirements set forth in this subpart are applicable to economic sanctions programs for which implementation and administration have been delegated to the Office of Foreign Assets Control.

Subpart D—Trading With the Enemy Act (TWEA) Penalties

SOURCE: 68 FR 53642, Sept. 11, 2003, unless otherwise noted.

§ 501.700 Applicability.

This subpart is applicable only to those parts of chapter V promulgated pursuant to the TWEA, which include parts 500, 505, and 515.

§ 501.701 Penalties.

(a) Attention is directed to section 16 of the TWEA, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), which provides that:

(1) Persons who willfully violate any provision of TWEA or any license, rule, or regulation issued thereunder, and persons who willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of TWEA shall, upon conviction, be fined not more than $1,000,000 or, if an individual, be fined not more than $100,000 or imprisoned for not more than 10 years, or both; and an officer, director, or agent of any corporation who knowingly participates in such violation shall, upon conviction, be fined not more than $100,000 or imprisoned for not more than 10 years, or both.

(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, concerned in a violation of TWEA may upon conviction be forfeited to the United States Government.

(3) The Secretary of the Treasury may impose a civil penalty of not more than $65,000 per violation on any person who violates any license, order, or regulation issued under TWEA.

NOTE TO PARAGRAPH (a)(3). The current $65,000 civil penalty cap may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

(4) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation subject to a civil penalty issued pursuant to TWEA shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

(b) The criminal penalties provided in TWEA are subject to increase pursuant to 18 U.S.C. 3571 which, when read in conjunction with section 16 of TWEA, provides that persons convicted of violating TWEA may be fined up to the greater of either $250,000 for individuals and $1,000,000 for organizations or twice the pecuniary gain or loss from the violation.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

[68 FR 53642, Sept. 11, 2003, as amended at 68 FR 61361, Oct. 28, 2003]

§ 501.702 Definitions.

(a) *Chief Counsel* means the Chief Counsel (Foreign Assets Control), Office of the General Counsel, Department of the Treasury.

(b) *Day* means calendar day. In computing any period of time prescribed in or allowed by this subpart, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or Federal legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or Federal legal holiday. Intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation when the period of time prescribed or allowed is seven days or less, not including any additional time allowed for service by mail. If on the day a filing is to be made, weather or other conditions have caused the designated filing location to close, the filing deadline shall be extended to the end of the next day that the filing location is not closed and that is not a Saturday, a Sunday, or a Federal legal holiday. If service is made by mail, three days shall be added to the prescribed period for response.

(c) *Department* means the Department of the Treasury.

(d) *Director* means the Director of the Office of Foreign Assets Control, Department of the Treasury.

(e) *Ex Parte Communication* means any material oral or written communication not on the public record concerning the merits of a proceeding with respect to which reasonable prior notice to all parties is not given, on any material matter or proceeding covered by these rules, that takes place between: A party to the proceeding, a party's counsel, or any other interested individual; and the Administrative Law Judge or Secretary's designee handling that proceeding. A request to learn the status of a proceeding does not constitute an ex parte communication; and settlement inquiries and discussions do not constitute ex parte communications.

(f) *General Counsel* means the General Counsel of the U.S. Department of the Treasury.

(g) *Order of Settlement* means a written order issued by the Director terminating a civil penalty action. An Order of Settlement does not constitute an agency decision that any violation took place.

(h) *Order Instituting Proceedings* means a written order issued by the Director to initiate a civil penalty hearing.

(i) *Prepenalty Notice* means a written notification from the Director informing a respondent of the alleged violation(s) and the respondent's right to respond.

(j) *Penalty Notice* means a written notification from the Director informing a respondent that the Director has made a finding of violation and, absent a request for a hearing, will impose a civil monetary penalty.

(k) *Proceeding* means any agency process initiated by an ''Order Instituting Proceedings,'' or by the filing of a petition for review of an Administrative Law Judge's decision or ruling.

(l) *Respondent* means any individual alleged by the Director to have violated a TWEA-based sanctions regulation.

(m) *Secretary's designee* means a U.S. Treasury Department official delegated responsibility by the Secretary of the Treasury to consider petitions for review of Administrative Law Judge decisions made in civil penalty hearings conducted pursuant to this subpart.

(n) *Secretary* means the Secretary of the Treasury.

§ 501.703 Overview of civil penalty process and construction of rules.

(a) The administrative process for enforcing TWEA sanctions programs proceeds as follows:

(1) The Director of the Office of Foreign Assets Control will notify a suspected violator (hereinafter ''respondent'') of an alleged violation by issuing a ''Prepenalty Notice.'' The Prepenalty Notice shall describe the alleged violation(s) and include a proposed civil penalty amount.

(2) The respondent will have 60 days from the date the Prepenalty Notice is served to make a written presentation either defending against the alleged violation or admitting the violation. A respondent who admits a violation may offer information as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(3) Absent a settlement agreement or a finding that no violation occurred, the Director of the Office of Foreign Assets Control will issue a ''Penalty Notice.'' The respondent will have 30 days from the date of service to either pay the penalty or request a hearing.

(4) If the respondent requests a hearing, the Director of the Office of Foreign Assets Control will have two options:

(i) The Director may issue an ''Order Instituting Proceedings'' and refer the matter to an Administrative Law Judge for a hearing and decision; or

(ii) The Director may determine to discontinue the penalty action based on information presented by the respondent.

(5) Absent review by a Secretary's designee, the decision of the Administrative Law Judge will become the final decision of the Department without further proceedings.

(6) If review is taken by a Secretary's designee, the Secretary's designee reaches the final decision of the Department.

(7) A respondent may seek judicial review of the final decision of the Department.

(b) *Construction of rules.* The rules contained in this subpart shall be construed and administered to promote the just, speedy, and inexpensive determination of every action. To the extent there is a conflict between the rules contained in this subpart and a procedural requirement contained in any statute, the requirement in the statute shall control.

§ 501.704 Appearance and practice.

No person shall be represented before the Director in any civil penalty matter, or an Administrative Law Judge or the Secretary's designee in a civil penalty hearing, under this subpart except as provided in this section.

(a) *Representing oneself.* In any proceeding, an individual may appear on his or her own behalf.

(b) *Representative.* Upon written notice to the Director,

(1) A respondent may be represented by a personal representative. If a respondent wishes to be represented by counsel, such counsel must be an attorney at law admitted to practice before the Supreme Court of the United States, the highest court of any State, commonwealth, possession, or territory of the United States, or the District of Columbia;

(2) A duly authorized member of a partnership may represent the partnership; and

(3) A bona fide officer, director, or employee of a corporation, trust or association may represent the corporation, trust or association.

(c) *Director representation.* The Director shall be represented by members of the Office of Chief Counsel or any other counsel specifically assigned by the General Counsel.

(d) *Conflicts of interest*—(1) *Conflict of interest in representation.* No individual shall appear as representative for a respondent in a proceeding conducted pursuant to this subpart if it reasonably appears that such representation may be materially limited by that representative's responsibilities to a third person, or by that representative's own interests.

(2) *Corrective measures.* An Administrative Law Judge may take corrective measures at any stage of a proceeding to cure a conflict of interest in representation, including the issuance of an order limiting the scope of representation or disqualifying an individual from appearing in a representative capacity for the duration of the proceeding.

§ 501.705 Service and filing.

(a) *Service of Prepenalty Notice, Penalty Notice, Acknowledgment of Hearing Request and Order Instituting Proceedings.* The Director shall cause any Prepenalty Notice, Penalty Notice, Acknowledgment of Hearing Request, Order Instituting Proceedings, and other related orders and decisions, or any amendments or supplements thereto, to be served upon the respondent.

(1) *Service on individuals.* Service shall be complete:

(i) Upon the date of mailing by first class (regular) mail to the respondent at the respondent's last known address, or to a representative authorized to receive service, including qualified representatives noticed to the Director pursuant to § 501.704. Absent satisfactory evidence in the administrative record to the contrary, the Director may presume that the date of mailing is the date stamped on the first page of the notice or order. The respondent may rebut the presumption that a notice or order was mailed on the stamped mailing date only by presenting evidence of the postmark date on the envelope in which the notice or order was mailed;

(ii) Upon personal service on the respondent; or leaving a copy at the respondent's place of business with a clerk or other person in charge thereof; or leaving a copy at the respondent's dwelling house or usual place of abode with a person at least 18 years of age then residing therein; or with any other representative authorized by appointment or by law to accept or receive service for the respondent, including representatives noticed to the Director pursuant to § 501.704; and evidenced by a certificate of service signed and dated by the individual making such service, stating the method of service and the identity of the individual with whom the notice or order was left; or

(iii) Upon proof of service on a respondent who is not resident in the United States by any method of service permitted by the law of the jurisdiction in which the respondent resides or is located, provided the requirements of such foreign law satisfy due process requirements under United States law with respect to notice of administrative proceedings, and where applicable laws or intergovernmental agreements or understandings make the methods of service set forth in paragraphs (a)(1)(i) and (ii) of this section inappropriate or ineffective for service upon the nonresident respondent.

(2) *Service on corporations and other entities.* Service is complete upon delivering a copy of the notice or order to a partner, bona fide officer, director, managing or general agent, or any other agent authorized by appointment or by law to receive such notice, by any method specified in paragraph (a)(1) of this section.

(b) *Service of responses to Prepenalty Notice, Penalty Notice, and requests for a hearing.* A respondent shall serve a response to a Prepenalty Notice and any request for a hearing on the Director through the Chief of Civil Penalties, Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue, NW., Washington DC 20220, with the envelope prominently marked ''Urgent: Part 501 Action.'' Service shall be complete upon the date of mailing, as evidenced by the post-mark date on the envelope, by first class (regular) mail.

(c) *Service or filing of papers in connection with any hearing by an Administrative Law Judge or review by the Secretary's designee*—(1) *Service on the Director and/or each respondent.* (i) Each paper, including each notice of appearance, written motion, brief, petition for review, statement in opposition to petition for review, or other written communication, shall be served upon the Director and/or each respondent in the proceeding in accordance with paragraph (a) of this section; provided, however, that no service shall be required in the case of documents that are the subject of a motion seeking a protective order to limit or prevent disclosure to another party.

(ii) Service upon the Director shall be made through the Chief Counsel (Foreign Assets Control), U.S. Treasury Department, 1500 Pennsylvania Avenue, NW., Washington, DC 20220, with the envelope prominently marked ''Urgent: Part 501 Proceeding.''

(iii) Service may be made:

(A) As provided in paragraph (a) of this section;

(B) By mailing the papers through the U.S. Postal Service by Express Mail; or

(C) By transmitting the papers by facsimile machine where the following conditions are met:

(*1*) The persons serving each other by facsimile transmission have agreed to do so in a writing, signed by each party, which specifies such terms as they deem necessary with respect to facsimile machine telephone numbers to be used, hours of facsimile machine operation, the provision of non-facsimile original or copy, and any other such matters; and

(*2*) Receipt of each document served by facsimile is confirmed by a manually signed receipt delivered by facsimile machine or other means agreed to by the parties.

(iv) Service by U.S. Postal Service Express Mail is complete upon delivery as evidenced by the sender's receipt. Service by facsimile is complete upon confirmation of transmission by delivery of a manually signed receipt.

(2) *Filing with the Administrative Law Judge.* Unless otherwise provided, all briefs, motions, objections, applications or other filings made during a proceeding before an Administrative Law Judge, and all requests for review by the Secretary's designee, shall be filed with the Administrative Law Judge.

(3) *Filing with the Secretary's designee.* And all briefs, motions, objections, applications or other filings made during a proceeding before the Secretary's designee shall be filed with the Secretary's designee.

(4) *Certificate of service.* Papers filed with an Administrative Law Judge or Secretary's designee shall be accompanied by a certificate stating the name of each person served, the date of service, the method of service and the mailing address or facsimile telephone number to which service was made, if not made in person. If the method of service to any person is different from the method of service to any other person, the certificate shall state why a different means of service was used.

(5) *Form of briefs.* All briefs containing more than 10 pages shall, to the extent applicable, include a table of contents, an alphabetized table of cases, a table of statutes, and a table of other authorities cited, with references to the pages of the brief wherein they are cited.

(6) *Specifications.* All original documents shall be filed with the Administrative Law Judge or Secretary's designee, as appropriate. Papers filed in connection with any proceeding shall:

(i) Be on one grade of unglazed white paper measuring 8.5×11 inches, except that, to the extent that the reduction of larger documents would render them illegible, such documents may be filed on larger paper;

(ii) Be typewritten or printed in either 10- or 12-point typeface or otherwise reproduced by a process that produces permanent and plainly legible copies;

(iii) Include at the head of the paper, or on a title page, the title of the proceeding, the name(s) of each respondent, the subject of the particular paper or pleading, and the file number assigned to the proceeding;

(iv) Be formatted with all margins at least 1 inch wide;

(v) Be double-spaced, with single-spaced footnotes and single-spaced indented quotations; and

(vi) Be stapled, clipped or otherwise fastened in the upper left corner.

(7) *Signature requirement and effect.* All papers must be dated and signed by a member of the Office of Chief Counsel, or other counsel assigned by the General Counsel to represent the Director, or a respondent or respondent's representative, as appropriate. If a filing is signed by a respondent's representative it shall state that representative's mailing address and telephone number. A respondent who represents himself or herself shall sign his or her individual name and state his or her address and telephone number on every filing. A witness deposition shall be signed by the witness.

(i) *Effect of signature.* The signature shall constitute a certification that:

(A) The person signing the filing has read the filing;

(B) To the best of his or her knowledge, information, and belief, formed after reasonable inquiry, the filing is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law; and

(C) The filing is not made for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of adjudication.

(ii) If a filing is not signed, the Administrative Law Judge (or the Secretary's designee) shall strike the filing, unless it is signed promptly after the omission is called to the attention of the person making the filing.

(d) Service of written orders or decisions issued by the Administrative Law Judge or Secretary's designee. Written orders or decisions issued by the Administrative Law Judge or the Secretary's designee shall be served promptly on each respondent and the Director pursuant to any method of service authorized under paragraph (a) of this section. Service of such orders or decisions shall be made by the Administrative Law Judge or the Secretary's designee, as appropriate.

§ 501.706 Prepenalty Notice; issuance by Director.

(a) *When required.* If the Director has reason to believe there has occurred a violation of any provision of parts 500 or 515 of this chapter or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary pursuant to parts 500 or 515 of this chapter or otherwise under the Trading With the Enemy Act, and the Director determines that further civil proceedings are warranted, the Director shall issue a Prepenalty Notice. The Prepenalty Notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The Prepenalty Notice shall describe the alleged violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The Prepenalty Notice shall inform the respondent of respondent's right to make a written presentation within the time prescribed in § 501.707 as to why the respondent believes there should be no finding of a violation or why, if the respondent admits the violation, a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed. The Prepenalty Notice shall also inform the respondent that:

(i) The act of submitting a written response by the respondent is a factor that may result in a lower penalty absent any aggravating factors; and

(ii) If the respondent fails to respond to the Prepenalty Notice within the applicable 60-day period set forth in § 501.707, the Director may proceed with the issuance of a Penalty Notice.

(3) *Right to request a hearing.* The Prepenalty Notice shall inform the respondent of respondent's right, if a subsequent Penalty Notice is issued, to request an administrative hearing. The Director will not consider any request for an administrative hearing until a Penalty Notice has been issued.

§ 501.707 Response to Prepenalty Notice.

(a) Deadline for response.

(1) The respondent shall have 60 days after the date of service of the Prepenalty Notice pursuant to § 501.705(a) to respond thereto. The response, signed and dated, shall be served as provided in § 501.705(b).

(2) In response to a written request by the respondent, the Director may, at his or her discretion for the purpose of conducting settlement negotiations or for other valid reasons, grant additional time for a respondent to submit a response to the Prepenalty Notice.

(3) The failure to submit a response within the time period set forth in this paragraph (a), including any additional time granted by the Director, shall be deemed to be a waiver of the right to respond to the Prepenalty Notice.

(b) Form and contents of response.

(1) *In general.* The response need not be in any particular form, but must be typewritten and contain the heading ''Response to Prepenalty Notice'' and the Office of Foreign Assets Control identification number shown near the top of the Prepenalty Notice. It should be responsive to the allegations contained therein and set forth the nature of the respondent's admission of the violation, or defenses and claims for mitigation, if any.

(i) The response must admit or deny specifically each separate allegation of violation made in the Prepenalty Notice. If the respondent is without knowledge as to an allegation, the response shall so state, and such statement shall constitute a denial. Any allegation not specifically addressed in the response shall be deemed admitted.

(ii) The response must set forth any additional or new matter or arguments the respondent seeks, or shall seek, to use in support of all defenses or claims for mitigation. Any defense the respondent wishes to assert must be included in the response.

(iii) The response must accurately state (for each respondent, if applicable) the respondent's full name and address for future service, together with a current telephone and, if applicable, facsimile machine number. If respondent is represented, the representative's full name and address, together with telephone and facsimile numbers, may be provided instead of service information for the respondent. The respondent or respondent's representative of record is responsible for providing timely written notice to the Director of any subsequent changes in the information provided.

(iv) *Financial disclosure statement requirement.* Any respondent who asserts financial hardship or an inability to pay a penalty shall include with the response a financial disclosure statement setting forth in detail the basis for asserting the financial hardship or inability to pay a penalty, subject to 18 U.S.C. 1001.

(2) *Settlement.* In addition, or as an alternative, to a written response to a Prepenalty Notice, the respondent or respondent's representative may seek settlement of the alleged violation(s). See § 501.710. In the event of settlement prior to the issuance of a Penalty Notice, the claim proposed in the Prepenalty Notice will be withdrawn and the respondent will not be required to make a written response to the Prepenalty Notice. In the event no settlement is reached, a written response to the Prepenalty Notice is required pursuant to paragraph (c) of this section.

§ 501.708 Director's finding of no penalty warranted.

If after considering any written response to the Prepenalty Notice submitted pursuant to § 501.707 and any other relevant facts, the Director determines that there was no violation or that the violation does not warrant the imposition of a civil monetary penalty, the Director promptly shall notify the respondent in writing of that determination and that no civil monetary penalty pursuant to this subpart will be imposed.

§ 501.709 Penalty notice.

(a) If, after considering any written response to the Prepenalty Notice, and any other relevant facts, the Director determines that there was a violation by the respondent and that a monetary penalty is warranted, the Director promptly shall issue a Penalty Notice informing the respondent that, absent a timely request for an administrative hearing, the Director will impose the civil monetary penalty described in the Penalty Notice. The Penalty Notice shall inform the respondent:

(1) Of the respondent's right to submit a written request for an administrative hearing not later than 30 days after the date of service of the Penalty Notice;

(2) That in the absence of a timely request for a hearing, the issuance of the Penalty Notice constitutes final agency action;

(3) That, absent a timely request for a hearing, payment (or arrangement with the Financial Management Service of the Department for installment payment) of the assessed penalty must be made not later than 30 days after the date of service of the Penalty Notice; and

(4) That absent a timely request for a hearing, the respondent must furnish respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that the Director intends to use such information for the purposes of collecting and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 501.710 Settlement.

(a) *Availability*. Either the Director or any respondent may, at any time during the administrative civil penalty process described in this subpart, propose an offer of settlement. The amount accepted in settlement may be less than the civil penalty that might be imposed in the event of a formal determination of violation. Upon mutual agreement by the Director and a respondent on the terms of a settlement, the Director shall issue an Order of Settlement.

(b) *Procedure*—(1) *Prior to issuance of Penalty Notice*. Any offer of settlement made by a respondent prior to the issuance of a Penalty Notice shall be submitted, in writing, to the Chief of Civil Penalties, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

(2) *After issuance of Penalty Notice*. Any offer of settlement made by a respondent after issuance of a Penalty Notice shall state that it is made pursuant to this section; shall recite or incorporate as a part of the offer the provisions of paragraphs (b)(5)(ii) and (b)(6) of this section; shall be signed by the respondent making the offer, and not only by his or her representative; and shall be submitted to the Chief Counsel.

(3) *Extensions of time*. The submission of any settlement offer does not provide a basis for adjourning or otherwise delaying all or any portion of the administrative civil penalty process.

(i) *Prior to issuance of Order Instituting Proceedings*. Any respondent (or potential respondent in the case of a pending Prepenalty Notice) may request, in writing, that the Director withhold issuance of any such notice, or grant an extension of time to respond to any such Notice, for a period not to exceed 60 days for the exclusive purpose of effecting settlement. The Director may grant any such request, in writing, under terms and conditions within his or her discretion.

(ii) *After issuance of Order Instituting Proceedings*. Upon mutual agreement of the Director and a respondent, the Administrative Law Judge may grant an extension of time, for a period not to exceed 60 days, for the exclusive purpose of effecting settlement.

(4) *Views of Administrative Law Judge*. Where an Administrative Law Judge is assigned to a proceeding, the Director or the respondent may request that the Administrative Law Judge express his or her views regarding the appropriateness of the offer of settlement. A request for the Administrative Law Judge to express his or her views on an offer of settlement or otherwise to participate in a settlement conference constitutes a waiver by the party making the request of any right to claim bias or prejudgment by the Administrative Law Judge based on the views expressed.

(5) *Waivers.* (i) By submitting an offer of settlement, a respondent making the offer waives, subject to acceptance of the offer:

(A) All hearings pursuant to section 16 of the Trading with the Enemy Act (50 U.S.C. App. 16);

(B) The filing of proposed findings of fact and conclusions of law;

(C) Proceedings before, and a decision by, an Administrative Law Judge;

(D) All post-hearing procedures; and

(E) Judicial review by any court.

(ii) By submitting an offer of settlement the respondent further waives:

(A) Such provisions of this subpart or other requirements of law as may be construed to prevent any member of the Director's staff, or members of the Office of Chief Counsel or other counsel assigned by the General Counsel, from participating in or advising the Director as to any order, opinion, finding of fact, or conclusion of law to be entered pursuant to the offer; and

(B) Any right to claim bias or prejudgment by the Director based on the consideration of or discussions concerning settlement of all or any part of the proceeding.

(6) If the Director rejects the offer of settlement, the respondent shall be so notified in writing and the offer of settlement shall be deemed withdrawn. The rejected offer shall not constitute a part of the record in any proceeding against the respondent making the offer, provided, however, that rejection of an offer of settlement does not affect the continued validity of waivers pursuant to paragraph (b)(5) of this section with respect to any discussions concerning the rejected offer of settlement.

(7) No settlement offer or proposal, or any subsequent negotiation or resolution, is admissible as evidence in any administrative proceeding initiated by the Director.

§ 501.711 Hearing request.

(a) *Deadline for request.* A request for an agency hearing shall be served on the Director not later than 30 days after the date of service of the Penalty Notice. See § 501.705(b). A respondent may not reserve the right to request a hearing after expiration of the 30 calendar day period. A request for a hearing that is not made as required by this paragraph shall constitute a waiver of the respondent's right to a hearing.

(b) *Form and contents of request.* The request need not be in any particular form, but must be typewritten and contain the heading ''Request for Agency Hearing''. The request must include the Office of Foreign Assets Control identification number shown near the top of the Penalty Notice. It should be responsive to the determination contained in the Penalty Notice and set forth the nature of the respondent's defenses or claims for mitigation, if any.

(1) The request must admit or deny specifically each separate determination of violation made in the Penalty Notice. If the respondent is without knowledge as to a determination, the request shall so state, and such statement shall constitute a denial. Any determination not specifically addressed in the response shall be deemed admitted.

(2) The request must set forth any additional or new matter or arguments the respondent seeks, or shall seek, to use in support of all defenses or claims for mitigation. Any defense the respondent wishes to assert must be included in the request.

(3) The request must accurately state, for each respondent (if applicable), the respondent's full name and address for future service, together with current telephone and, if applicable, a facsimile machine number. If respondent is represented, the representative's full name and address, together with telephone and facsimile numbers, may be provided in lieu of service information for the respondent. The respondent or respondent's representative is responsible for providing timely written notice to the Director of any subsequent changes in the information provided.

(c) *Signature requirement.* The respondent or, if represented, the respondent's representative, must sign the hearing request.

§ 501.712 Acknowledgment of hearing request.

No later than 60 days after service of any hearing request, the Director shall

acknowledge receipt and inform a respondent, in writing, whether an Order Instituting Proceedings shall be issued.

§ 501.713 Order Instituting Proceedings.

If a respondent makes a timely request for a hearing, the Director shall determine, at his or her option, whether to dismiss the violation(s) set forth in the Penalty Notice or to issue an Order Instituting Proceedings to initiate the hearing process. The Order shall be served on the respondent(s) as provided in § 501.705(c)(1). The Director may, in his or her discretion, withdraw an Order Instituting Proceedings at any time prior to the issuance of a decision by the Administrative Law Judge.

(a) *Content of Order*. The Order Instituting Proceedings shall:

(1) Be prepared by the Office of the Chief Counsel or other counsel assigned by the General Counsel and based on information provided by the Director;

(2) State the legal authority under which the hearing is to be held;

(3) Contain a short and plain statement of the alleged violation(s) to be considered and determined (including the matters of fact and law asserted) in such detail as will permit a specific response thereto;

(4) State the amount of the penalty sought in the proceeding; and

(5) Be signed by the Director.

(b) *Combining penalty actions*. The Director may combine claims contained in two or more Penalty Notices involving the same respondent, and for which hearings have been requested, into a single Order Instituting Proceedings.

(c) *Amendment to Order Instituting Proceedings*. Upon motion by the Director, the Administrative Law Judge may, at any time prior to issuance of a decision, permit the Director to amend an Order Instituting Proceedings to include new matters of fact or law that are within the scope of the original Order Instituting Proceedings.

§ 501.714 Answer to Order Instituting Proceedings.

(a) *When required*. Not later than 45 days after service of the Order Instituting Proceedings, the respondent shall file, with the Administrative Law Judge and the Office of Chief Counsel, an answer to each of the allegations contained therein. If the Order Instituting Proceedings is amended, the Administrative Law Judge may require that an amended answer be filed and, if such an answer is required, shall specify a date for the filing thereof.

(b) *Contents; effect of failure to deny*. Unless otherwise directed by the Administrative Law Judge, an answer shall specifically admit, deny, or state that the respondent does not have, and is unable to obtain, sufficient information to admit or deny each allegation in the Order Instituting Proceedings. When a respondent intends to deny only a part of an allegation, the respondent shall specify so much of it as is true and shall deny only the remainder. A statement of lack of information shall have the effect of a denial. A defense of res judicata, statute of limitations or any other matter constituting an affirmative defense shall be asserted in the answer. Any allegation not specifically addressed in the answer shall be deemed admitted.

(c) *Motion for more definite statement*. A respondent may file with an answer a motion for a more definite statement of specified matters of fact or law to be considered or determined. Such motion shall state the respects in which, and the reasons why, each such matter of fact or law should be required to be made more definite. If the motion is granted, the order granting such motion shall set the periods for filing such a statement and any answer thereto.

(d) *Amendments*. A respondent may amend its answer at any time by written consent of the Director or with permission of the Administrative Law Judge. Permission shall be freely granted when justice so requires.

(e) *Failure to file answer:* default. If a respondent fails to file an answer required by this subpart within the time prescribed, such respondent may be deemed in default pursuant to § 501.716(a). A party may make a motion to set aside a default pursuant to § 501.726(e).

§ 501.715 Notice of Hearing.

(a) If the Director issues an Order Instituting Proceedings, the respondent

shall receive not less than 45 days notice of the time and place of the hearing.

(b) *Time and place of hearing.* All hearings shall be held in the Washington, DC metropolitan area unless, based on extraordinary reasons, otherwise mutually agreed by the respondent and the Director. The time for any hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives. Requests to change the time of a hearing may be submitted to the Administrative Law Judge, who may modify the hearing date(s) and/or time(s) and place. All requests for a change in the date and time and/or place of a hearing must be received by the Administrative Law Judge and served upon the parties no later than 15 days before the scheduled hearing date.

(c) *Failure to appear at hearings: default.* Any respondent named in an order instituting proceedings as a person against whom findings may be made or penalties imposed who fails to appear (in person or through a representative) at a hearing of which he or she has been duly notified may be deemed to be in default pursuant to § 501.716(a). Without further proceedings or notice to the respondent, the Administrative Law Judge may enter a finding that the right to a hearing was waived, and the Penalty Notice shall constitute final agency action as provided in § 501.709(a)(2). A respondent may make a motion to set aside a default pursuant to § 501.726(e).

§ 501.716 Default.

(a) A party to a proceeding may be deemed to be in default and the Administrative Law Judge (or the Secretary's designee during review proceedings) may determine the proceeding against that party upon consideration of the record if that party fails:

(1) To appear, in person or through a representative, at any hearing or conference of which the party has been notified;

(2) To answer, to respond to a dispositive motion within the time provided, or otherwise to prosecute or defend the proceeding; or

(3) To cure a deficient filing within the time specified by the Administrative Law Judge (or the Secretary's designee) pursuant to § 501.729(b).

(b) In deciding whether to determine the proceedings against a party deemed to be in default, the Administrative Law Judge shall consider the record of the proceedings (including the Order Instituting Proceedings) and shall construe contested matters of fact and law against the party deemed to be in default.

(c) For information and procedures pertaining to a motion to set aside a default, see § 501.726(e).

§ 501.717 Consolidation of proceedings.

By order of the Administrative Law Judge, proceedings involving common questions of law and fact may be consolidated for hearing of any or all the matters at issue in such proceedings. The Administrative Law Judge may make such orders concerning the conduct of such proceedings as he or she deems appropriate to avoid unnecessary cost or delay. Consolidation shall not prejudice any rights under this subpart and shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

§ 501.718 Conduct and order of hearings.

All hearings shall be conducted in a fair, impartial, expeditious and orderly manner. Each party has the right to present its case or defense by oral and documentary evidence and to conduct such cross examination as may be required for full disclosure of the relevant facts. The Director shall present his or her case-in-chief first. The Director shall be the first party to present an opening statement and a closing statement and may make a rebuttal statement after the respondent's closing statement.

§ 501.719 Ex parte communications.

(a) *Prohibition.* (1) From the time the Director issues an Order Instituting Proceedings until the date of final decision, no party, interested person, or representative thereof shall knowingly make or cause to be made an ex parte communication.

(2) Except to the extent required for the disposition of ex parte communication matters as authorized by law, the Secretary's designee and the Administrative Law Judge presiding over any proceeding may not:

(i) Consult a person or party on an issue, unless on notice and opportunity for all parties to participate; or

(ii) Be responsible to or subject to the supervision, direction of, or evaluation by, an employee engaged in the performance of investigative or prosecutorial functions for the Department.

(b) Procedure upon occurrence of ex parte communication. If an ex parte communication is received by the Administrative Law Judge or the Secretary's designee, the Administrative Law Judge or the Secretary's designee, as appropriate, shall cause all of such written communication (or, if the communication is oral, a memorandum stating the substance of the communication) to be placed on the record of the proceeding and served on all parties. A party may, not later than 10 days after the date of service, file a response thereto and may recommend that the person making the prohibited communication be sanctioned pursuant to paragraph (c) of this section.

(c) *Sanctions*. Any party to the proceeding, a party's representative, or any other interested individual, who makes a prohibited ex parte communication, or who encourages or solicits another to make any such communication, may be subject to any appropriate sanction or sanctions imposed by the Administrative Law Judge or the Secretary's designee, as appropriate, for good cause shown, including, but not limited to, exclusion from the hearing and an adverse ruling on the issue that is the subject of the prohibited communication.

§ 501.720 Separation of functions.

Any officer or employee engaged in the performance of investigative or prosecutorial functions for the Department in a proceeding as defined in § 501.702 may not, in that proceeding or one that is factually related, participate or advise in the decision pursuant to Section 557 of the Administrative Procedure Act, 5 U.S.C. 557, except as a witness or counsel in the proceeding.

§ 501.721 Hearings to be public.

All hearings, except hearings on applications for confidential treatment filed pursuant to § 501.725(b), shall be public unless otherwise ordered by the Administrative Law Judge or the Secretary's designee, as appropriate, on his or her own motion or the motion of a party.

§ 501.722 Prehearing conferences.

(a) *Purposes of conferences*. The purposes of prehearing conferences include, but are not limited to:

(1) Expediting the disposition of the proceeding;

(2) Establishing early and continuing control of the proceeding by the Administrative Law Judge; and

(3) Improving the quality of the hearing through more thorough preparation.

(b) *Procedure*. On his or her own motion or at the request of a party, the Administrative Law Judge may direct a representative or any party to attend one or more prehearing conferences. Such conferences may be held with or without the Administrative Law Judge present as the Administrative Law Judge deems appropriate. Where such a conference is held outside the presence of the Administrative Law Judge, the Administrative Law Judge shall be advised promptly by the parties of any agreements reached. Such conferences also may be held with one or more persons participating by telephone or other remote means.

(c) *Subjects to be discussed*. At a prehearing conference consideration may be given and action taken with respect to the following:

(1) Simplification and clarification of the issues;

(2) Exchange of witness and exhibit lists and copies of exhibits;

(3) Admissions of fact and stipulations concerning the contents, authenticity, or admissibility into evidence of documents;

(4) Matters of which official notice may be taken;

(5) The schedule for exchanging prehearing motions or briefs, if any;

(6) The method of service for papers;

(7) Summary disposition of any or all issues;

(8) Settlement of any or all issues;

(9) Determination of hearing dates (when the Administrative Law Judge is present);

(10) Amendments to the Order Instituting Proceedings or answers thereto;

(11) Production of documents as set forth in § 501.723, and prehearing production of documents in response to subpoenas duces tecum as set forth in § 501.728; and

(12) Such other matters as may aid in the orderly and expeditious disposition of the proceeding.

(d) *Timing of conferences.* Unless the Administrative Law Judge orders otherwise, an initial prehearing conference shall be held not later than 14 days after service of an answer. A final conference, if any, should be held as close to the start of the hearing as reasonable under the circumstances.

(e) *Prehearing orders.* At or following the conclusion of any conference held pursuant to this rule, the Administrative Law Judge shall enter written rulings or orders that recite the agreement(s) reached and any procedural determinations made by the Administrative Law Judge.

(f) *Failure to appear: default.* A respondent who fails to appear, in person or through a representative, at a prehearing conference of which he or she has been duly notified may be deemed in default pursuant to § 501.716(a). A respondent may make a motion to set aside a default pursuant to § 501.726(e).

§ 501.723 Prehearing disclosures; methods to discover additional matter.

(a) *Initial disclosures.* (1) Except to the extent otherwise stipulated or directed by order of the Administrative Law Judge, a party shall, without awaiting a discovery request, provide to the opposing party:

(i) The name and, if known, the address and telephone number of each individual likely to have discoverable information that the disclosing party may use to support its claims or defenses, unless solely for impeachment of a witness appearing in person or by deposition, identifying the subjects of the information; and

(ii) A copy, or a description by category and location, of all documents, data compilations, and tangible things that are in the possession, custody, or control of the party and that the disclosing party may use to support its claims or defenses, unless solely for impeachment of a witness appearing in person or by deposition;

(2) The disclosures described in paragraph (a)(1)(i) of this section shall be made not later than 30 days after the issuance of an Order Instituting Proceedings, unless a different time is set by stipulation or by order of the Administrative Law Judge.

(b) *Prehearing disclosures.* (1) In addition to the disclosures required by paragraph (a) of this section, a party must provide to the opposing party, and promptly file with the Administrative Law Judge, the following information regarding the evidence that it may present at hearing for any purpose other than solely for impeachment of a witness appearing in person or by deposition:

(i) An outline or narrative summary of its case or defense (the Order Instituting Proceedings will usually satisfy this requirement for the Director and the answer thereto will usually satisfy this requirement for the respondent);

(ii) The legal theories upon which it will rely;

(iii) Copies and a list of documents or exhibits that it intends to introduce at the hearing; and

(iv) A list identifying each witness who will testify on its behalf, including the witness's name, occupation, address, phone number, and a brief summary of the expected testimony.

(2) Unless otherwise directed by the Administrative Law Judge, the disclosures required by paragraph (b)(1) of this section shall be made not later than 30 days before the date of the hearing.

(c) *Disclosure of expert testimony.* A party who intends to call an expert witness shall submit, in addition to the information required by paragraph (b)(1)(iv) of this section, a statement of the expert's qualifications, a list of other proceedings in which the expert has given expert testimony, and a list of publications authored or co-authored by the expert.

(d) *Form of disclosures*. Unless the Administrative Law Judge orders otherwise, all disclosures under paragraphs (a) through (c) of this section shall be made in writing, signed, and served as provided in § 501.705.

(e) *Methods to discover additional matter*. Parties may obtain discovery by one or more of the following methods: Depositions of witnesses upon oral examination or written questions; written interrogatories to another party; production of documents or other evidence for inspection; and requests for admission. All depositions of Federal employees must take place in Washington, DC, at the Department of the Treasury or at the location where the Federal employee to be deposed performs his or her duties, whichever the Federal employee's supervisor or the Office of Chief Counsel shall deem appropriate. All depositions shall be held at a date and time agreed by the Office of Chief Counsel and the respondent or respondent's representative, and for an agreed length of time.

(f) *Discovery scope and limits*. Unless otherwise limited by order of the Administrative Law Judge in accordance with paragraph (f)(2) of this section, the scope of discovery is as follows:

(1) *In general*. The availability of information and documents through discovery is subject to the assertion of privileges available to the parties and witnesses. Privileges available to the Director and the Department include exemptions afforded pursuant to the Freedom of Information Act (5 U.S.C. 552(b)(1) through (9)) and the Privacy Act (5 U.S.C. 552a). Parties may obtain discovery regarding any matter, not privileged, that is relevant to the merits of the pending action, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of any persons having knowledge of any discoverable matter. For good cause, the Administrative Law Judge may order discovery of any matter relevant to the subject matter involved in the proceeding. Relevant information need not be admissible at the hearing if the discovery appears reasonably calculated to lead to the discovery of admissible evidence.

(2) *Limitations*. The Administrative Law Judge may issue any order that justice requires to ensure that discovery requests are not unreasonable, oppressive, excessive in scope or unduly burdensome, including an order to show cause why a particular discovery request is justified upon motion of the objecting party. The frequency or extent of use of the discovery methods otherwise permitted under this section may be limited by the Administrative Law Judge if he or she determines that:

(i) The discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive;

(ii) The party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

(iii) The burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the hearing, the importance of the issues at stake, and the importance of the proposed discovery in resolving the issues.

(3) *Interrogatories*. Respondent's interrogatories shall be served upon the Office of the Chief Counsel not later than 30 days after issuance of the Order Instituting Proceedings. The Director's interrogatories shall be served by the later of 30 days after the receipt of service of respondent's interrogatories or 40 days after issuance of the Order Instituting Proceedings if no interrogatories are filed by respondent. Parties shall respond to interrogatories not later than 30 days after the date interrogatories are received. Interrogatories shall be limited to 20 questions only. Each subpart, section, or other designation of a part of a question shall be counted as one complete question in computing the permitted 20 question total. Where more than 20 questions are served upon a party, the receiving party may determine which of the 20 questions the receiving party shall answer. The limitation on the number of questions in an interrogatory may be waived by the Administrative Law Judge.

(4) *Privileged matter*. Privileged documents are not discoverable. Privileges

include, but are not limited to, the attorney-client privilege, attorney work-product privilege, any government's or government agency's deliberative-process or classified information privilege, including materials classified pursuant to Executive Order 12958 (3 CFR, 1995 Comp., p. 333) and any future Executive orders that may be issued relating to the treatment of national security information, and all materials and information exempted from release to the public pursuant to the Privacy Act (5 U.S.C. 552a) or the Freedom of Information Act (5 U.S.C. 552(b)(1) through (9)).

(g) *Updating discovery*. A party who has made an initial disclosure under paragraph (a) of this section or responded to a request for discovery with a disclosure or response is under a duty to supplement or correct the disclosure or response to include information thereafter acquired whenever:

(1) The party learns that in some material respect the information disclosed is incomplete or incorrect, if the additional or corrective information has not otherwise been made known to the other party during the discovery process or in writing; or

(2) Ordered by the Administrative Law Judge. The Administrative Law Judge may impose sanctions for failure to supplement or correct discovery.

(h) *Time limits*. All discovery, including all responses to discovery requests, shall be completed not later than 20 days prior to the date scheduled for the commencement of the hearing, unless the Administrative Law Judge finds on the record that good cause exists to grant additional time to complete discovery.

(i) *Effect of failure to comply*. No witness may testify and no document or exhibit may be introduced at the hearing if such witness, document, or exhibit is not listed in the prehearing submissions pursuant to paragraphs (b) and (c) of this section, except for good cause shown.

§ 501.724 Documents that may be withheld.

(a) Notwithstanding § 501.723(f), the Director or respondent may withhold a document if:

(1) The document is privileged;

(2) The document would disclose the identity of a confidential source; or

(3) The Administrative Law Judge grants leave to withhold a document or category of documents as not relevant to the subject matter of the proceeding or otherwise, for good cause shown.

(b) Nothing in paragraph (a) of this section authorizes the Director to withhold documents that contain material exculpatory evidence.

(c) *Withheld document list*. The Director and respondent shall provide the Administrative Law Judge, for review, a list of documents withheld pursuant to paragraphs (a)(1)–(3) of this section. The Administrative Law Judge shall determine whether any such document should be made available for inspection and copying.

§ 501.725 Confidential treatment of information in certain filings.

(a) *Filing document under seal*. (1) The Director may file any document or any part of a document under seal and/or seek a protective order concerning any document if disclosure of the document would be inconsistent with the protection of the public interest or if justice requires protection of any person, including a source or a party, from annoyance, threat, oppression, or undue burden or expense, or the disclosure of the information would be, or might reasonably lead to a disclosure, contrary to Executive Order 12958, as amended by Executive Order 13292, or other Executive orders concerning disclosure of information, Department regulations, or the Privacy Act, or information exempt from release under the Freedom of Information Act. The Administrative Law Judge shall allow placement of any such document under seal and/or grant a protective order upon a showing that the disclosure would be inconsistent with any such statute or Executive order, or that the harm resulting from disclosure would outweigh the benefits of disclosure.

(2) A respondent may file any document or any part of a document under seal and/or seek a protective order to limit such document from disclosure to other parties or to the public. The Administrative Law Judge shall allow placement of any document under seal and/or grant a protective order upon a

showing that the harm resulting from disclosure would outweigh the benefits of disclosure.

(3) The Administrative Law Judge shall safeguard the security and integrity of any documents under seal or protective order and shall take all appropriate steps to preserve the confidentiality of such documents or any parts thereof, including closing a hearing or portions of a hearing to the public. Release of any information under seal or to the extent inconsistent with a protective order, in any form or manner, is subject to the sanctions and the exercise of the authorities as are provided with respect to ex parte communications under § 501.719.

(4) If the Administrative Law Judge denies placement of any document under seal or under protective order, any party, and any person whose document or material is at issue, may obtain interlocutory review by the Secretary's designee. In such cases the Administrative Law Judge shall not release or expose any of the records or documents in question to the public or to any person for a period of 20 days from the date of the Administrative Law Judge's ruling, in order to permit a party the opportunity either to withdraw the records and documents or obtain interlocutory review by the Secretary's designee and an order that the records be placed under seal or a protective order.

(5) Upon settlement, final decision, or motion to the Administrative Law Judge for good cause shown, all materials (including all copies) under seal or protective order shall be returned to the submitting parties, except when it may be necessary to retain a record until any judicial process is completed.

(6)(i) Written notice of each request for release of documents or materials under seal or subject to a protective order shall be given to the parties at least 20 days prior to any permitted release or prior to any access not specifically authorized under a protective order. A copy of each request for information, including the name, address, and telephone number of the requester, shall be provided to the parties.

(ii) Each request for access to protected material shall include the names, addresses, and telephone numbers of all persons on whose behalf the requester seeks access to protected information. The Administrative Law Judge may impose sanctions as provided under § 501.729 for failure to provide this information.

(b) *Application*. An application for a protective order or to place under seal shall be filed with the Administrative Law Judge. The application shall be accompanied by a sealed copy of the materials as to which confidential treatment is sought.

(1) *Procedure for supplying additional information*. The person making the application may be required to furnish in writing additional information with respect to the grounds for objection to public disclosure. Failure to supply the information so requested within 14 days from the date of receipt of a notice of the information required shall be deemed a waiver of the objection to public disclosure of that portion of the information to which the additional information relates, unless the Administrative Law Judge shall otherwise order for good cause shown at or before the expiration of such 14-day period.

(2) *Confidentiality of materials pending final decision*. Pending the determination of the application for confidential treatment, transcripts, non-final orders including an initial decision, if any, and other materials in connection with the application shall be placed under seal; shall be for the confidential use only of the Administrative Law Judge, the Secretary's designee, the applicant, the Director, and any other respondent and representative; and shall be made available to the public only in accordance with orders of the Administrative Law Judge or the Secretary's designee.

(3) *Public availability of orders*. Any final order of the Administrative Law Judge or the Secretary's designee denying or sustaining an application for confidential treatment shall be made public. Any prior findings or opinions relating to an application for confidential treatment under this section shall be made public at such time as the material as to which confidentiality was requested is made public.

§ 501.726 Motions.

(a) *Generally*. Unless made during a hearing or conference, a motion shall be in writing, shall state with particularity the grounds therefor, shall set forth the relief or order sought, and shall be accompanied by a written brief of the points and authorities relied upon. Motions by a respondent must be filed with the Administrative Law Judge and served upon the Director through the Office of Chief Counsel and with any other party respondent or respondent's representative, unless otherwise directed by the Administrative Law Judge. Motions by the Director must be filed with the Administrative Law Judge and served upon each party respondent or respondent's representative. All written motions must be served in accordance with, and otherwise meet the requirements of, § 501.705. The Administrative Law Judge may order that an oral motion be submitted in writing. No oral argument shall be heard on any motion unless the Administrative Law Judge otherwise directs.

(b) *Opposing and reply briefs*. Except as provided in § 501.741(e), briefs in opposition to a motion shall be filed not later than 15 days after service of the motion. Reply briefs shall be filed not later than 3 days after service of the opposition. The failure of a party to oppose a written motion or an oral motion made on the record shall be deemed a waiver of objection by that party to the entry of an order substantially in the form of any proposed order accompanying the motion.

(c) *Dilatory motions*. Frivolous, dilatory, or repetitive motions are prohibited. The filing of such motions may form the basis for sanctions.

(d) *Length limitation*. Except as otherwise ordered by the Administrative Law Judge, a brief in support of, or in opposition to, a motion shall not exceed 15 pages, exclusive of pages containing any table of contents, table of authorities, or addendum.

(e) A motion to set aside a default shall be made within a reasonable time as determined by the Administrative Law Judge, state the reasons for the failure to appear or defend, and, if applicable, specify the nature of the proposed defense in the proceeding. In order to prevent injustice and on such conditions as may be appropriate, the Administrative Law Judge, at any time prior to the filing of his or her decision, or the Secretary's designee, at any time during the review process, may for good cause shown set aside a default.

§ 501.727 Motion for summary disposition.

(a) At any time after a respondent's answer has been filed, the respondent or the Director may make a motion for summary disposition of any or all allegations contained in the Order Instituting Proceedings. If the Director has not completed presentation of his or her case-in-chief, a motion for summary disposition shall be made only with permission of the Administrative Law Judge. The facts of the pleadings of the party against whom the motion is made shall be taken as true, except as modified by stipulations or admissions made by that party, by uncontested affidavits, or by facts officially noticed pursuant to § 501.732(b).

(b) *Decision on motion*. The Administrative Law Judge may promptly decide the motion for summary disposition or may defer decision on the motion. The Administrative Law Judge shall issue an order granting a motion for summary disposition if the record shows there is no genuine issue with regard to any material fact and the party making the motion is entitled to a summary disposition as a matter of law.

(c) A motion for summary disposition must be accompanied by a statement of the material facts as to which the moving party contends there is no genuine issue. Such motion must be supported by documentary evidence, which may take the form of admissions in pleadings, stipulations, depositions, transcripts, affidavits, and any other evidentiary materials that the moving party contends support its position. The motion must also be accompanied by a brief containing the points and authorities in support of the moving party's arguments. Any party opposing a motion for summary disposition must file a statement setting forth those material facts as to which such party contends a genuine dispute exists. The

opposition must be supported by evidence of the same type as that submitted with the motion for summary disposition and a brief containing the points and authorities in support of the contention that summary disposition would be inappropriate.

§ 501.728 Subpoenas.

(a) *Availability; procedure.* In connection with any hearing before an Administrative Law Judge, either the respondent or the Director may request the issuance of subpoenas requiring the attendance and testimony of witnesses at the designated time and place of hearing, and subpoenas requiring the production of documentary or other tangible evidence returnable at a designated time and place. Unless made on the record at a hearing, requests for issuance of a subpoena shall be made in writing and served on each party pursuant to § 501.705.

(b) *Standards for issuance.* If it appears to the Administrative Law Judge that a subpoena sought may be unreasonable, oppressive, excessive in scope, or unduly burdensome, he or she may, in his or her discretion, as a condition precedent to the issuance of the subpoena, require the person seeking the subpoena to show the general relevance and reasonable scope of the testimony or other evidence sought. If after consideration of all the circumstances, the Administrative Law Judge determines that the subpoena or any of its terms is unreasonable, oppressive, excessive in scope, or unduly burdensome, he or she may refuse to issue the subpoena, or issue a modified subpoena as fairness requires. In making the foregoing determination, the Administrative Law Judge may inquire of the other participants whether they will stipulate to the facts sought to be proved.

(c) *Service.* Service of a subpoena shall be made pursuant to the provisions of § 501.705.

(d) *Application to quash or modify*—(1) *Procedure.* Any person to whom a subpoena is directed or who is an owner, creator or the subject of the documents or materials that are to be produced pursuant to a subpoena may, prior to the time specified therein for compliance, but not later than 15 days after the date of service of such subpoena, request that the subpoena be quashed or modified. Such request shall be made by application filed with the Administrative Law Judge and served on all parties pursuant to § 501.705. The party on whose behalf the subpoena was issued may, not later than 5 days after service of the application, file an opposition to the application.

(2) *Standards governing application to quash or modify.* If the Administrative Law Judge determines that compliance with the subpoena would be unreasonable, oppressive or unduly burdensome, the Administrative Law Judge may quash or modify the subpoena, or may order return of the subpoena only upon specified conditions. These conditions may include, but are not limited to, a requirement that the party on whose behalf the subpoena was issued shall make reasonable compensation to the person to whom the subpoena was addressed for the cost of copying or transporting evidence to the place for return of the subpoena.

(e) *Witness fees and mileage.* Witnesses summoned to appear at a proceeding shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party at whose instance the witnesses appear.

§ 501.729 Sanctions.

(a) *Contemptuous conduct*—(1) *Subject to exclusion or suspension.* Contemptuous conduct by any person before an Administrative Law Judge or the Secretary's designee during any proceeding, including any conference, shall be grounds for the Administrative Law Judge or the Secretary's designee to:

(i) Exclude that person from such hearing or conference, or any portion thereof; and/or

(ii) If a representative, summarily suspend that person from representing others in the proceeding in which such conduct occurred for the duration, or any portion, of the proceeding.

(2) *Adjournment.* Upon motion by a party represented by a representative

subject to an order of exclusion or suspension, an adjournment shall be granted to allow the retention of a new representative. In determining the length of an adjournment, the Administrative Law Judge or the Secretary's designee shall consider, in addition to the factors set forth in § 501.737, the availability of another representative for the party or, if the representative was a counsel, of other members of a suspended counsel's firm.

(b) *Deficient filings; leave to cure deficiencies.* The Administrative Law Judge, or the Secretary's designee in the case of a request for review, may in his or her discretion, reject, in whole or in part, any filing that fails to comply with any requirements of this subpart or of any order issued in the proceeding in which the filing was made. Any such filings shall not be part of the record. The Administrative Law Judge or the Secretary's designee may direct a party to cure any deficiencies and to resubmit the filing within a fixed time period.

(c) *Failure to make required filing or to cure deficient filing.* The Administrative Law Judge (or the Secretary's designee during review proceedings) may enter a default pursuant to § 501.716, dismiss the case, decide the particular matter at issue against that person, or prohibit the introduction of evidence or exclude testimony concerning that matter if a person fails:

(1) To make a filing required under this subpart; or

(2) To cure a deficient filing within the time specified by the Administrative Law Judge or the Secretary's designee pursuant to paragraph (b) of this section.

(d) *Failure to make required filing or to cure deficient filing in the case of a request for review.* The Secretary's designee, in any case of a request for review, may decide the issue against that person, or prohibit the introduction of evidence or exclude testimony concerning that matter if a person fails:

(1) To make a filing required under this subpart; or

(2) To cure a deficient filing within the time specified by the Secretary's designee pursuant to paragraph (b) of this section.

§ 501.730 Depositions upon oral examination.

(a) *Procedure.* Any party desiring to take the testimony of a witness by deposition shall make a written motion setting forth the reasons why such deposition should be taken including the specific reasons why the party believes the witness may be unable to attend or testify at the hearing; the name and address of the prospective witness; the matters concerning which the prospective witness is expected to be questioned; and the proposed time and place for the taking of the deposition.

(b) *Required finding when ordering a deposition.* In the discretion of the Administrative Law Judge, an order for deposition may be issued upon a finding that the prospective witness will likely give testimony material to the proceeding, that it is likely the prospective witness will be unable to attend or testify at the hearing because of age, sickness, infirmity, imprisonment or other disability, and that the taking of a deposition will serve the interests of justice.

(c) *Contents of order.* An order for deposition shall designate by name a deposition officer. The designated officer may be the Administrative Law Judge or any other person authorized to administer oaths by the laws of the United States or of the place where the deposition is to be held. An order for deposition also shall state:

(1) The name of the witness whose deposition is to be taken;

(2) The scope of the testimony to be taken;

(3) The time and place of the deposition;

(4) The manner of recording, preserving and filing the deposition; and

(5) The number of copies, if any, of the deposition and exhibits to be filed upon completion of the deposition.

(d) *Procedure at depositions.* A witness whose testimony is taken by deposition shall swear or affirm before any questions are put to him or her. Examination and cross-examination of witnesses may proceed as permitted at a hearing. A witness being deposed may have counsel or a representative present during the deposition.

(e) *Objections to questions or evidence.* Objections to questions or evidence

shall be in short form, stating the grounds of objection relied upon. Objections to questions or evidence shall be noted by the deposition officer upon the deposition, but a deposition officer (other than an Administrative Law Judge) shall not have the power to decide on the competency, materiality or relevance of evidence. Failure to object to questions or evidence before the deposition officer shall not be deemed a waiver unless the ground of the objection is one that might have been obviated or removed if presented at that time.

(f) *Filing of depositions.* The questions asked and all answers or objections shall be recorded or transcribed verbatim, and a transcript shall be prepared by the deposition officer, or under his or her direction. The transcript shall be subscribed by the witness and certified by the deposition officer. The original deposition transcript and exhibits shall be filed with the Administrative Law Judge. A copy of the deposition transcript and exhibits shall be served on the opposing party or parties. The cost of the transcript (including copies) shall be paid by the party requesting the deposition.

§ 501.731 Depositions upon written questions.

(a) *Availability.* Depositions may be taken and submitted on written questions upon motion of any party. The motion shall include the information specified in § 501.730(a). A decision on the motion shall be governed by § 501.730(b).

(b) *Procedure.* Written questions shall be filed with the motion. Not later than 10 days after service of the motion and written questions, any party may file objections to such written questions and any party may file cross-questions. When a deposition is taken pursuant to this section no persons other than the witness, representative or counsel to the witness, the deposition officer, and, if the deposition officer does not act as reporter, a reporter, shall be present at the examination of the witness. No party shall be present or represented unless otherwise permitted by order. The deposition officer shall propound the questions and cross-questions to the witness in the order submitted.

(c) *Additional requirements.* The order for deposition, filing of the deposition, form of the deposition and use of the deposition in the record shall be governed by paragraphs (b) through (g) of § 501.730, except that no cross-examination shall be made.

§ 501.732 Evidence.

The applicable evidentiary standard for proceedings under this subpart is proof by a preponderance of reliable, probative, and substantial evidence. The Administrative Law Judge shall admit any relevant and material oral, documentary, or demonstrative evidence. The Federal Rules of Evidence do not apply, by their own force, to proceedings under this subpart, but shall be employed as general guidelines. The fact that evidence submitted by a party is hearsay goes only to the weight of the evidence and does not affect its admissibility.

(a) *Objections and offers of proof*—(1) *Objections.* Objections to the admission or exclusion of evidence must be made on the record and shall be in short form, stating the grounds relied upon. Exceptions to any ruling thereon by the Administrative Law Judge need not be noted at the time of the ruling. Such exceptions will be deemed waived on review by the Secretary's designee, however, unless raised:

(i) Pursuant to interlocutory review in accordance with § 501.741;

(ii) In a proposed finding or conclusion filed pursuant to § 501.738; or

(iii) In a petition for the Secretary's designee's review of an Administrative Law Judge's decision filed in accordance with § 501.741.

(2) *Offers of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record. Excluded material shall be retained pursuant to § 501.739(b).

(b) *Official notice.* An Administrative Law Judge or Secretary's designee may take official notice of any material fact that might be judicially noticed by a district court of the United States, any matter in the public official records of the Secretary, or any matter

that is particularly within the knowledge of the Department as an expert body. If official notice is requested or taken of a material fact not appearing in the evidence in the record, a party, upon timely request to the Administrative Law Judge, shall be afforded an opportunity to establish the contrary.

(c) *Stipulations*. The parties may, by stipulation, at any stage of the proceeding agree upon any pertinent fact in the proceeding. A stipulation may be received in evidence and, when accepted by the Administrative Law Judge, shall be binding on the parties to the stipulation.

(d) *Presentation under oath or affirmation*. A witness at a hearing for the purpose of taking evidence shall testify under oath or affirmation.

(e) *Presentation, rebuttal and cross-examination*. A party is entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as, in the discretion of the Administrative Law Judge, may be required for a full and true disclosure of the facts.

§ 501.733 Evidence: confidential information, protective orders.

(a) *Procedure*. In any proceeding as defined in § 501.702, a respondent; the Director; any person who is the owner, subject or creator of a document subject to subpoena or which may be introduced as evidence; or any witness who testifies at a hearing may file a motion requesting a protective order to limit from disclosure to other parties or to the public documents or testimony containing confidential information. The motion should include a general summary or extract of the documents without revealing confidential details. If a person seeks a protective order against disclosure to other parties as well as the public, copies of the documents shall not be served on other parties. Unless the documents are unavailable, the person shall file for inspection by the Administrative Law Judge a sealed copy of the documents as to which the order is sought.

(b) *Basis for issuance*. Documents and testimony introduced in a public hearing are presumed to be public. A motion for a protective order shall be granted only upon a finding that the harm resulting from disclosure would outweigh the benefits of disclosure.

(c) *Requests for additional information supporting confidentiality*. A person seeking a protective order under paragraph (a) of this section may be required to furnish in writing additional information with respect to the grounds for confidentiality. Failure to supply the information so requested not later than 5 days from the date of receipt by the person of a notice of the information required shall be deemed a waiver of the objection to public disclosure of that portion of the documents to which the additional information relates, unless the Administrative Law Judge shall otherwise order for good cause shown at or before the expiration of such 5-day period.

(d) *Confidentiality of documents pending decision*. Pending a determination of a motion under this section, the documents as to which confidential treatment is sought and any other documents that would reveal the confidential information in those documents shall be maintained under seal and shall be disclosed only in accordance with orders of the Administrative Law Judge. Any order issued in connection with a motion under this section shall be made public unless the order would disclose information as to which a protective order has been granted, in which case that portion of the order that would reveal the protected information shall not be made public.

§ 501.734 Introducing prior sworn statements of witnesses into the record.

(a) At a hearing, any person wishing to introduce a prior, sworn statement of a witness who is not a party to the proceeding, that is otherwise admissible in the proceeding, may make a motion setting forth the reasons therefor. If only part of a statement is offered in evidence, the Administrative Law Judge may require that all relevant portions of the statement be introduced. If all of a statement is offered in evidence, the Administrative Law Judge may require that portions not relevant to the proceeding be excluded. A motion to introduce a prior sworn statement may be granted if:

(1) The witness is dead;

(2) The witness is out of the United States, unless it appears that the absence of the witness was procured by the party offering the prior sworn statement;

(3) The witness is unable to attend or testify because of age, sickness, infirmity, imprisonment or other disability;

(4) The party offering the prior sworn statement has been unable to procure the attendance of the witness by subpoena; or,

(5) In the discretion of the Administrative Law Judge, it would be desirable, in the interests of justice, to allow the prior sworn statement to be used. In making this determination, due regard shall be given to the presumption that witnesses will testify orally in an open hearing. If the parties have stipulated to accept a prior sworn statement in lieu of live testimony, consideration shall also be given to the convenience of the parties in avoiding unnecessary expense.

§ 501.735 Proposed findings, conclusions and supporting briefs.

(a) *Opportunity to file.* Before a decision is issued by the Administrative Law Judge, each party shall have an opportunity, reasonable in light of all the circumstances, to file in writing proposed findings and conclusions.

(b) *Procedure.* Proposed findings of fact must be supported by citations to specific portions of the record. If successive filings are directed, the proposed findings and conclusions of the party assigned to file first shall be set forth in serially numbered paragraphs, and any counter statement of proposed findings and conclusions shall, in addition to any other matter presented, indicate those paragraphs of the proposals already filed as to which there is no dispute. A reply brief may be filed by the party assigned to file first, or, where simultaneous filings are directed, reply briefs may be filed by each party, within the period prescribed therefor by the Administrative Law Judge. No further briefs may be filed except with permission of the Administrative Law Judge.

(c) *Time for filing.* In any proceeding in which a decision is to be issued:

(1) At the close of each hearing, the Administrative Law Judge shall, by order, after consultation with the parties, prescribe the period within which proposed findings and conclusions and supporting briefs are to be filed. The party directed to file first shall make its initial filing not later than 30 days after the end of the hearing unless the Administrative Law Judge, for good cause shown, permits a different period and sets forth in the order the reasons why the different period is necessary.

(2) The total period within which all such proposed findings and conclusions and supporting briefs and any counter statements of proposed findings and conclusions and reply briefs are to be filed shall be no longer than 90 days after the close of the hearing unless the Administrative Law Judge, for good cause shown, permits a different period and sets forth in an order the reasons why the different period is necessary.

§ 501.736 Authority of Administrative Law Judge.

The Administrative Law Judge shall have authority to do all things necessary and appropriate to discharge his or her duties. No provision of these rules shall be construed to limit the powers of the Administrative Law Judge provided by the Administrative Procedure Act, 5 U.S.C. 556, 557. The powers of the Administrative Law Judge include, but are not limited to:

(a) Administering oaths and affirmations;

(b) Issuing subpoenas authorized by law and revoking, quashing, or modifying any such subpoena;

(c) Receiving relevant evidence and ruling upon the admission of evidence and offers of proof;

(d) Regulating the course of a proceeding and the conduct of the parties and their representatives;

(e) Holding prehearing and other conferences as set forth in § 501.726 and requiring the attendance at any such conference of at least one representative of each party who has authority to negotiate concerning the resolution of issues in controversy;

(f) Subject to any limitations set forth elsewhere in this subpart, considering and ruling on all procedural and other motions;

(g) Upon notice to all parties, reopening any hearing prior to the issuance of a decision;

(h) Requiring production of records or any information relevant to any act or transaction subject to a hearing under this subpart, and imposing sanctions available under Federal Rule of Civil Procedure 37(b)(2) (Fed. R. Civ. P. 37(b)(2), 28 U.S.C.) for a party's failure to comply with discovery requests;

(i) Establishing time, place, and manner limitations on the attendance of the public and the media for any hearing; and

(j) Setting fees and expenses for witnesses, including expert witnesses.

§ 501.737 Adjustments of time, postponements and adjournments.

(a) *Availability*. Except as otherwise provided by law, the Administrative Law Judge or the Secretary's designee, as appropriate, at any time prior to the filing of his or her decision, may, for good cause and in the interest of justice, modify any time limit prescribed by this subpart and may, consistent with paragraph (b) of this section, postpone or adjourn any hearing.

(b) *Limitations on postponements, adjournments and adjustments*. A hearing shall begin at the time and place ordered, provided that, within the limits provided, the Administrative Law Judge or the Secretary's designee, as appropriate, may for good cause shown postpone the commencement of the hearing or adjourn a convened hearing for a reasonable period of time.

(1) *Additional considerations*. In considering a motion for postponement of the start of a hearing, adjournment once a hearing has begun, or extensions of time for filing papers, the Administrative Law Judge or the Secretary's designee, as appropriate, shall consider, in addition to any other factors:

(i) The length of the proceeding to date;

(ii) The number of postponements, adjournments or extensions already granted;

(iii) The stage of the proceedings at the time of the request; and

(iv) Any other matter as justice may require.

(2) *Time limit*. Postponements, adjournments or extensions of time for filing papers shall not exceed 21 days unless the Administrative Law Judge or the Secretary's designee, as appropriate, states on the record or sets forth in a written order the reasons why a longer period of time is necessary.

§ 501.738 Disqualification and withdrawal of Administrative Law Judge.

(a) *Notice of disqualification*. If at any time an Administrative Law Judge or Secretary's designee believes himself or herself to be disqualified from considering a matter, the Administrative Law Judge or Secretary's designee, as appropriate, shall issue a notice stating that he or she is withdrawing from the matter and setting forth the reasons therefor.

(b) *Motion for Withdrawal*. Any party who has a reasonable, good faith basis to believe an Administrative Law Judge or Secretary's designee has a personal bias, or is otherwise disqualified from hearing a case, may make a motion to the Administrative Law Judge or Secretary's designee, as appropriate, that the Administrative Law Judge or Secretary's designee withdraw. The motion shall be accompanied by a statement subject to 18 U.S.C. 1001 setting forth in detail the facts alleged to constitute grounds for disqualification. If the Administrative Law Judge or Secretary's designee finds himself or herself qualified, he or she shall so rule and shall continue to preside over the proceeding.

§ 501.739 Record in proceedings before Administrative Law Judge; retention of documents; copies.

(a) *Recordation*. Unless otherwise ordered by the Administrative Law Judge, all hearings shall be recorded and a written transcript thereof shall be prepared.

(1) *Availability of a transcript*. Transcripts of hearings shall be available for purchase.

(2) *Transcript correction*. Prior to the filing of post-hearing briefs or proposed findings and conclusions, or within

such earlier time as directed by the Administrative Law Judge, a party or witness may make a motion to correct the transcript. Proposed corrections of the transcript may be submitted to the Administrative Law Judge by stipulation pursuant to § 501.732(c), or by motion. Upon notice to all parties to the proceeding, the Administrative Law Judge may, by order, specify corrections to the transcript.

(b) *Contents of the record.* The record of each hearing shall consist of:

(1) The Order Instituting Proceedings, Answer to Order Instituting Proceedings, Notice of Hearing and any amendments thereto;

(2) Each application, motion, submission or other paper, and any amendments, motions, objections, and exceptions to or regarding them;

(3) Each stipulation, transcript of testimony, interrogatory, deposition, and document or other item admitted into evidence;

(4) With respect to a request to disqualify an Administrative Law Judge or to allow the Administrative Law Judge's withdrawal under § 501.738, each affidavit or transcript of testimony taken and the decision made in connection with the request;

(5) All proposed findings and conclusions;

(6) Each written order issued by the Administrative Law Judge; and

(7) Any other document or item accepted into the record by the Administrative Law Judge.

(c) Retention of documents not admitted. Any document offered as evidence but excluded, and any document marked for identification but not offered as an exhibit, shall not be part of the record. The Administrative Law Judge shall retain any such document until the later of the date the proceeding becomes final, or the date any judicial review of the final proceeding is no longer available.

(d) *Substitution of copies.* A true copy of a document may be substituted for any document in the record or any document retained pursuant to paragraph (c) of this section.

§ 501.740 Decision of Administrative Law Judge.

The Administrative Law Judge shall prepare a decision that constitutes his or her final disposition of the proceedings.

(a) *Content.* (1) The Administrative Law Judge shall determine whether or not the respondent has violated any provision of parts 500 and 515 of this chapter or the provisions of any license, ruling, regulation, order, direction or instruction issued by or under the authority of the Secretary pursuant to part 500 or 515 of this chapter or otherwise under the Trading with the Enemy Act.

(2) The Administrative Law Judge's decision shall include findings and conclusions, and the reasons or basis therefor, as to all the material issues of fact, law or discretion presented on the record.

(3) (i) Upon a finding of violation, the Administrative Law Judge shall award an appropriate monetary civil penalty in an amount consistent with the Penalty Guidelines published by the Director.

(ii) Notwithstanding paragraph (a)(3)(i) of this section, the Administrative Law Judge:

(A) Shall provide an opportunity for a respondent to assert his or her inability to pay a penalty, or financial hardship, by filing with the Administrative Law Judge a financial disclosure statement subject to 18 U.S.C. 1001 that sets forth in detail the basis for the financial hardship or the inability to pay; and

(B) Shall consider any such filing in determining the appropriate monetary civil penalty.

(b) *Administrative Law Judge's decision*—(1) *Service.* The Administrative Law Judge shall serve his or her decision on the respondent and on the Director through the Office of Chief Counsel, and shall file a copy of the decision with the Secretary's designee.

(2) *Filing of report with the Secretary's designee.* If the respondent or Director files a petition for review pursuant to § 501.741, or upon a request from the Secretary's designee, the Administrative Law Judge shall file his or her report with the Secretary's designee not later than 20 days after service of his

or her decision on the parties. The report shall consist of the record, including the Administrative Law Judge's decision, and any petition from the respondent or the Director seeking review.

(3) *Correction of errors.* Until the Administrative Law Judge's report has been directed for review by the Secretary's designee or, in the absence of a direction for review, until the decision has become a final order, the Administrative Law Judge may correct clerical errors and errors arising through oversight or inadvertence in decisions, orders, or other parts of the record.

(c) *Administrative Law Judge's decision final unless review directed.* Unless the Secretary's designee determines to review a decision in accordance with § 501.741(a)(1), the decision of the Administrative Law Judge shall become the final decision of the Department.

(d) *Penalty awarded.* The Director is charged with implementing all final decisions of the Department and, upon a finding of violation and/or award of a civil monetary penalty, shall carry out the necessary steps to close the action.

§ 501.741 Review of decision or ruling.

(a) *Availability.* (1)(i) Review of the decision of the Administrative Law Judge by the Secretary's designee is not a right. The Secretary's designee may, in his or her discretion, review the decision of the Administrative Law Judge on the petition of either the respondent or the Director, or upon his or her own motion. The Secretary's designee shall determine whether to review a decision:

(A) If a petition for review has been filed by the respondent or the Director, not later than 30 days after that date the Administrative Law Judge filed his or her report with the Secretary's designee pursuant to paragraph (b)(2) of this section; or

(B) If no petition for review has been filed by the respondent or the Director, not later than 40 days after the date the Administrative Law Judge filed his or her decision with the Secretary's designee pursuant to paragraph (b)(1) of this section.

(ii) In determining whether to review a decision upon petition of the respondent or the Director, the Secretary's designee shall consider whether the petition for review makes a reasonable showing that:

(A) A prejudicial error was committed in the conduct of the proceeding; or

(B) The decision embodies:

(*1*) A finding or conclusion of material fact that is clearly erroneous;

(*2*) A conclusion of law that is erroneous; or

(*3*) An exercise of discretion or decision of law or policy that is important and that the Secretary's designee should review.

(2) *Interlocutory review of ruling.* The Secretary's designee shall review any ruling of an Administrative Law Judge involving privileged or confidential material that is the subject of a petition for review. See § 501.725.

(b) *Filing.* Either the respondent or the Director, when adversely affected or aggrieved by the decision or ruling of the Administrative Law Judge, may seek review by the Secretary's designee by filing a petition for review. Any petition for review shall be filed with the Administrative Law Judge within 10 days after service of the Administrative Law Judge's decision or the issuance of a ruling involving privileged or confidential material.

(c) *Contents.* The petition shall state why the Secretary's designee should review the Administrative Law Judge's decision or ruling, including: Whether the Administrative Law Judge's decision or ruling raises an important question of law, policy or discretion; whether review by the Secretary's designee will resolve a question about which the Department's Administrative Law Judges have rendered differing opinions; whether the Administrative Law Judge's decision or ruling is contrary to law or Department precedent; whether a finding of material fact is not supported by a preponderance of the evidence; or whether a prejudicial error of procedure or an abuse of discretion was committed. A petition should concisely state the portions of the decision or ruling for which review is sought. A petition shall not incorporate by reference a brief or legal memorandum.

(d) *When filing effective.* A petition for review is filed when received by the Administrative Law Judge.

(e) *Statements in opposition to petition.* Not later than 8 days after the filing of a petition for review, either the respondent or the Director may file a statement in opposition to a petition. A statement in opposition to a petition for review shall be filed in the manner specified in this section for filing of petitions for review. Statements in opposition shall concisely state why the Administrative Law Judge's decision or ruling should not be reviewed with respect to each portion of the petition to which it is addressed.

(f) *Number of copies.* An original and three copies of a petition or a statement in opposition to a petition shall be filed with the Administrative Law Judge.

(g) *Prerequisite to judicial review.* Pursuant to section 704 of the Administrative Procedure Act, 5 U.S.C. 704, a petition for review by the Secretary's designee of an Administrative Law Judge decision or ruling is a prerequisite to the seeking of judicial review of a final order entered pursuant to such decision or ruling.

§ 501.742 Secretary's designee's consideration of decisions by Administrative Law Judges.

(a) *Scope of review.* The Secretary's designee may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, a decision or ruling by an Administrative Law Judge and may make any findings or conclusions that in his or her judgment are proper and on the basis of the record and such additional evidence as the Secretary's designee may receive in his or her discretion.

(b) *Summary affirmance.* The Secretary's designee may summarily affirm an Administrative Law Judge's decision or ruling based upon the petition for review and any response thereto, without further briefing, if he or she finds that no issue raised in the petition for review warrants further consideration.

§ 501.743 Briefs filed with the Secretary's designee.

(a) *Briefing schedule order.* If review of a determination is mandated by judicial order or whenever the Secretary's designee reviews a decision or ruling, the Secretary's designee shall, unless such review results in summary affirmance pursuant to § 501.742(b), issue a briefing schedule order directing the parties to file opening briefs and specifying particular issues, if any, as to which briefing should be limited or directed. Unless otherwise provided, opening briefs shall be filed not later than 40 days after the date of the briefing schedule order. Opposition briefs shall be filed not later than 30 days after the date opening briefs are due. Reply briefs shall be filed not later than 14 days after the date opposition briefs are due. No briefs in addition to those specified in the briefing schedule order may be filed without permission of the Secretary's designee. The briefing schedule order shall be issued not later than 21 days after the later of:

(1) The last day permitted for filing a brief in opposition to a petition for review pursuant to § 501.741(e); or

(2) Receipt by the Secretary's designee of the mandate of a court with respect to a judicial remand.

(b) *Contents of briefs.* Briefs shall be confined to the particular matters at issue. Each exception to the findings or conclusions being reviewed shall be stated succinctly. Exceptions shall be supported by citation to the relevant portions of the record, including references to the specific pages relied upon, and by concise argument including citation of such statutes, decisions and other authorities as may be relevant. If the exception relates to the admission or exclusion of evidence, the substance of the evidence admitted or excluded shall be set forth in the brief, in an appendix thereto, or by citation to the record. If the exception relates to interlocutory review, there is no requirement to reference pages of the transcript. Reply briefs shall be confined to matters in opposition briefs of other parties.

(c) *Length limitation.* Opening and opposition briefs shall not exceed 30 pages and reply briefs shall not exceed 20 pages, exclusive of pages containing

the table of contents, table of authorities, and any addendum, except with permission of the Secretary's designee.

§ 501.744 Record before the Secretary's designee.

The Secretary's designee shall determine each matter on the basis of the record and such additional evidence as the Secretary's designee may receive in his or her discretion. In any case of interlocutory review, the Administrative Law Judge shall direct that a transcript of the relevant proceedings be prepared and forwarded to the Secretary's designee.

(a) *Contents of the record.* In proceedings for final decision before the Secretary's designee the record shall consist of:

(1) All items that are part of the record in accordance with § 501.739;

(2) Any petitions for review, cross-petitions or oppositions;

(3) All briefs, motions, submissions and other papers filed on appeal or review; and

(4) Any other material of which the Secretary's designee may take administrative notice.

(b) *Review of documents not admitted.* Any document offered in evidence but excluded by the Administrative Law Judge and any document marked for identification but not offered as an exhibit shall not be considered a part of the record before the Secretary's designee on review but shall be transmitted to the Secretary's designee if he or she so requests. In the event that the Secretary's designee does not request the document, the Administrative Law Judge shall retain the document not admitted into the record until the later of:

(1) The date upon which the Secretary's designee's order becomes final; or

(2) The conclusion of any judicial review of that order.

§ 501.745 Orders and decisions: signature, date and public availability.

(a) *Signature required.* All orders and decisions of the Administrative Law Judge or Secretary's designee shall be signed.

(b) *Date of entry of orders.* The date of entry of an order by the Administrative Law Judge or Secretary's designee shall be the date the order is signed. Such date shall be reflected in the caption of the order, or if there is no caption, in the order itself.

(c) *Public availability of orders.* (1) In general, any final order of the Department shall be made public. Any supporting findings or opinions relating to a final order shall be made public at such time as the final order is made public.

(2) *Exception.* Any final order of the Administrative Law Judge or Secretary's designee pertaining to an application for confidential treatment shall only be available to the public in accordance with § 501.725(b)(3).

§ 501.746 Referral to United States Department of Justice; administrative collection measures.

In the event that the respondent does not pay any penalty imposed pursuant to this part within 30 calendar days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

§ 501.747 Procedures on remand of decisions.

Either an Administrative Law Judge or a Secretary's designee, as appropriate, shall reconsider any Department decision on judicial remand to the Department. The rules of practice contained in this subpart shall apply to all proceedings held on judicial remand.

Subpart E—Procedures

SOURCE: 62 FR 45101, Aug. 25, 1997, unless otherwise noted. Redesignated at 68 FR 53642, Sept. 11, 2003.

§ 501.801 Licensing.

(a) *General licenses.* General licenses have been issued authorizing under appropriate terms and conditions certain types of transactions which are subject to the prohibitions contained in this chapter. All such licenses are set forth in subpart E of each part contained in

this chapter. General licenses may also be issued authorizing under appropriate terms and conditions certain types of transactions which are subject to prohibitions contained in economic sanctions programs the implementation and administration of which have been delegated to the Director of the Office of Foreign Assets Control but which are not yet codified in this chapter. It is the policy of the Office of Foreign Assets Control not to grant applications for specific licenses authorizing transactions to which the provisions of an outstanding general license are applicable. Persons availing themselves of certain general licenses may be required to file reports and statements in accordance with the instructions specified in those licenses. Failure to file such reports or statements will nullify the authority of the general license.

(b) *Specific licenses*—(1) *General course of procedure*. Transactions subject to the prohibitions contained in this chapter, or to prohibitions the implementation and administration of which have been delegated to the Director of the Office of Foreign Assets Control, which are not authorized by general license may be effected only under specific licenses.

(2) *Applications for specific licenses*. Original signed applications for specific licenses to engage in any transactions prohibited by or pursuant to this chapter or sanctions programs that have been delegated to the Director of the Office of Foreign Assets Control for implementation and administration must be filed by mail or courier. Applications will not be accepted by fax or electronically, unless otherwise authorized. Applications may be submitted in letter form with the exception of license applications for the unblocking of funds transfers. Applications for the unblocking of funds transfers must be submitted using TD-F 90–22.54, ''Application for the Release of Blocked Funds,'' accompanied by two complete copies of the entire submission. The form, which requires information regarding the date of the blocking, the financial institutions involved in the transfer, and the beneficiary and amount of the transfer, may be obtained from the OFAC Internet Home Page: *http://www.treas.gov/ofac*, the OFAC fax-on-demand service: 202/622–0077, or the Compliance Programs Division, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220. Any person having an interest in a transaction or proposed transaction may file an application for a license authorizing such transaction.

(3) *Information to be supplied*. The applicant must supply all information specified by relevant instructions and/or forms, and must fully disclose the names of all parties who are concerned with or interested in the proposed transaction. If the application is filed by an agent, the agent must disclose the name of his principal(s). Such documents as may be relevant shall be attached to each application as a part of such application, except that documents previously filed with the Office of Foreign Assets Control may, where appropriate, be incorporated by reference in such application. Applicants are required to supply their taxpayer identifying number pursuant to 31 U.S.C. 7701, which number may be used for purposes of collecting and reporting on any delinquent amounts arising out of the applicant's relationship with the United States Government. Applicants may be required to furnish such further information as is deemed necessary to a proper determination by the Office of Foreign Assets Control. Any applicant or other party in interest desiring to present additional information may do so at any time before or after decision. Arrangements for oral presentation should be made with the Office of Foreign Assets Control.

(4) *Effect of denial*. The denial of a license does not preclude the reopening of an application or the filing of a further application. The applicant or any other party in interest may at any time request explanation of the reasons for a denial by correspondence or personal interview.

(5) *Reports under specific licenses*. As a condition for the issuance of any license, the licensee may be required to file reports with respect to the transaction covered by the license, in such form and at such times and places as may be prescribed in the license or otherwise.

(6) *Issuance of license*. Licenses will be issued by the Office of Foreign Assets

Control acting on behalf of the Secretary of the Treasury or licenses may be issued by the Secretary of the Treasury acting directly or through any specifically designated person, agency, or instrumentality.

(7) *Address*. License applications, reports, and inquiries should be addressed to the appropriate division or individual within the Office of Foreign Assets Control, or to its Director, at the following address: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220.

(c) *Registration of nongovernmental organizations*—(1) *Purpose of registration*. For those parts of this chapter specifically authorizing the registration of nongovernmental organizations (''NGOs''), registration numbers may be issued on a case-by-case basis to NGOs involved in humanitarian or religious activities in countries or geographic areas subject to economic sanctions pursuant to this chapter V. A registration number authorizes certain transactions by or on behalf of the registered NGO otherwise prohibited by the specific part with respect to which the registration number is issued, including the exportation of goods, services, and funds to the country or geographic area subject to such part for the purpose of relieving human suffering. The transactions authorized for registered NGOs either will be specified by the statement of licensing policy in the part under which the registration number is issued or by the Office of Foreign Assets Control letter issuing the registration number.

(2) *Application information to be supplied*. Applications for registration numbers should be submitted to the Compliance Programs Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220, or by facsimile to (202) 622–2426, and must include:

(i) The organization's name in English, in the language of origin, and any acronym or other names used to identify the organization;

(ii) Address and phone number of the organization's headquarters location;

(iii) Full name in English, in the language of origin, and any acronym or other names used, as well as nationality, citizenship, current country of residence, place and date of birth for key staff at the organization's headquarters, such as the chairman and board members, president, director, etc.;

(iv) Identification of field offices or partner offices elsewhere, including addresses, phone numbers, and organizational names used, as well as the identification of the senior officer(s) at these locations, including the person's name, position, nationality, citizenship, and date of birth (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronym or other names used to identify the individuals or organizations);

(v) Identification of subcontracting organizations, if any, to the extent known or contemplated at the time of the application;

(vi) Existing sources of income, such as official grants, private endowments, commercial activities;

(vii) Financial institutions that hold deposits on behalf of or extend lines of credit to the organization (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronym or other names used to identify the individuals or organizations);

(viii) Independent accounting firms, if employed in the production of the organization's financial statements (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronym or other names used to identify the individuals or organizations);

(ix) A detailed description of the organization's humanitarian or religious activities and projects in countries or geographic areas subject to economic sanctions pursuant to this chapter V;

(x) Most recent official registry documents, annual reports, and annual filings with the pertinent government, as applicable; and

(xi) Names and addresses of organizations to which the applicant currently provides or proposes to provide funding, services or material support, to the extent known at the time of the vetting, as applicable.

(3) *Use of registration number*. Registered NGOs conducting transactions authorized by their registrations to support their humanitarian or religious activities pursuant to any part of this chapter should reference the registration number on all payments and funds transfers and on all related documentation, including all purchasing, shipping, and financing documents.

(4) *Limitations*. Registered NGOs are not authorized to make remittances from blocked accounts. Registration numbers are not transferable and may be revoked or modified at any time at the discretion of the Director, Office of Foreign Assets Control. Registration numbers do not excuse compliance with any law or regulation administered by the Office of Foreign Assets Control or any other agency (including reporting requirements) applicable to the transaction(s) herein authorized, nor does it release the Registrant or third parties from civil or criminal liability for violation of any law or regulation.

(5) *Prior numbers*. Registration numbers already issued remain in effect.

[62 FR 45101, Aug. 25, 1997, as amended at 65 FR 10708, Feb. 29, 2000; 66 FR 2728, Jan. 11, 2001]

§ 501.802 Decisions.

The Office of Foreign Assets Control will advise each applicant of the decision respecting filed applications. The decision of the Office of Foreign Assets Control acting on behalf of the Secretary of the Treasury with respect to an application shall constitute final agency action.

§ 501.803 Amendment, modification, or revocation.

Except as otherwise provided by law, the provisions of each part of this chapter and any rulings, licenses (whether general or specific), authorizations, instructions, orders, or forms issued thereunder may be amended, modified or revoked at any time.

[63 FR 35809, July 1, 1998]

§ 501.804 Rulemaking.

(a) All rules and other public documents are issued by the Director of the Office of Foreign Assets Control. In general, rulemaking by the Office of Foreign Assets Control involves foreign affairs functions of the United States, and for that reason is exempt from the requirements under the Administrative Procedure Act (5 U.S.C. 553) for notice of proposed rulemaking, opportunity for public comment, and delay in effective date.

(b) Any interested person may petition the Director of the Office of Foreign Assets Control in writing for the issuance, amendment, or repeal of any rule.

§ 501.805 Rules governing availability of information.

(a) The records of the Office of Foreign Assets Control which are required by the Freedom of Information Act (5 U.S.C. 552) to be made available to the public shall be made available in accordance with the definitions, procedures, payment of fees, and other provisions of the regulations on the Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of the Treasury issued under 5 U.S.C. 552 and published at 31 CFR part 1.

NOTE TO PARAGRAPH § 501.805(a): Records or information obtained or created in the implementation of part 598 of this chapter are not subject to disclosure under section 552(a)(3) of the Freedom of Information Act. See § 598.802 of this chapter.

(b) The records of the Office of Foreign Assets Control which are required by the Privacy Act (5 U.S.C. 552a) to be made available to an individual shall be made available in accordance with the definitions, procedures, requirements for payment of fees, and other provisions of the Regulations on the Disclosure of Records of the Departmental Offices and of other bureaus and offices of the Department of the Treasury issued under 5 U.S.C. 552a and published at 31 CFR part 1.

(c) Any form issued for use in connection with this chapter may be obtained in person or by writing to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220, or by calling 202/622–2480.

(d) *Certain Civil Penalties Information.* (1) After the conclusion of a civil penalties proceeding that results in either the imposition of a civil monetary penalty or an informal settlement, OFAC shall make available to the public certain information on a routine basis, not less frequently than monthly, as follows:

(i) In each such proceeding against an entity, OFAC shall make available to the public

(A) The name and address of the entity involved,

(B) The sanctions program involved,

(C) A brief description of the violation or alleged violation,

(D) A clear indication whether the proceeding resulted in an informal settlement or in the imposition of a penalty,

(E) An indication whether the entity voluntarily disclosed the violation or alleged violation to OFAC, and

(F) The amount of the penalty imposed or the amount of the agreed settlement.

(ii) In such proceedings against individuals, OFAC shall release on an aggregate basis

(A) The number of penalties imposed and informal settlements reached,

(B) The sanctions programs involved,

(C) A brief description of the violations or alleged violations,

(D) A clear indication whether the proceedings resulted in informal settlements, in the imposition of penalties, or in administrative hearing requests pursuant to the Trading With the Enemy Act (TWEA), 50 U.S.C. 5(b), and

(E) The amounts of the penalties imposed and the amounts of the agreed settlements.

(2) The medium through which information will be released is OFAC's website at *http://www.treas.gov/ofac.*

(3) The information made available pursuant to paragraph (d)(1) of this section shall not include the following:

(i) The name of any violator or alleged violator who is an individual.

(ii) Records or information obtained or created in the implementation of part 598 of this chapter.

(4) On a case-by-case basis, OFAC may release additional information concerning a particular civil penalties proceeding.

[62 FR 45101, Aug. 25, 1997, as amended at 65 FR 41335, July 5, 2000; 68 FR 6822, Feb. 11, 2003]

§ 501.806 Procedures for unblocking funds believed to have been blocked due to mistaken identity.

When a transaction results in the blocking of funds at a financial institution pursuant to the applicable regulations of this chapter and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the following administrative procedures:

(a) Any person who is a party to the transaction may request the release of funds which the party believes to have been blocked due to mistaken identity.

(b) Requests to release funds which a party believes to have been blocked due to mistaken identity must be made in writing and addressed to the Office of Foreign Assets Control, Compliance Programs Division, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220, or sent by facsimile transmission to the Compliance Programs Division at 202/622–1657.

(c) The written request to release funds must include the name, address, telephone number, and (where available) fax number of the party seeking the release of the funds. For individuals, the inclusion of a social security number is voluntary but will facilitate resolution of the request. For corporations or other entities, the application should include its principal place of business, the state of incorporation or organization, and the name and telephone number of the appropriate person to contact regarding the application.

(d) A request to release funds should include the following information, where known, concerning the transaction:

(1) The name of the financial institution in which the funds are blocked;

(2) The amount blocked;

(3) The date of the blocking;

(4) The identity of the original remitter of the funds and any intermediary financial institutions;

(5) The intended beneficiary of the blocked transfer;

(6) A description of the underlying transaction including copies of related documents (e.g., invoices, bills of lading, promissory notes, etc.);

(7) The nature of the applicant's interest in the funds; and

(8) A statement of the reasons why the applicant believes the funds were blocked due to mistaken identity.

(e) Upon receipt of the materials required by paragraph (d) of this section, OFAC may request additional material from the applicant concerning the transaction pursuant to § 501.602.

(f) Following review of all applicable submissions, the Director of the Office of Foreign Assets Control will determine whether to release the funds. In the event the Director determines that the funds should be released, the Office of Foreign Assets Control will direct the financial institution to return the funds to the appropriate party.

(g) For purposes of this section, the term ''financial institution'' shall include a banking institution, depository institution or United States depository institution, domestic bank, financial institution or U.S. financial institution, as those terms are defined in the applicable part of this chapter.

[62 FR 45101, Aug. 25, 1997, as amended at 62 FR 52495, Oct. 8, 1997]

§ 501.807 Procedures governing delisting from the Specially Designated Nationals and Blocked Persons List.

A person may seek administrative reconsideration of his, her or its designation or that of a vessel as blocked, or assert that the circumstances resulting in the designation no longer apply, and thus seek to have the designation rescinded pursuant to the following administrative procedures:

(a) A person blocked under the provisions of any part of this chapter, including a specially designated national, specially designated terrorist, or specially designated narcotics trafficker (collectively,''a blocked person''), or a person owning a majority interest in a blocked vessel may submit arguments or evidence that the person believes establishes that insufficient basis exists for the designation. The blocked person also may propose remedial steps on the person's part, such as corporate reorganization, resignation of persons from positions in a blocked entity, or similar steps, which the person believes would negate the basis for designation. A person owning a majority interest in a blocked vessel may propose the sale of the vessel, with the proceeds to be placed into a blocked interest-bearing account after deducting the costs incurred while the vessel was blocked and the costs of the sale. This submission must be made in writing and addressed to the Director, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220.

(b) The information submitted by the blocked person seeking unblocking or by a person seeking the unblocking of a vessel will be reviewed by the Office of Foreign Assets Control, which may request clarifying, corroborating, or other additional information.

(c) A blocked person seeking unblocking or a person seeking the unblocking of a vessel may request a meeting with the Office of Foreign Assets Control; however, such meetings are not required, and the office may, at its discretion, decline to conduct such meetings prior to completing a review pursuant to this section.

(d) After the Office of Foreign Assets Control has conducted a review of the request for reconsideration, it will provide a written decision to the blocked person or person seeking the unblocking of a vessel.

[64 FR 5614, Feb. 4, 1999]

§ 501.808 License application and other procedures applicable to economic sanctions programs.

Upon submission to the Office of Management and Budget of an amendment to the overall burden hours for the information collections imposed under this part, the license application and other procedures set forth in this subpart are applicable to economic sanctions programs for which implementation and administration have been delegated to the Office of Foreign Assets Control.

Subpart F—Paperwork Reduction Act

SOURCE: 62 FR 45101, Aug. 25, 1997, unless otherwise noted. Redesignated at 68 FR 53642, Sept. 11, 2003.

§ 501.901 Paperwork Reduction Act notice.

The information collection requirements in subparts C and D have been approved by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act (44 U.S.C. 3507(j)) and assigned control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 501—ECONOMIC SANCTIONS ENFORCEMENT GUIDELINES.

NOTE: This appendix provides a general framework for the enforcement of all economic sanctions programs administered by the Office of Foreign Assets Control (OFAC).

I. DEFINITIONS

A. *Apparent violation* means conduct that constitutes an actual or possible violation of U.S. economic sanctions laws, including the International Emergency Economic Powers Act (IEEPA), the Trading With the Enemy Act (TWEA), the Foreign Narcotics Kingpin Designation Act, and other statutes administered or enforced by OFAC, as well as Executive orders, regulations, orders, directives, or licenses issued pursuant thereto.

B. *Applicable schedule amount* means:

1. $1,000 with respect to a transaction valued at less than $1,000;
2. $10,000 with respect to a transaction valued at $1,000 or more but less than $10,000;
3. $25,000 with respect to a transaction valued at $10,000 or more but less than $25,000;
4. $50,000 with respect to a transaction valued at $25,000 or more but less than $50,000;
5. $100,000 with respect to a transaction valued at $50,000 or more but less than $100,000;
6. $170,000 with respect to a transaction valued at $100,000 or more but less than $170,000;
7. $250,000 with respect to a transaction valued at $170,000 or more, except that where the applicable schedule amount as defined above exceeds the statutory maximum civil penalty amount applicable to an apparent violation, the applicable schedule amount shall equal such applicable statutory maximum civil penalty amount.

C. *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

D. *Penalty* is the final civil penalty amount imposed in a Penalty Notice.

E. *Proposed penalty* is the civil penalty amount set forth in a Pre-Penalty Notice.

F. *Regulator* means any Federal, State, local or foreign official or agency that has authority to license or examine an entity for compliance with federal, state, or foreign law.

G. *Subject Person* means an individual or entity subject to any of the sanctions programs administered or enforced by OFAC.

H. *Transaction value* means the dollar value of a subject transaction. In export and import cases, the transaction value generally will be the domestic value in the United States of the goods, technology, or services sought to be exported from or imported into the United States, as demonstrated by commercial invoices, bills of lading, signed Customs declarations, or similar documents. In cases involving seizures by U.S. Customs and Border Protection (CBP), the transaction value generally will be the domestic value as determined by CBP. If the apparent violation at issue is a prohibited dealing in blocked property by a Subject Person, the transaction value generally will be the dollar value of the underlying transaction involved, such as the value of the property dealt in or the amount of the funds transfer that a financial institution failed to block or reject. Where the transaction value is not otherwise ascertainable, OFAC may consider the market value of the goods or services that were the subject of the transaction, the economic benefit conferred on the sanctioned party, and/or the economic benefit derived by the Subject Person from the transaction, in determining transaction value. For purposes of these Guidelines, ''transaction value'' will not necessarily have the same meaning, nor be applied in the same manner, as that term is used for import valuation purposes at 19 CFR 152.103.

I. *Voluntary self-disclosure* means self-initiated notification to OFAC of an apparent violation by a Subject Person that has committed, or otherwise participated in, an apparent violation of a statute, Executive order, or regulation administered or enforced by OFAC, prior to or at the same time that OFAC, or any other federal, state, or local government agency or official, discovers the apparent violation or another substantially similar apparent violation. For these purposes, ''substantially similar apparent violation'' means an apparent violation that is part of a series of similar apparent violations or is related to the same pattern or practice of conduct. Notification of an apparent violation to another government agency (but not to OFAC) by a Subject Person, which is considered a voluntary self-disclosure by that agency, may be considered a voluntary

self-disclosure by OFAC, based on a case-by-case assessment. Notification to OFAC of an apparent violation is not a voluntary self-disclosure if: a third party is required to and does notify OFAC of the apparent violation or a substantially similar apparent violation because a transaction was blocked or rejected by that third party (regardless of when OFAC receives such notice from the third party and regardless of whether the Subject Person was aware of the third party's disclosure); the disclosure includes false or misleading information; the disclosure (when considered along with supplemental information provided by the Subject Person) is materially incomplete; the disclosure is not self-initiated (including when the disclosure results from a suggestion or order of a federal or state agency or official); or, when the Subject Person is an entity, the disclosure is made by an individual in a Subject Person entity without the authorization of the entity's senior management. Responding to an administrative subpoena or other inquiry from, or filing a license application with, OFAC is not a voluntary self-disclosure. In addition to notification, a voluntary self-disclosure must include, or be followed within a reasonable period of time by, a report of sufficient detail to afford a complete understanding of an apparent violation's circumstances, and should also be followed by responsiveness to any follow-up inquiries by OFAC. (As discussed further below, a Subject Person's level of cooperation with OFAC is an important factor in determining the appropriate enforcement response to an apparent violation even in the absence of a voluntary self-disclosure as defined herein; disclosure by a Subject Person generally will result in mitigation insofar as it represents cooperation with OFAC's investigation.)

II. Types of Responses to Apparent Violations

Depending on the facts and circumstances of a particular case, an OFAC investigation may lead to one or more of the following actions:

A. *No Action*. If OFAC determines that there is insufficient evidence to conclude that a violation has occurred and/or, based on an analysis of the General Factors outlined in Section III of these Guidelines, concludes that the conduct does not rise to a level warranting an administrative response, then no action will be taken. In those cases in which OFAC is aware that the Subject Person has knowledge of OFAC's investigation, OFAC generally will issue a letter to the Subject Person indicating that the investigation is being closed with no administrative action being taken. A no-action determination represents a final determination as to the apparent violation, unless OFAC later learns of additional related violations or other relevant facts.

B. *Request Additional Information*. If OFAC determines that additional information regarding the apparent violation is needed, it may request further information from the Subject Person or third parties, including through an administrative subpoena issued pursuant to 31 CFR 501.602. In the case of an institution subject to regulation where OFAC has entered into a Memorandum of Understanding (MOU) with the Subject Person's regulator, OFAC will follow the procedures set forth in such MOU regarding consultation with the regulator. Even in the absence of an MOU, OFAC may seek relevant information about a regulated institution and/or the conduct constituting the apparent violation from the institution's federal, state, or foreign regulator. Upon receipt of information determined to be sufficient to assess the apparent violation, OFAC will decide, based on an analysis of the General Factors outlined in Section III of these Guidelines, whether to pursue further enforcement action or whether some other response to the apparent violation is appropriate.

C. *Cautionary Letter:* If OFAC determines that there is insufficient evidence to conclude that a violation has occurred or that a Finding of Violation or a civil monetary penalty is not warranted under the circumstances, but believes that the underlying conduct could lead to a violation in other circumstances and/or that a Subject Person does not appear to be exercising due diligence in assuring compliance with the statutes, Executive orders, and regulations that OFAC enforces, OFAC may issue a cautionary letter, which may convey OFAC's concerns about the underlying conduct and/or the Subject Person's OFAC compliance policies, practices and/or procedures. A cautionary letter represents a final enforcement response to the apparent violation, unless OFAC later learns of additional related violations or other relevant facts, but does not constitute a final agency determination as to whether a violation has occurred.

D. *Finding of Violation:* If OFAC determines that a violation has occurred and considers it important to document the occurrence of a violation and, based on an analysis of the General Factors outlined in Section III of these Guidelines, concludes that the Subject Person's conduct warrants an administrative response but that a civil monetary penalty is not the most appropriate response, OFAC may issue a Finding of Violation that identifies the violation. A Finding of Violation may also convey OFAC's concerns about the violation and/or the Subject Person's OFAC compliance policies, practices and/or procedures, and/or identify the need for further compliance steps to be taken. A Finding of

Violation represents a final enforcement response to the violation, unless OFAC later learns of additional related violations or other relevant facts, and constitutes a final agency determination that a violation has occurred. A Finding of Violation will afford the Subject Person an opportunity to respond to OFAC's determination that a violation has occurred before that determination becomes final. In the event a Subject Person so responds, the initial Finding of Violation will not constitute a final agency determination that a violation has occurred. In such cases, after considering the response received, OFAC will inform the Subject Person of its final enforcement response to the apparent violation.

E. *Civil Monetary Penalty*. If OFAC determines that a violation has occurred and, based on an analysis of the General Factors outlined in Section III of these Guidelines, concludes that the Subject Person's conduct warrants the imposition of a monetary penalty, OFAC may impose a civil monetary penalty. Civil monetary penalty amounts will be determined as discussed in Section V of these Guidelines. The imposition of a civil monetary penalty constitutes a final agency determination that a violation has occurred and represents a final civil enforcement response to the violation. OFAC will afford the Subject Person an opportunity to respond to OFAC's determination that a violation has occurred before a final penalty is imposed.

F. *Criminal Referral*. In appropriate circumstances, OFAC may refer the matter to appropriate law enforcement agencies for criminal investigation and/or prosecution. Apparent sanctions violations that OFAC has referred for criminal investigation and/or prosecution also may be subject to OFAC civil penalty or other administrative action.

G. *Other Administrative Actions*. In addition to or in lieu of other administrative actions, OFAC may also take the following administrative actions in response to an apparent violation:

1. *License Denial, Suspension, Modification, or Revocation*. OFAC authorizations to engage in a transaction (including the release of blocked funds) pursuant to a general or specific license may be withheld, denied, suspended, modified, or revoked in response to an apparent violation.

2. *Cease and Desist Order*. OFAC may order the Subject Person to cease and desist from conduct that is prohibited by any of the sanctions programs enforced by OFAC when OFAC has reason to believe that a Subject Person has engaged in such conduct and/or that such conduct is ongoing or may recur.

III. General Factors Affecting Administrative Action

As a general matter, OFAC will consider some or all of the following General Factors in determining the appropriate administrative action in response to an apparent violation of U.S. sanctions by a Subject Person, and, where a civil monetary penalty is imposed, in determining the appropriate amount of any such penalty:

A. *Willful or Reckless Violation of Law:* a Subject Person's willfulness or recklessness in violating, attempting to violate, conspiring to violate, or causing a violation of the law. Generally, to the extent the conduct at issue is the result of willful conduct or a deliberate intent to violate, attempt to violate, conspire to violate, or cause a violation of the law, the OFAC enforcement response will be stronger. Among the factors OFAC may consider in evaluating willfulness or recklessness are:

1. *Willfulness*. Was the conduct at issue the result of a decision to take action with the knowledge that such action would constitute a violation of U.S. law? Did the Subject Person know that the underlying conduct constituted, or likely constituted, a violation of U.S. law at the time of the conduct?

2. *Recklessness*. Did the Subject Person demonstrate reckless disregard for U.S. sanctions requirements or otherwise fail to exercise a minimal degree of caution or care in avoiding conduct that led to the apparent violation? Were there warning signs that should have alerted the Subject Person that an action or failure to act would lead to an apparent violation?

3. *Concealment*. Was there an effort by the Subject Person to hide or purposely obfuscate its conduct in order to mislead OFAC, Federal, State, or foreign regulators, or other parties involved in the conduct about an apparent violation?

4. *Pattern of Conduct*. Did the apparent violation constitute or result from a pattern or practice of conduct or was it relatively isolated and atypical in nature?

5. *Prior Notice*. Was the Subject Person on notice, or should it reasonably have been on notice, that the conduct at issue, or similar conduct, constituted a violation of U.S. law?

6. *Management Involvement*. In cases of entities, at what level within the organization did the willful or reckless conduct occur? Were supervisory or managerial level staff aware, or should they reasonably have been aware, of the willful or reckless conduct?

B. *Awareness of Conduct at Issue:* the Subject Person's awareness of the conduct giving rise to the apparent violation. Generally, the greater a Subject Person's actual knowledge of, or reason to know about, the conduct constituting an apparent violation, the stronger the OFAC enforcement response will be. In the case of a corporation, awareness will focus on supervisory or managerial level staff in the business unit at issue, as well as other senior officers and managers. Among the factors OFAC may consider in evaluating the Subject Person's awareness of the conduct at issue are:

1. *Actual Knowledge*. Did the Subject Person have actual knowledge that the conduct giving rise to an apparent violation took place? Was the conduct part of a business process, structure or arrangement that was designed or implemented with the intent to prevent or shield the Subject Person from having such actual knowledge, or was the conduct part of a business process, structure or arrangement implemented for other legitimate reasons that made it difficult or impossible for the Subject Person to have actual knowledge?

2. *Reason to Know*. If the Subject Person did not have actual knowledge that the conduct took place, did the Subject Person have reason to know, or should the Subject Person reasonably have known, based on all readily available information and with the exercise of reasonable due diligence, that the conduct would or might take place?

3. *Management Involvement*. In the case of an entity, was the conduct undertaken with the explicit or implicit knowledge of senior management, or was the conduct undertaken by personnel outside the knowledge of senior management? If the apparent violation was undertaken without the knowledge of senior management, was there oversight intended to detect and prevent violations, or did the lack of knowledge by senior management result from disregard for its responsibility to comply with applicable sanctions laws?

C. *Harm to Sanctions Program Objectives:* the actual or potential harm to sanctions program objectives caused by the conduct giving rise to the apparent violation. Among the factors OFAC may consider in evaluating the harm to sanctions program objectives are:

1. *Economic or Other Benefit to the Sanctioned Individual, Entity, or Country:* the economic or other benefit conferred or attempted to be conferred to sanctioned individuals, entities, or countries as a result of an apparent violation, including the number, size, and impact of the transactions constituting an apparent violation(s), the length of time over which they occurred, and the nature of the economic or other benefit conferred. OFAC may also consider the causal link between the Subject Person's conduct and the economic benefit conferred or attempted to be conferred.

2. *Implications for U.S. Policy:* the effect that the circumstances of the apparent violation had on the integrity of the U.S. sanctions program and the related policy objectives involved.

3. *License Eligibility:* whether the conduct constituting the apparent violation likely would have been licensed by OFAC under existing licensing policy.

4. *Humanitarian activity:* whether the conduct at issue was in support of a humanitarian activity.

D. *Individual Characteristics:* the particular circumstances and characteristics of a Subject Person. Among the factors OFAC may consider in evaluating individual characteristics are:

1. *Commercial Sophistication:* the commercial sophistication and experience of the Subject Person. Is the Subject Person an individual or an entity? If an individual, was the conduct constituting the apparent violation for personal or business reasons?

2. *Size of Operations and Financial Condition:* the size of a Subject Person's business operations and overall financial condition, where such information is available and relevant. Qualification of the Subject Person as a small business or organization for the purposes of the Small Business Regulatory Enforcement Fairness Act, as determined by reference to the applicable regulations of the Small Business Administration, may also be considered.

3. *Volume of Transactions:* the total volume of transactions undertaken by the Subject Person on an annual basis, with attention given to the apparent violations as compared with the total volume.

4. *Sanctions History:* the Subject Person's sanctions history, including OFAC's issuance of prior penalties, findings of violations or cautionary, warning or evaluative letters, or other administrative actions (including settlements). As a general matter, OFAC will only consider a Subject Person's sanctions history for the five years preceding the date of the transaction giving rise to the apparent violation.

E. *Compliance Program:* the existence, nature and adequacy of a Subject Person's risk-based OFAC compliance program at the time of the apparent violation, where relevant. In the case of an institution subject to regulation where OFAC has entered into a Memorandum of Understanding (MOU) with the Subject Person's regulator, OFAC will follow the procedures set forth in such MOU regarding consultation with the regulator with regard to the quality and effectiveness of the Subject Person's compliance program. Even in the absence of an MOU, OFAC may take into consideration the views of federal, state, or foreign regulators, where relevant. Further information about risk-based compliance programs for financial institutions is set forth in the annex hereto.

F. *Remedial Response:* the Subject Person's corrective action taken in response to the apparent violation. Among the factors OFAC may consider in evaluating the remedial response are:

1. The steps taken by the Subject Person upon learning of the apparent violation. Did the Subject Person immediately stop the conduct at issue?

2. In the case of an entity, the processes followed to resolve issues related to the apparent violation. Did the Subject Person discover necessary information to ascertain the causes and extent of the apparent violation, fully and expeditiously? Was senior management fully informed? If so, when?

3. In the case of an entity, whether the Subject Person adopted new and more effective internal controls and procedures to prevent a recurrence of the apparent violation. If the Subject Person did not have an OFAC compliance program in place at the time of the apparent violation, did it implement one upon discovery of the apparent violations? If it did have an OFAC compliance program, did it take appropriate steps to enhance the program to prevent the recurrence of similar violations? Did the entity provide the individual(s) responsible for the apparent violation with additional training, and/or take other appropriate action, to ensure that similar violations do not occur in the future?

4. Where applicable, whether the Subject Person undertook a thorough review to identify other possible violations.

G. *Cooperation with OFAC:* the nature and extent of the Subject Person's cooperation with OFAC. Among the factors OFAC may consider in evaluating cooperation with OFAC are:

1. Did the Subject Person voluntarily self-disclose the apparent violation to OFAC?

2. Did the Subject Person provide OFAC with all relevant information regarding an apparent violation (whether or not voluntarily self-disclosed)?

3. Did the Subject Person research and disclose to OFAC relevant information regarding any other apparent violations caused by the same course of conduct?

4. Was information provided voluntarily or in response to an administrative subpoena?

5. Did the Subject Person cooperate with, and promptly respond to, all requests for information?

6. Did the Subject Person enter into a statute of limitations tolling agreement, if requested by OFAC (particularly in situations where the apparent violations were not immediately notified to or discovered by OFAC, in particularly complex cases, and in cases in which the Subject Person has requested and received additional time to respond to a request for information from OFAC)? If so, the Subject Person's entering into a tolling agreement will be deemed a mitigating factor. NOTE: a Subject Person's refusal to enter into a tolling agreement will not be considered by OFAC as an aggravating factor in assessing a Subject Person's cooperation or otherwise under the Guidelines.

Where appropriate, OFAC will publicly note substantial cooperation provided by a Subject Person.

H. *Timing of apparent violation in relation to imposition of sanctions:* the timing of the apparent violation in relation to the adoption of the applicable prohibitions, particularly if the apparent violation took place immediately after relevant changes in the sanctions program regulations or the addition of a new name to OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List).

I. *Other enforcement action:* other enforcement actions taken by federal, state, or local agencies against the Subject Person for the apparent violation or similar apparent violations, including whether the settlement of alleged violations of OFAC regulations is part of a comprehensive settlement with other federal, state, or local agencies.

J. *Future Compliance/Deterrence Effect:* the impact administrative action may have on promoting future compliance with U.S. economic sanctions by the Subject Person and similar Subject Persons, particularly those in the same industry sector.

K. *Other relevant factors on a case-by-case basis:* such other factors that OFAC deems relevant on a case-by-case basis in determining the appropriate enforcement response and/or the amount of any civil monetary penalty. OFAC will consider the totality of the circumstances to ensure that its enforcement response is proportionate to the nature of the violation.

IV. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH A REQUIREMENT TO FURNISH INFORMATION OR KEEP RECORDS

As a general matter, the following civil penalty amounts shall apply to a Subject Person's failure to comply with a requirement to furnish information or maintain records:

A. The failure to comply with a requirement to furnish information pursuant to 31 CFR 501.602 may result in a penalty in an amount up to $20,000, irrespective of whether any other violation is alleged. Where OFAC has reason to believe that the apparent violation(s) that is the subject of the requirement to furnish information involves a transaction(s) valued at greater than $500,000, a failure to comply with a requirement to furnish information may result in a penalty in an amount up to $50,000, irrespective of whether any other violation is alleged. A failure to comply with a requirement to furnish information may be considered a continuing violation, and the penalties described above may be imposed each month that a party has continued to fail to comply with the requirement to furnish information. OFAC may also seek to have a requirement to furnish information judicially enforced. Imposition of a civil monetary penalty for failure to comply with a requirement to furnish information does not preclude OFAC from seeking such judicial enforcement of the requirement to furnish information.

B. The late filing of a required report, whether set forth in regulations or in a specific license, may result in a civil monetary penalty in an amount up to $2,500, if filed within the first 30 days after the report is due, and a penalty in an amount up to $5,000 if filed more than 30 days after the report is due. If the report relates to blocked assets, the penalty may include an additional $1,000 for every 30 days that the report is overdue, up to five years.

C. The failure to maintain records in conformance with the requirements of OFAC's regulations or of a specific license may result in a penalty in an amount up to $50,000.

V. Civil Penalties

OFAC will review the facts and circumstances surrounding an apparent violation and apply the General Factors for Taking Administrative Action in Section III above in determining whether to initiate a civil penalty proceeding and in determining the amount of any civil monetary penalty. OFAC will give careful consideration to the appropriateness of issuing a cautionary letter or Finding of Violation in lieu of the imposition of a civil monetary penalty.

A. Civil Penalty Process

1. *Pre-Penalty Notice.* If OFAC has reason to believe that a sanctions violation has occurred and believes that a civil monetary penalty is appropriate, it will issue a Pre-Penalty Notice in accordance with the procedures set forth in the particular regulations governing the conduct giving rise to the apparent violation. The amount of the proposed penalty set forth in the Pre-Penalty Notice will reflect OFAC's preliminary assessment of the appropriate penalty amount, based on information then in OFAC's possession. The amount of the final penalty may change as OFAC learns additional relevant information. If, after issuance of a Pre-Penalty Notice, OFAC determines that a penalty in an amount that represents an increase of more than 10 percent from the proposed penalty set forth in the Pre-Penalty Notice is appropriate, or if OFAC intends to allege additional violations, it will issue a revised Pre-Penalty Notice setting forth the new proposed penalty amount and/or alleged violations.

a. In general, the Pre-Penalty Notice will set forth the following with respect to the specific violations alleged and the proposed penalties:

i. Description of the alleged violations, including the number of violations and their value, for which a penalty is being proposed;

ii. Identification of the regulatory or other provisions alleged to have been violated;

iii. Identification of the base category (defined below) according to which the proposed penalty amount was calculated and the General Factors that were most relevant to the determination of the proposed penalty amount;

iv. The maximum amount of the penalty to which the Subject Person could be subject under applicable law; and

v. The proposed penalty amount, determined in accordance with the provisions set forth in these Guidelines.

b. The Pre-Penalty Notice will also include information regarding how to respond to the Pre-Penalty Notice including:

i. A statement that the Subject Person may submit a written response to the Pre-Penalty Notice by a date certain addressing the alleged violation(s), the General Factors Affecting Administrative Action set forth in Section III of these Guidelines, and any other information or evidence that the Subject Person deems relevant to OFAC's consideration.

ii. A statement that a failure to respond to the Pre-Penalty Notice may result in the imposition of a civil monetary penalty.

2. *Response to Pre-Penalty Notice.* A Subject Person may submit a written response to the Pre-Penalty Notice in accordance with the procedures set forth in the particular regulations governing the conduct giving rise to the apparent violation. Generally, the response should either agree to the proposed penalty set forth in the Pre-Penalty Notice or set forth reasons why a penalty should not be imposed or, if imposed, why it should be a lesser amount than proposed, with particular attention paid to the General Factors Affecting Administrative Action set forth in Section III of these Guidelines. The response should include all documentary or other evidence available to the Subject Person that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted.

3. *Penalty Notice.* If OFAC receives no response to a Pre-Penalty Notice within the time prescribed in the Pre-Penalty Notice, or if following the receipt of a response to a Pre-Penalty Notice and a review of the information and evidence contained therein OFAC concludes that a civil monetary penalty is warranted, a Penalty Notice generally will be issued in accordance with the procedures set forth in the particular regulations governing the conduct giving rise to the violation. A Penalty Notice constitutes a final agency determination that a violation has occurred. The penalty amount set forth in the Penalty Notice will take into account relevant additional information provided in response to a Pre-Penalty Notice. In the absence of a response to a Pre-Penalty Notice, the penalty amount set forth in the Penalty Notice will generally be the same as the proposed penalty set forth in the Pre-Penalty Notice.

4. *Referral to Financial Management Division*. The imposition of a civil monetary penalty pursuant to a Penalty Notice creates a debt due the U.S. Government. OFAC will advise Treasury's Financial Management Division upon the imposition of a penalty. The Financial Management Division may take follow-up action to collect the penalty assessed if it is not paid within the prescribed time period set forth in the Penalty Notice. In addition or instead, the matter may be referred to the U.S. Department of Justice for appropriate action to recover the penalty.

5. *Final Agency Action*. The issuance of a Penalty Notice constitutes final agency action with respect to the violation(s) for which the penalty is assessed.

B. Amount of Civil Penalty

1. *Egregious case*. In those cases in which a civil monetary penalty is deemed appropriate, OFAC will make a determination as to whether a case is deemed ''egregious'' for purposes of the base penalty calculation. This determination will be based on an analysis of the applicable General Factors. In making the egregiousness determination, OFAC generally will give substantial weight to General Factors A (''willful or reckless violation of law''), B (''awareness of conduct at issue''), C (''harm to sanctions program objectives'') and D (''individual characteristics''), with particular emphasis on General Factors A and B. A case will be considered an ''egregious case'' where the analysis of the applicable General Factors, with a focus on those General Factors identified above, indicates that the case represents a particularly serious violation of the law calling for a strong enforcement response. A determination that a case is ''egregious'' will be made by the Director or Deputy Director.

2. *Pre-Penalty Notice*. The penalty amount proposed in a Pre-Penalty Notice shall generally be calculated as follows, except that neither the base amount nor the proposed penalty will exceed the applicable statutory maximum amount:[6]

a. Base Category Calculation

i. In a non-egregious case, if the apparent violation is disclosed through a voluntary self-disclosure by the Subject Person, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be one-half of the transaction value, capped at a maximum base amount of $125,000 per violation (except in the case of transactions subject to the Trading With the Enemy Act, in which case the base amount of the proposed civil penalty will be capped at the lesser of $125,000 or one-half of the maximum statutory penalty under TWEA, which at the time of publication of these Guidelines equaled $32,500 per violation).

ii. In a non-egregious case, if the apparent violation comes to OFAC's attention by means other than a voluntary self-disclosure, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be the ''applicable schedule amount,'' as defined above (capped at a maximum base amount of $250,000 per violation, or, in the case of transactions subject to the Trading With the Enemy Act, capped at the lesser of $250,000 or the maximum statutory penalty under TWEA, which at the time of publication of these Guidelines equaled a maximum of $65,000 per violation).

iii. In an egregious case, if the apparent violation is disclosed through a voluntary self-disclosure by a Subject Person, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be one-half of the applicable statutory maximum penalty applicable to the violation.

iv. In an egregious case, if the apparent violation comes to OFAC's attention by means other than a voluntary self-disclosure, the base amount of the proposed civil penalty in the Pre-Penalty Notice shall be the applicable statutory maximum penalty amount applicable to the violation.

The following matrix represents the base amount of the proposed civil penalty for each category of violation:

[6] For apparent violations identified in the Cuba Penalty Schedule, 68 Fed. Reg. 4429 (Jan. 29, 2003), for which a civil monetary penalty has been deemed appropriate, the base penalty amount shall equal the amount set forth in the Schedule for such violation, except that the base penalty amount shall be reduced by 50% in cases of voluntary self-disclosure.

BASE PENALTY MATRIX

Voluntary Self-Disclosure	Egregious Case: NO	Egregious Case: YES
YES	(1) One-Half of Transaction Value (capped at $125,000 per violation/ $32,500 per TWEA violation)	(3) One-Half of Applicable Statutory Maximum
NO	(2) Applicable Schedule Amount (capped at $250,000 per violation/ $65,000 per TWEA violation)	(4) Applicable Statutory Maximum

Where the base penalty amount would otherwise exceed the statutory maximum civil penalty amount applicable to an apparent violation, the base penalty amount shall equal such applicable statutory maximum amount.

b. Adjustment for Applicable Relevant General Factors

The base amount of the proposed civil penalty may be adjusted to reflect applicable General Factors for Administrative Action set forth in Section III of these Guidelines. Each factor may be considered mitigating or aggravating, resulting in a lower or higher proposed penalty amount. As a general matter, in those cases where the following General Factors are present, OFAC will adjust the base proposed penalty amount in the following manner:

i. In cases involving substantial cooperation with OFAC but no voluntary self-disclosure as defined herein, including cases in which an apparent violation is reported to OFAC by a third party but the Subject Person provides substantial additional information regarding the apparent violation and/or other related violations, the base penalty amount generally will be reduced between 25 and 40 percent. Substantial cooperation in cases involving voluntary self-disclosure may also be considered as a further mitigating factor.

ii. In cases involving a Subject Person's first violation, the base penalty amount generally will be reduced up to 25 percent. An apparent violation generally will be considered a "first violation" if the Subject Person has not received a penalty notice or Finding of Violation from OFAC in the five years preceding the date of the transaction giving rise to the apparent violation. A group of substantially similar apparent violations addressed in a single Pre-Penalty Notice shall be considered as a single violation for purposes of this subsection. In those cases where a prior penalty notice or Finding of Violation within the preceding five years involved conduct of a substantially different nature

from the apparent violation at issue, OFAC may consider the apparent violation at issue a ''first violation.'' In determining the extent of any mitigation for a first violation, OFAC may consider any prior OFAC enforcement action taken with respect to the Subject Person, including any cautionary, warning or evaluative letters issued, or any civil monetary settlements entered into with OFAC.

In all cases, the proposed penalty amount will not exceed the applicable statutory maximum.

In cases involving a large number of apparent violations, where the transaction value of all apparent violations is either unknown or would require a disproportionate allocation of resources to determine, OFAC may estimate or extrapolate the transaction value of the total universe of apparent violations in determining the amount of any proposed civil monetary penalty.

3. *Penalty Notice.* The amount of the proposed civil penalty in the Pre-Penalty Notice will be the presumptive starting point for calculation of the civil penalty amount in the Penalty Notice. OFAC may adjust the penalty amount in the Penalty Notice based on:

a. Evidence presented by the Subject Person in response to the Pre-Penalty Notice, or otherwise received by OFAC with respect to the underlying violation(s); and/or

b. Any modification resulting from further review and reconsideration by OFAC of the proposed civil monetary penalty in light of the General Factors for Administrative Action set forth in Section III above.

In no event will the amount of the civil monetary penalty in the Penalty Notice exceed the proposed penalty set forth in the Pre-Penalty Notice by more than 10 percent, or include additional alleged violations, unless a revised Pre-Penalty Notice has first been sent to the Subject Person as set forth above. In the event that OFAC determines upon further review that no penalty is appropriate, it will so inform the Subject Person in a no-action letter, a cautionary letter, or a Finding of Violation.

C. Settlements

A settlement does not constitute a final agency determination that a violation has occurred.

1. *Settlement Process.* Settlement discussions may be initiated by OFAC, the Subject Person or the Subject Person's authorized representative. Settlements generally will be negotiated in accordance with the principles set forth in these Guidelines with respect to appropriate penalty amounts. OFAC may condition the entry into or continuation of settlement negotiations on the execution of a tolling agreement with respect to the statute of limitations.

2. *Settlement Prior to Issuance of Pre-Penalty Notice.* Where settlement discussions occur prior to the issuance of a Pre-Penalty Notice, the Subject Person may request in writing that OFAC withhold issuance of a Pre-Penalty Notice pending the conclusion of settlement discussions. OFAC will generally agree to such a request as long as settlement discussions are continuing in good faith and the statute of limitations is not at risk of expiring.

3. *Settlement Following Issuance of Pre-Penalty Notice.* If a matter is settled after a Pre-Penalty Notice has been issued, but before a final Penalty Notice is issued, OFAC will not make a final determination as to whether a sanctions violation has occurred. In the event no settlement is reached, the period specified for written response to the Pre-Penalty Notice remains in effect unless additional time is granted by OFAC.

4. *Settlements of Multiple Apparent Violations.* A settlement initiated for one apparent violation may also involve a comprehensive or global settlement of multiple apparent violations covered by other Pre-Penalty Notices, apparent violations for which a Pre-Penalty Notice has not yet been issued by OFAC, or previously unknown apparent violations reported to OFAC during the pendency of an investigation of an apparent violation.

ANNEX

The following matrix can be used by financial institutions to evaluate their compliance programs:

OFAC RISK MATRIX

Low	Moderate	High
Stable, well-known customer base in a localized environment	Customer base changing due to branching, merger, or acquisition in the domestic market.	A large, fluctuating client base in an international environment.
Few high-risk customers; these may include nonresident aliens, foreign customers (including accounts with U.S. powers of attorney), and foreign commercial customers.	A moderate number of high-risk customers	A large number of high-risk customers.
No overseas branches and no correspondent accounts with foreign banks.	Overseas branches or correspondent accounts with foreign banks.	Overseas branches or multiple correspondent accounts with foreign banks.
No electronic services (*e.g.,* e-banking) offered, or products available are purely informational or non-transactional.	The institution offers limited electronic (*e.g.,* e-banking) products and services.	The institution offers a wide array of electronic (*e.g.,* e-banking) products and services (*i.e.,* account transfers, e-bill payment, or accounts opened via the Internet).
Limited number of funds transfers for customers and non-customers, limited third-party transactions, and no international funds transfers.	A moderate number of funds transfers, mostly for customers. Possibly, a few international funds transfers from personal or business accounts.	A high number of customer and non-customer funds transfers, including international funds transfers.
No other types of international transactions, such as trade finance, cross-border ACH, and management of sovereign debt.	Limited other types of international transactions	A high number of other types of international transactions.
No history of OFAC actions. No evidence of apparent violation or circumstances that might lead to a violation.	A small number of recent actions (*i.e.,* actions within the last five years) by OFAC, including notice letters, or civil money penalties, with evidence that the institution addressed the issues and is not at risk of similar violations in the future.	Multiple recent actions by OFAC, where the institution has not addressed the issues, thus leading to an increased risk of the institution undertaking similar violations in the future.
Management has fully assessed the institution's level of risk based on its customer base and product lines. This understanding of risk and strong commitment to OFAC compliance is satisfactorily communicated throughout the organization.	Management exhibits a reasonable understanding of the key aspects of OFAC compliance and its commitment is generally clear and satisfactorily communicated throughout the organization, but it may lack a program appropriately tailored to risk.	Management does not understand, or has chosen to ignore, key aspects of OFAC compliance risk. The importance of compliance is not emphasized or communicated throughout the organization.
The board of directors, or board committee, has approved an OFAC compliance program that includes policies, procedures, controls, and information systems that are adequate, and consistent with the institution's OFAC risk profile.	The board has approved an OFAC compliance program that includes most of the appropriate policies, procedures, controls, and information systems necessary to ensure compliance, but some weaknesses are noted.	The board has not approved an OFAC compliance program, or policies, procedures, controls, and information systems are significantly deficient.
Staffing levels appear adequate to properly execute the OFAC compliance program.	Staffing levels appear generally adequate, but some deficiencies are noted.	Management has failed to provide appropriate staffing levels to handle workload.
Authority and accountability for OFAC compliance are clearly defined and enforced, including the designation of a qualified OFAC officer.	Authority and accountability are defined, but some refinements are needed. A qualified OFAC officer has been designated.	Authority and accountability for compliance have not been clearly established. No OFAC compliance officer, or an unqualified one, has been appointed. The role of the OFAC officer is unclear.
Training is appropriate and effective based on the institution's risk profile, covers applicable personnel, and provides necessary up-to-date information and resources to ensure compliance.	Training is conducted and management provides adequate resources given the risk profile of the organization; however, some areas are not covered within the training program.	Training is sporadic and does not cover important regulatory and risk areas or is nonexistent.
The institution employs strong quality control methods	The institution employs limited quality control methods	The institution does not employ quality control methods.

[74 FR 57601, Nov. 9, 2009]

PART 510—NORTH KOREA SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13466, 73 FR 36787, June 27, 2008, 3 CFR, 2008 Comp., p. 195; E.O. 13551, 75 FR 53837, September 1, 2010; E.O. 13570, 76 FR 22291, April 20, 2011.

SOURCE: 75 FR 67913, Nov. 4, 2010, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§510.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

NOTE TO §510.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public.

OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 510.201 Prohibited transactions.

(a) All transactions prohibited pursuant to Executive Order 13466 are also prohibited pursuant to this part.

NOTE TO § 510.201(a): The property and interests in property of North Korea or a North Korean national blocked pursuant to this paragraph are referred to throughout this part as ''property and interests in property blocked pursuant to § 510.201(a).''

(b) All transactions prohibited pursuant to Executive Order 13551 are also prohibited pursuant to this part.

NOTE 1 TO § 510.201(b): The names of persons listed in or designated pursuant to Executive Order 13551, whose property and interests in property therefore are blocked pursuant to paragraph (b) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[DPRK].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 510.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (b) of this section.

NOTE 2 TO § 510.201(b): The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (b) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–DPRK].''

(c) All transactions prohibited pursuant to Executive Order 13570 are also prohibited pursuant to this part.

NOTE TO § 510.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of the status of their property and interests in property as blocked pursuant to § 501.201(a) or of their status as persons whose property and interests in property are blocked pursuant to § 510.201(b).

[75 FR 67913, Nov. 4, 2010, as amended at 76 FR 35741, June 20, 2011; 76 FR 38535, June 30, 2011]

§ 510.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 510.201 is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interest.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 510.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13466, Executive Order 13551, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such

property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF §510.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to §510.201.

§510.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to §510.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to §510.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to §510.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to North Korea or any North Korean national who has property or interests in property blocked pursuant to § 510.201(a) or any person whose property and interests in property are blocked pursuant to § 510.201(b), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 510.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 510.201, and either blocked pursuant to § 510.201(a) or held in the name of a person whose property and interests in property are blocked pursuant to § 510.201(b), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 510.301: See § 510.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 510.201.

§ 510.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to property and interests in property blocked pursuant to E.O. 13466, June 26, 2008;

NOTE TO PARAGRAPH (a): Prior to June 26, 2008, all property and interests in property currently blocked pursuant to E.O. 13466 were blocked pursuant to 31 CFR part 500.

(b) With respect to a person listed in the Annex to E.O. 13551, 12:01 p.m. eastern daylight time, August 30, 2010;

(c) With respect to a person whose property and interests in property are otherwise blocked pursuant to E.O. 13551, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked; or

(d) With respect to E.O. 13570, 12:01 a.m. eastern daylight time, April 19, 2011.

[75 FR 67913, Nov. 4, 2010, as amended at 76 FR 35741, June 20, 2011]

§ 510.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 510.304 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 510.305 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 510.305: See § 501.801 of this chapter on licensing procedures.

§ 510.306 Person.

The term *person* means an individual or entity.

§ 510.307 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any

rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 510.308 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 510.309 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 510.310 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 510.311 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 510.401 [Reserved]

§ 510.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in this part, any provision in or appendix to this chapter, or any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control

does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 510.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 510.201, unless there exists in the property another interest that is blocked pursuant to § 510.201 or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 510.201(b), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 510.404 Transactions ordinarily incident to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 510.201(b); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 510.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 510.201 if effected after the effective date.

§ 510.406 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 510.201(b) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 510.201(b), regardless of whether the entity itself is listed in the Annex or designated pursuant to Executive Order 13551.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 510.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[76 FR 35741, June 20, 2011]

§ 510.502 [Reserved]

§ 510.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 510.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 510.201(b) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 510.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 510.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 510.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 510.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 510.201(b) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 510.201(b), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 510.201 is prohibited unless licensed pursuant to this part.

§ 510.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 510.201(b) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subparts F–G [Reserved]

Subpart H—Procedures

§ 510.801 Procedures

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[76 FR 35741, June 20, 2011]

§ 510.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13466 of June 26, 2008 (73 FR 36787, June 27, 2008), Executive Order 13551 of August 30, 2010 (75 FR 53837, September 1, 2010), Executive Order 13570 of April 18, 2011 (76 FR 22291, April 20, 2011), and any further Executive orders relating to the national emergency declared in Executive Order 13466 may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[76 FR 35741, June 20, 2011]

Subpart I—Paperwork Reduction Act

§ 510.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 510—EXECUTIVE ORDER 13466

Executive Order 13466 of June 26, 2008

Continuing Certain Restrictions With Respect to North Korea and North Korean Nationals

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), and section 301 of title 3, United States Code, I, GEORGE W. BUSH, President of the United States of America, find that the current existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat. I further find that, as we deal with that threat through multilateral diplomacy, it is necessary to continue certain restrictions with respect to North Korea that would otherwise be lifted pursuant to a forthcoming proclamation that will terminate the exercise of authorities under the Trading With the Enemy Act (50 U.S.C. App. 1 *et seq.*) (TWEA) with respect to North Korea.

Accordingly, I hereby order:

Section 1. Except to the extent provided in statutes or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order, the following are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

All property and interests in property of North Korea or a North Korean national that, pursuant to the President's authorities under the TWEA, the exercise of which has been continued in accordance with section 101(b) of Public Law 95–223 (91 Stat. 1625; 50 U.S.C. App. 5(b) note), were blocked as of June 16, 2000, and remained blocked immediately prior to the date of this order.

Sec. 2. Except to the extent provided in statutes or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order, United States persons may not register a vessel in North Korea, obtain authorization for a vessel to fly the North Korean flag, or own, lease, operate, or insure any vessel flagged by North Korea.

Sec. 3. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate

any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 4. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) The term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 5. The Secretary of the Treasury, after consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. The Secretary of the Treasury, after consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 7. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, instrumentalities, or entities, its officers or employees, or any other person.

George W. Bush,
THE WHITE HOUSE,
June 26, 2008.

APPENDIX B TO PART 510—EXECUTIVE ORDER 13551

Executive Order 13551 of August 30, 2010

Blocking Property of Certain Persons With Respect to North Korea

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945 (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code; in view of United Nations Security Council Resolution (UNSCR) 1718 of October 14, 2006, and UNSCR 1874 of June 12, 2009; and to take additional steps with respect to the situation in North Korea.

I, BARACK OBAMA, President of the United States of America, hereby expand the scope of the national emergency declared in Executive Order 13466 of June 26, 2008, finding that the continued actions and policies of the Government of North Korea, manifested most recently by its unprovoked attack that resulted in the sinking of the Republic of Korea Navy ship Cheonan and the deaths of 46 sailors in March 2010; its announced test of a nuclear device and its missile launches in 2009; its actions in violation of UNSCRs 1718 and 1874, including the procurement of luxury goods; and its illicit and deceptive activities in international markets through which it obtains financial and other support, including money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking, destabilize the Korean peninsula and imperil U.S. Armed Forces, allies, and trading partners in the region, and thereby constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) The persons listed in the Annex to this order; and

(ii) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To have, directly or indirectly, imported, exported, or reexported to, into, or from North Korea any arms or related materiel;

(B) To have, directly or indirectly, provided training, advice, or other services or assistance, or engaged in financial transactions, related to the manufacture, maintenance, or use of any arms or related materiel to be imported, exported, or reexported to, into, or from North Korea, or following their importation, exportation, or reexportation to, into, or from North Korea;

(C) To have, directly or indirectly, imported, exported, or reexported luxury goods to or into North Korea;

(D) To have, directly or indirectly, engaged in money laundering, the counterfeiting of

goods or currency, bulk cash smuggling, narcotics trafficking, or other illicit economic activity that involves or supports the Government of North Korea or any senior official thereof;

(E) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the activities described in subsections (a)(ii)(A)–(D) of this section or any person whose property and interests in property are blocked pursuant to this order;

(F) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order; or (G) to have attempted to engage in any of the activities described in subsections (a)(ii)(A)–(F) of this section.

(b) I hereby determine that, to the extent section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) may apply, the making of donations of the types of articles specified in such section by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order would seriously impair my ability to deal with the national emergency declared in Executive Order 13466 and expanded in scope in this order, and I hereby prohibit such donations as provided by subsection (a) of this section.

(c) The prohibitions in subsection (a) of this section include, but are not limited to:

(i) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(ii) The receipt of any contribution or provision of funds, goods, or services from any such person.

(d) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. The provisions of Executive Order 13466 remain in effect, and this order does not affect any action taken pursuant to that order.

Sec. 4. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) The term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) The term ''North Korea'' includes the territory of the Democratic People's Republic of Korea and the Government of North Korea;

(e) The term ''Government of North Korea'' means the Government of the Democratic People's Republic of Korea, its agencies, instrumentalities, and controlled entities; and

(f) The term ''luxury goods'' includes those items listed in 15 CFR 746.4(b)(l) and Supplement No. 1 to part 746 and similar items.

Sec. 5. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render these measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 13466 and expanded in scope in this order, there need be no prior notice of a listing or determination made pursuant to section 1(a) of this order.

Sec. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 7. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 8. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United

States, its departments, agencies, or entities, its officers, employees, agents, or any other person.

Sec. 9. This order is effective at 12:01 p.m., eastern daylight time on August 30, 2010.

Barack Obama,
THE WHITE HOUSE,
August 30, 2010.

ANNEX

Individual

1. KIM Yong Chol [born 1946 or 1947]

Entities

1. Green Pine Associated Corporation
2. Reconnaissance General Bureau
3. Office 39

APPENDIX C TO PART 510—EXECUTIVE ORDER 13570

EXECUTIVE ORDER 13570 OF APRIL 18, 2011

Prohibiting Certain Transactions With Respect to North Korea

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), section 5 of the United Nations Participation Act of 1945 (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code, and in view of United Nations Security Council Resolution (UNSCR) 1718 of October 14, 2006, and UNSCR 1874 of June 12, 2009,

I, BARACK OBAMA, President of the United States of America, in order to take additional steps to address the national emergency declared in Executive Order 13466 of June 26, 2008, and expanded in Executive Order 13551 of August 30, 2010, that will ensure implementation of the import restrictions contained in UNSCRs 1718 and 1874 and complement the import restrictions provided for in the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), hereby order:

SECTION 1. Except to the extent provided in statutes or in licenses, regulations, orders, or directives that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the date of this order, the importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea is prohibited.

SEC. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

SEC. 3. The provisions of Executive Orders 13466 and 13551 remain in effect, and this order does not affect any action taken pursuant to those orders.

SEC. 4. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) The term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) The term ''North Korea'' includes the territory of the Democratic People's Republic of Korea and the Government of North Korea; and

(e) The term ''Government of North Korea'' means the Government of the Democratic People's Republic of Korea, its agencies, instrumentalities, and controlled entities.

SEC. 5. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

SEC. 6. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 7. This order is effective at 12:01 a.m. eastern daylight time on April 19, 2011.

Barack Obama,

THE WHITE HOUSE,

April 18, 2011.

[76 FR 35741, June 20, 2011]

PART 515—CUBAN ASSETS CONTROL REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
515.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

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AUTHORITY: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010, 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. App 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–114, 110 Stat. 785 (22 U.S.C. 6021–6091); Pub. L. 105–277, 112 Stat. 2681; Pub. L. 111–8, 123 Stat. 524; Pub. L. 111–117, 123 Stat. 3034; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

SOURCE: 28 FR 6974, July 9, 1963, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 515.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. No license or authorization contained in or issued pursuant to one of those parts, or any other provision of law, authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part shall be deemed to authorize any transaction prohibited by any law other than the Trading With the Enemy Act, 50 U.S.C. App. 5(b), as amended, the Foreign Assistance Act of 1961, 22 U.S.C. 2370, or any proclamation, order, regulation or license issued pursuant thereto.

[50 FR 27437, July 3, 1985, as amended at 62 FR 45106, Aug. 25, 1997]

Subpart B—Prohibitions

§ 515.201 Transactions involving designated foreign countries or their nationals; effective date.

(a) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if either such transactions are by, or on behalf of, or pursuant to the direction of a foreign country designated under this part, or any national thereof, or such transactions involve property in which a foreign country designated under this part, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All transfers of credit and all payments between, by, through, or to any banking institution or banking institutions wheresoever located, with respect to any property subject to the jurisdiction of the United States or by any person (including a banking institution) subject to the jurisdiction of the United States;

(2) All transactions in foreign exchange by any person within the United States; and

(3) The exportation or withdrawal from the United States of gold or silver coin or bullion, currency or securities, or the earmarking of any such property, by any person within the United States.

(b) All of the following transactions are prohibited, except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, if such transactions involve property in which any foreign country designated under this part, or any national thereof, has at any time on or since the effective date of this section had any interest of any nature whatsoever, direct or indirect:

(1) All dealings in, including, without limitation, transfers, withdrawals, or exportations of, any property or evidences of indebtedness or evidences of ownership of property by any person subject to the jurisdiction of the United States; and

(2) All transfers outside the United States with regard to any property or property interest subject to the jurisdiction of the United States.

(c) Any transaction for the purpose or which has the effect of evading or avoiding any of the prohibitions set

forth in paragraph (a) or (b) of this section is hereby prohibited.

(d) For the purposes of this part, the term *foreign country designated under this part* and the term *designated foreign country* mean Cuba and the term *effective date* and the term *effective date of this section* mean with respect to Cuba, or any national thereof, 12:01 a.m., e.s.t., July 8, 1963.

(e) When a transaction results in the blocking of funds at a banking institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

[28 FR 6974, July 9, 1963, as amended at 62 FR 45106, Aug. 25, 1997]

§ 515.202 Transactions with respect to securities registered or inscribed in the name of a designated national.

Unless authorized by a license expressly referring to this section, the acquisition, transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of any designated national is prohibited irrespective of the fact that at any time (either prior to, on, or subsequent to the ''effective date'') the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security.

§ 515.203 Effect of transfers violating the provisions of this part.

(a) Any transfer after the ''effective date'' which is in violation of any provision of this part or of any regulation, ruling, instruction, license, or other direction or authorization thereunder and involves any property in which a designated national has or has had an interest since such ''effective date'' is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the ''effective date'' shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which a designated national has or has had an interest since the ''effective date'' unless the person with whom such property is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to such ''effective date.''

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of section 5(b) of the Trading With the Enemy Act, as amended, and this part and any ruling, order, regulation, direction or instruction issued hereunder.

(d) Transfers of property which otherwise would be null and void, or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void, or unenforceable pursuant to such provisions, as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to the provisions of this part and was not so licensed or authorized or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license or

other direction or authorization thereunder, or

(ii) Such transfer was not licensed or authorized by the Secretary of the Treasury, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained;

the person with whom such property was held or maintained filed with the Treasury Department, Washington, D.C., a report in triplicate setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed to be compliance or evidence of compliance with paragraphs (d) (1) and (2) of this section.

(e) Unless licensed or authorized by § 515.504 or otherwise licensed or authorized pursuant to this chapter any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the ''effective date'' there existed the interest of a designated foreign country or national thereof.

(f) For the purpose of this section the term *property* includes gold, silver, bullion, currency, coin, credit, securities (as that term is defined in section 2(1) of the Securities Act of 1933, as amended), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, contracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidences of any of the foregoing. The term *property* shall not, except to the extent indicated, be deemed to include chattels or real property.

[28 FR 6974, July 9, 1963, as amended at 28 FR 7941, Aug. 3, 1963]

§ 515.204 Importation of and dealings in certain merchandise.

(a) Except as specifically authorized by the Secretary of the Treasury (or any person, agency, or instrumentality designated by him) by means of regulations, rulings, instructions, licenses, or otherwise, no person subject to the jurisdiction of the United States may purchase, transport, import, or otherwise deal in or engage in any transaction with respect to any merchandise outside the United States if such merchandise:

(1) Is of Cuban origin; or

(2) Is or has been located in or transported from or through Cuba; or

(3) Is made or derived in whole or in part of any article which is the growth, produce or manufacture of Cuba.

(b) [Reserved]

§ 515.205 Holding of certain types of blocked property in interest-bearing accounts.

(a) Except as provided by paragraphs (d), (e) and (f) of this section, or as authorized by the Secretary of the Treasury or his delegate by specific license, any person holding any property included in paragraph (h) of this section is prohibited from holding, withholding, using, transferring, engaging in any transactions involving, or exercising any right, power, or privilege with respect to any such property, unless it is held in an interest-bearing account in a domestic bank.

(b) Any person presently holding property subject to the provisions of paragraph (a) of this section which, as of the effective date of this section, is not being held in accordance with the provisions of that paragraph shall transfer such property to or hold such property or cause such property to be held in an interest-bearing account in any domestic bank within 30 days of the effective date of this section.

(c) Any person holding any checks or drafts subject to the provisions of § 515.201 is authorized and directed, wherever possible consistent with state law (except as otherwise specifically provided in paragraph (c)(3) of this section), to negotiate or present for collection or payment such instruments and credit the proceeds to interest-bearing accounts. Any transaction by any person incident to the negotiation, processing. presentment, collection or payment of such instruments and deposit of the proceeds into an interest-bearing account is hereby authorized: *Provided that:*

(1) The transaction does not represent, directly or indirectly, a transfer of the interest of a designated national to any other country or person;

(2) The proceeds are held in a blocked account indicating the designated national who is the payee or owner of the instrument; and,

(3) In the case of a blocked check or draft which has been purchased by the maker/drawer from the drawee bank (e.g., cashier's check, money order, or traveler's check) or which is drawn against a presently existing account, such bank, on presentment of the instrument in accordance with the provisions of this section, shall either:

(i) Pay the instrument (subject to paragraphs (c)(1) and (2) of this section) or

(ii) Credit a blocked account on its books with the amount payable on the instrument.

In either event, the blocked account shall be identified as resulting from the proceeds of a blocked check or draft, and the identification shall include a reference to the names of both the maker and payee of the instrument.

(d) Property subject to the provisions of paragraph (a) or (b) of this section, held by a person claiming a set-off against such property, is exempt from the provisions of paragraphs (a), (b) and (c) of this section to the extent of the set-off: *Provided however*, That interest shall be due from 30 days after the effective date of this section if it should ultimately be determined that the claim to a set-off is without merit.

(e) Property subject to the provisions of paragraphs (a) and (b) of this section, held in a customer's account by a registered broker/dealer in securities, may continue to be held for the customer by the broker/dealer provided interest is credited to the account on any balance not invested in securities in accordance with §515.513. The interest paid on such accounts by a broker/dealer who does not elect to hold such property for a customer's account in a domestic bank shall not be less than the maximum rate payable on the shortest time deposit available in any domestic bank in the jurisdiction in which the broker/dealer holds the account.

(f) Property subject to the provisions of paragraphs (a) and (b) of this section, held by a state agency charged with the custody of abandoned or unclaimed property under §515.554 may continue to be held by the agency provided interest is credited to the blocked account in which the property is held by the agency, or the property is held by the agency in a blocked account in a domestic bank. The interest credited to such accounts by an agency which does not elect to hold such property in a domestic bank shall not be less than the maximum rate payable on the shortest time deposit available in any domestic bank in the state.

(g) For purposes of this section, the term *interest-bearing account* means a blocked account earning interest at no less than the maximum rate payable on the shortest time deposit in the domestic bank where the account is held: *Provided however*, That such an account may include six-month Treasury bills or insured certificates, with a maturity not exceeding six-months, appropriate to the amounts involved.

(h) The following types of property are subject to paragraphs (a) and (b) of this section:

(1) Any currency, bank deposit and bank accounts subject to the provisions of §515.201;

(2) Any property subject to the provisions of §515.201 which consists, in whole or in part, of undisputed and either liquidated or matured debts, claims, obligations or other evidence of indebtedness, to the extent of any amount that is undisputed and liquidated or matured; and

(3) Any proceeds resulting from the payment of an obligation under paragraph (c) of this section.

(i) For purposes of this section, the term *domestic bank* includes any FSLIC-insured institution (as defined in 12 CFR 561.1).

(j) For the purposes of this section the term *person* includes the United States Government or any agency or instrumentality thereof, except where the agency or instrumentality submits to the Office of Foreign Assets Control an opinion of its General Counsel that either:

(1) It lacks statutory authority to comply with this section, or

(2) The requirements of paragraphs (a) and (b) of this section are inconsistent with the statutory program under which it operates.

[44 FR 11770, Mar. 2, 1979]

§ 515.206 Exempt transactions.

(a) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials as defined in § 515.332, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part except for payments owed to Cuba for telecommunications services between Cuba and the United States, which are subject to the provisions of § 515.542.

(2) This section does not authorize transactions related to information or informational materials not fully created and in existence at the date of the transaction, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services by a person subject to the jurisdiction of the United States. Such prohibited transactions include, without limitation, payment of advances for information or informational materials not yet created and completed, provision of services to market, produce or coproduce, create or assist in the creation of information or informational materials, and payment of royalties to a designated national with respect to income received for enhancements or alterations made by persons subject to the jurisdiction of the United States to information or informational materials imported from a designated national.

(3) This section does not authorize transactions incident to the transmission of restricted technical data as defined in the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods for use in the transmission of any data. The exportation of such goods to designated foreign countries is prohibited, as provided in § 515.201 of this part and § 785.1 of the Export Administration Regulations.

(4) This section does not authorize transactions related to travel to Cuba when such travel is not otherwise authorized under § 515.545.

Example #1: A U.S. publisher ships 500 copies of a book to Cuba directly from Miami aboard a chartered aircraft, and receives payment by means of a letter of credit issued by a Cuban bank and confirmed by an American bank. These are permissible transactions under this section.

Example #2: A Cuban party exports a single master copy of a Cuban motion picture to a U.S. party and licenses the U.S. party to duplicate, distribute, show and exploit in the United States the Cuban film in any medium, including home video distribution, for five years, with the Cuban party receiving 40% of the net income. All transactions relating to the activities described in this example are authorized under this section or § 515.545.

Example #3: A U.S. recording company proposes to contract with a Cuban musician to create certain musical compositions, and to advance royalties of $10,000 to the musician. The music written in Cuba is to be recorded in a studio that the recording company owns in the Bahamas. These are all prohibited transactions. The U.S. party is prohibited under § 515.201 from contracting for the Cuban musician's services, from transferring $10,000 to Cuba to pay for those services, and from providing the Cuban with production services through the use of its studio in the Bahamas. No information or informational materials are in being at the time of these proposed transactions. However, the U.S. recording company may contract to purchase and import preexisting recordings by the Cuban musician, or to copy the recordings in the United States and pay negotiated royalties to Cuba under this section or § 515.545.

Example #4: A Cuban party enters into a subpublication agreement licensing a U.S. party to print and publish copies of a musicial composition and to sub-license rights of public performance, adaptation, and arrangement of the musical composition, with payment to be a percentage of income received. All transactions related to the activities described in this example are authorized under this section and § 515.545, except for adaptation, and arrangement, which constitute artistic enhancement of the Cuban composition. Payment to the Cuban party may not reflect income received as a result of these enhancements.

(b) *Donation of food.* The prohibitions contained in this part do not apply to transactions incident to the donation of food to nongovernmental organizations or individuals in Cuba.

[54 FR 5233, Feb. 2, 1989, as amended at 60 FR 39256, Aug. 2, 1995; 64 FR 25812, May 13, 1999]

§ 515.207 Entry of vessels engaged in trade with Cuba.

Except as specifically authorized by the Secretary of the Treasury (or any person, agency or instrumentality designated by him), by means of regulations, rulings, instructions, licenses or otherwise,

(a) No vessel that enters a port or place in Cuba to engage in the trade of goods or the purchase or provision of services, may enter a U.S. port for the purpose of loading or unloading freight for a period of 180 days from the date the vessel departed from a port or place in Cuba; and

(b) No vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest may enter a U.S. port with such goods or passengers on board.

NOTE TO § 515.207: For the waiver of the prohibitions contained in this section for certain vessels engaged in licensed or exempt trade with Cuba, see § 515.550.

[58 FR 34710, June 29, 1993, as amended at 66 FR 36687, July 12, 2001]

§ 515.208 Restrictions on loans, credits and other financing.

No United States national, permanent resident alien, or United States agency may knowingly make a loan, extend credit or provide other financing for the purpose of financing transactions involving confiscated property the claim to which is owned by a United States national, except for financing by a United States national owning such a claim for a transaction permitted under United States law.

[61 FR 37386, July 18, 1996]

Subpart C—General Definitions

§ 515.301 Foreign country.

The term *foreign country* also includes, but not by way of limitation:

(a) The state and the government of any such territory on or after the ''effective date'' as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof,

(b) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which on the ''effective date'' constituted such foreign country,

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the ''effective date,'' acting or purporting to act directly or indirectly for the benefit or on behalf of any of the foregoing, and

(d) Any territory which on or since the ''effective date'' is controlled or occupied by the military, naval or police forces or other authority of such foreign country.

§ 515.302 National.

(a) The term national when used with respect to a country shall include:

(1) A subject or citizen of that country or any person who has been domiciled in or a permanent resident of that country at any time on or since the ''effective date,'' except persons who were permanent residents of or domiciled in that country in the service of the U.S. Government and persons whose transactions in that country were authorized by the Office of Foreign Assets Control.

(2) Any partnership, association, corporation, or other organization that, on or since the effective date:

(i) Was or has been organized under the laws of that country;

(ii) Had or has had its principal place of business in that country; or

(iii) Was or has been controlled by, or a substantial part of the stocks, share, bonds, debentures, notes, drafts, or other securities or obligations of which was or has been controlled by, directly or indirectly, that country and/or one or more nationals thereof.

(3) Any organization's office or other sub-unit that is located within that country.

(4) Any person to the extent that such person, on or since the ''effective date'' was or has been acting or purporting to act directly or indirectly for

the benefit or on behalf of any national of that country.

(5) Any other person who there is reasonable cause to believe is a ''national'' as defined in this section.

(b) Persons who travel in Cuba do not become nationals of Cuba solely because of such travel.

(c) The Secretary of the Treasury retains full power to determine that any person is or shall be deemed to be a ''national'' within the meaning of this section, and to specify the foreign country of which such person is or shall be deemed to be a national.

[28 FR 6974, July 9, 1963, as amended at 50 FR 27437, July 3, 1985; 64 FR 25812, May 13, 1999; 68 FR 14144, Mar. 24, 2003]

§ 515.303 Nationals of more than one foreign country.

(a) Any person who by virtue of any provision in this chapter is a national of more than one foreign country shall be deemed to be a national of each of such foreign countries.

(b) In any case in which a person is a national of two or more designated foreign countries, as defined in this chapter, a license or authorization with respect to nationals of one of such designated foreign countries shall not be deemed to apply to such person unless a license or authorization of equal or greater scope is outstanding with respect to nationals of each other designated foreign country of which such person is a national.

(c) In any case in which the combined interests of two or more designated foreign countries, as defined in this chapter, and/or nationals thereof are sufficient in the aggregate to constitute control or ownership of 25 per centum or more of the stock, shares, bonds, debentures, notes, drafts, or other securities or obligations of a partnership, association, corporation or other organization, but such control or a substantial part of such stock, shares, bonds, debentures, notes, drafts, or other securities or obligations is not held by any one such foreign country and/or national thereof, such partnership, association, corporation or other organization shall be deemed to be a national of each of such foreign countries.

§ 515.305 Designated national.

For the purposes of this part, the term *designated national* shall mean Cuba and any national thereof including any person who is a specially designated national.

§ 515.306 Specially designated national.

(a) The term *specially designated national* shall mean:

(1) Any person who is determined by the Secretary of the Treasury to be a specially designated national,

(2) Any person who on or since the ''effective date'' has acted for or on behalf of the Government or authorities exercising control over a designated foreign country, or

(3) Any partnership, association, corporation or other organization which on or since the ''effective date'' has been owned or controlled directly or indirectly by the Government or authorities exercising control over a designated foreign country or by any specially designated national.

(b) [Reserved]

NOTE TO § 515.306: Please refer to the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') for a non-exhaustive listing of persons determined to fall within this definition, whose property and interests in property therefore are blocked pursuant to this part. The SDN List entries for such persons include the identifier ''[CUBA].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or that of a vessel as blocked, or who wish to assert that the circumstances resulting in the designation are no longer applicable.

[28 FR 6974, July 9, 1963, as amended at 61 FR 32938, June 26, 1996; 62 FR 45106, Aug. 25, 1997; 76 FR 38585, June 30, 2011]

§ 515.307 Unblocked national.

Any person licensed pursuant to § 515.505 licensed as an *unblocked national* shall, while so licensed, be regarded as a person within the United

States who is not a national of any designated foreign country: *Provided, however,* That the licensing of any person as an *unblocked national* shall not be deemed to suspend in any way the requirements of any section of this chapter relating to reports, or the production of books, documents, and records specified therein.

[28 FR 6974, July 9, 1963, as amended at 54 FR 5233, Feb. 2, 1989]

§515.308 Person.

The term *person* means an individual, partnership, association, corporation, or other organization.

§515.309 Transactions.

The phrase *transactions which involve property in which a designated foreign country, or any national thereof, has any interest of any nature whatsoever, direct or indirect,* includes, but not by way of limitation:

(a) Any payment or transfer to such designated foreign country or national thereof,

(b) Any export or withdrawal from the United States to such designated foreign country, and

(c) Any transfer of credit, or payment of an obligation, expressed in terms of the currency of such designated foreign country.

§515.310 Transfer.

The term *transfer* shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or preformed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and without limitation upon the foregoing shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the appointment of any agent, trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

§515.311 Property; property interests.

(a) Except as defined in §515.203(f) for the purposes of that section the terms *property* and *property interest* or *property interests* shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness obligations, notes, debentures, stocks, bonds, coupons, and other financial securities, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, ground rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, contracts or licenses affecting or involving patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, services, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

(b) As used in §515.208, the term *property* means any property (including patents, copyrights, trademarks, and any other form of intellectual property), whether real, personal, or mixed, and any present, future, or contingent right, security, or other interest therein, including any leasehold interest.

[28 FR 6974, July 9, 1963, as amended at 50 FR 27437, July 3, 1985; 56 FR 49847, Oct. 2, 1991; 61 FR 37386, July 18, 1996]

§ 515.312 Interest.

The term *interest* when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

§ 515.313 Property subject to the jurisdiction of the United States.

(a) The phrase *property subject to the jurisdiction of the United States* includes, without limitation, securities, whether registered or bearer, issued by:

(1) The United States or any State, district, territory, possession, county, municipality, or any other subdivision or agency or instrumentality of any thereof; or

(2) Any person with the United States whether the certificate which evidences such property or interest is physically located within or outside the United States.

(b) The phrase *property subject to the jurisdiction of the United States* also includes, without limitation, securities, whether registered or bearer, by whomsoever issued, if the instrument evidencing such property or interest is physically located within the United States.

§ 515.314 Banking institution.

The term *banking institution* shall include any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchases and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or any broker; and, each principal, agent, home office, branch or correspondent of any person so engaged shall be regarded as a separate ''banking institution.''

§ 515.316 License.

Except as otherwise specified, the term *license* shall mean any license or authorization contained in or issued pursuant to this part.

§ 515.317 General license.

A general license is any license or authorization the terms of which are set forth in this part.

§ 515.318 Specific license.

A specific license is any license or authorization issued pursuant to this part but not set forth in this part.

[28 FR 6974, July 9, 1963; 28 FR 7427, July 20, 1963]

§ 515.319 Blocked account.

The term *blocked account* shall mean an account in which any designated national has an interest, with respect to which account payments, transfers or withdrawals or other dealings may not be made or effected except pursuant to an authorization or license authorizing such action. The term *blocked account* shall not be deemed to include accounts of unblocked nationals.

[28 FR 6974, July 9, 1963; 28 FR 7427, July 20, 1963]

§ 515.320 Domestic bank.

The term *domestic bank* shall mean any branch or office within the United States of any of the following which is not a national of a designated foreign country; any bank or trust company incorporated under the banking laws of the United States or any State, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any State, territory or district of the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a ''domestic bank'' for the purpose of this definition or for the purpose of any or all sections of this part.

§ 515.321 United States; continental United States.

The term *United States* means the United States and all areas under the jurisdiction or authority thereof, including the Trust Territory of the Pacific Islands. The term *continental United States* means the States of the United States and the District of Columbia.

[49 FR 27144, July 2, 1984]

§ 515.322 Authorized trade territory; member of the authorized trade territory.

(a) The term *authorized trade territory* includes all countries, including any

colony, territory, possession, or protectorate, except those countries subject to sanctions pursuant to this chapter. The term does not include the United States.

(b) The term *member of the authorized trade territory* shall mean any of the foreign countries or political subdivisions comprising the authorized trade territory.

[43 FR 51762, Nov. 7, 1978, as amended at 60 FR 54195, Oct. 20, 1995]

§ 515.323 Occupied area.

The term *occupied area* shall mean any territory occupied by a designated foreign country which was not occupied by such country prior to the ''effective date'' of this part.

§ 515.325 National securities exchange.

The term *national securities exchange* shall mean an exchange registered as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (48 Stat. 885, 15 U.S.C. 78f).

§ 515.326 Custody of safe deposit boxes.

Safe deposit boxes shall be deemed to be in the *custody* not only of all persons having access thereto but also of the lessors of such boxes whether or not such lessors have access to such boxes. The foregoing shall not in any way be regarded as a limitation upon the meaning of the term *custody*.

§ 515.327 Blocked estate of a decedent.

The term *blocked estate of a decedent* shall mean any decedent's estate in which a designated national has an interest. A person shall be deemed to have an interest in a decedent's estate if he:

(a) Was the decedent;

(b) Is a personal representative; or

(c) Is a creditor, heir, legatee, devisee, distributee, or beneficiary.

§ 515.329 Person subject to the jurisdiction of the United States.

The term *person subject to the jurisdiction of the United States* includes:

(a) Any individual, wherever located, who is a citizen or resident of the United States;

(b) Any person within the United States as defined in § 515.330;

(c) Any corporation, partnership, association, or other organization organized under the laws of the United States or of any State, territory, possession, or district of the United States; and

(d) Any corporation, partnership, association, or other organization, wherever organized or doing business, that is owned or controlled by persons specified in paragraphs (a) or (c) of this section.]

[50 FR 27437, July 3, 1985, as amended at 68 FR 14145, Mar. 24, 2003]

§ 515.330 Person within the United States.

(a) The term *person within the United States*, includes:

(1) Any person, wheresoever located, who is a resident of the United States;

(2) Any person actually within the United States;

(3) Any corporation, partnership, association, or other organization organized under the laws of the United States or of any State, territory, possession, or district of the United States; and

(4) Any corporation, partnership, association, or other organization, wherever organized or doing business, which is owned or controlled by any person or persons specified in paragraphs (a)(1) or (a)(3) of this section.

(b) [Reserved]

[28 FR 6974, July 9, 1963, as amended at 68 FR 14145, Mar. 24, 2003]

§ 515.331 Merchandise.

The term *merchandise* means all goods, wares and chattels of every description without limitation of any kind.

§ 515.332 Information and informational materials.

(a) For purposes of this part, the term *information and informational materials* means:

(1) Publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, news wire feeds, and other information and informational articles.

(2) To be considered informational materials, artworks must be classified under Chapter subheading 9701, 9702, or

9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information and informational materials* does not include items:

(1) That would be controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1993) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote nonproliferation of antiterrorism policies of the United States, including ''software'' that is not ''publicly available'' as these terms are defined in 15 CFR parts 779 and 799.1 (1994); or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

[60 FR 39256, Aug. 2, 1995]

§ 515.333 Depository institution.

The term *depository institution* means any of the following:

(a) An insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(b) An insured institution as defined in section 408(a) of the National Housing Act;

(c) An insured credit union as defined in section 101 of the Federal Credit Union Act; or

(d) Any other institution that is carrying on banking activities pursuant to a charter from a Federal or state banking authority.

[57 FR 53997, Nov. 16, 1992]

§ 515.334 United States national.

As used in § 515.208, the term *United States national* means:

(a) Any United States citizen; or

(b) Any other legal entity which is organized under the laws of the United States, or of any State, the District of Columbia, or any commonwealth, territory, or possession of the United States, and which has its principal place of business in the United States.

[61 FR 37386, July 18, 1996]

§ 515.335 Permanent resident alien.

As used in § 515.208, the term *permanent resident alien* means an alien lawfully admitted for permanent residence into the United States.

[61 FR 37386, July 18, 1996]

§ 515.336 Confiscated.

As used in § 515.208, the term *confiscated* refers to:

(a) The nationalization, expropriation, or other seizure by the Cuban Government of ownership or control of property, on or after January 1, 1959:

(1) Without the property having been returned or adequate and effective compensation provided; or

(2) Without the claim to the property having been settled pursuant to an international claims settlement agreement or other mutually accepted settlement procedure; and

(b) The repudiation by the Cuban Government of, the default by the Cuban Government on, or the failure of the Cuban Government to pay, on or after January 1, 1959:

(1) A debt of any enterprise which has been nationalized, expropriated, or otherwise taken by the Cuban Government;

(2) A debt which is a charge on property nationalized, expropriated, or otherwise taken by the Cuban Government; or

(3) A debt which was incurred by the Cuban Government in satisfaction or settlement of a confiscated property claim.

[61 FR 37386, July 18, 1996]

§ 515.337 Prohibited officials of the Government of Cuba.

For purposes of this part, the term *prohibited officials of the Government of Cuba* means Ministers and Vice-ministers, members of the Council of State and the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors, and deputy editors of Cuban

state-run media organizations and programs, including newspapers, television, and radio; and members and employees of the Supreme Court (Tribuno Supremo Nacional).

[74 FR 46003, Sept. 8, 2009]

§ 515.338 Prohibited members of the Cuban Communist Party.

For purposes of this part, the term *prohibited members of the Cuban Communist Party* means members of the Politburo, the Central Committee, Department Heads of the Central Committee, employees of the Central Committee, and secretaries and first secretaries of the provincial Party central committees.

[74 FR 46003, Sept. 8, 2009]

§ 515.339 Close relative.

(a) For purposes of this part, the term *close relative* used with respect to any person means any individual related to that person by blood, marriage, or adoption who is no more than three generations removed from that person or from a common ancestor with that person.

(b) *Example.* Your mother's first cousin is your close relative for purposes of this part, because you are both no more than three generations removed from your great-grandparents, who are the ancestors you have in common. Similarly, your husband's great-grandson is your close relative for purposes of this part, because he is no more than three generations removed from your husband. Your daughter's father-in-law is not your close relative for purposes of this part, because you have no common ancestor.

[74 FR 46003, Sept. 8, 2009]

Subpart D—Interpretations

§ 515.401 Reference to amended sections.

Reference to any section of this part or to any regulation, ruling, order, instruction, direction or license issued pursuant to this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

§ 515.402 Effect of amendment of sections of this part or of other orders, etc.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, or pursuant to Proclamation 3447, shall not unless otherwise specifically provided be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such section, order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 515.403 Termination and acquisition of the interest of a designated national.

(a) Except as provided in § 515.525, whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a designated national, such property shall no longer be deemed to be property in which a designated national has or has had an interest unless there exists in such property an interest of a designated national, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization contained in or issued pursuant to this part, if property (including any property interest) is transferred to a designated national such property shall be deemed to be property in which there exists the interest of a designated national.

§ 515.404 Transactions between principal and agent.

A transaction between any person within the United States and any principal, agent, home office, branch, or correspondent, outside the United States of such person is a transaction

prohibited by § 515.201 to the same extent as if the parties to the transaction were in no way affiliated or associated with each other.

§ 515.405 Exportation of securities, currency, checks, drafts and promissory notes.

Section 515.201 prohibits the exportation of securities, currency, checks, drafts and promissory notes to a designated foreign country.

§ 515.406 Drafts under irrevocable letters of credit; documentary drafts.

Section 515.201 prohibits the presentation, acceptance or payment of:

(a) Drafts or other orders for payment drawn under irrevocable letters of credit issued in favor or on behalf of any designated national;

(b) Drafts or other orders for payment, in which any designated national has on or since the ''effective date'' had any interest, drawn under any irrevocable letter of credit; and

(c) Documentary drafts in which any designated national has on or since the ''effective date'' had any interest.

§ 515.407 Administration of blocked estates of decedents.

Section 515.201 prohibits all transactions incident to the administration of the blocked estate of a decedent, including the appointment and qualification of personal representatives, the collection and liquidation of assets, the payment of claims, and distribution to beneficiaries. Attention is directed to § 515.523 which authorizes certain transactions in connection with the administration of blocked estates of decedents, and § 515.522 which authorizes the unblocking by specific license of estate assets to certain heirs under certain circumstances.

[28 FR 6974, July 9, 1963, as amended at 54 FR 5234, Feb. 2, 1989; 64 FR 25812, May 13, 1999]

§ 515.408 Access to certain safe deposit boxes prohibited.

Section 515.201 prohibits access to any safe deposit box within the United States in the custody of any designated national or containing any property in which any designated national has any interest or which there is reasonable cause to believe contains property in which any such designated national has any interest. Attention is directed to § 515.517 which authorizes access to such safe deposit boxes under certain conditions.

§ 515.409 Certain payments to a designated foreign country and nationals through third countries.

Section 515.201 prohibits any request or authorization made by or on behalf of a bank or other person within the United States to a bank or other person outside of the United States as a result of which request or authorization such latter bank or person makes a payment or transfer of credit either directly or indirectly to a designated national.

§ 515.410 Dealing abroad in Cuban origin commodities.

Section 515.204 prohibits, unless licensed, the importation of commodities of Cuban origin. It also prohibits, unless licensed, persons subject to the jurisdiction of the United States from purchasing, transporting or otherwise dealing in commodities of Cuban origin which are outside the United States.

[39 FR 25317, July 10, 1974]

§§ 515.411—515.413 [Reserved]

§ 515.415 Travel to Cuba; transportation of certain Cuban nationals.

(a) The following transactions are prohibited by § 515.201 when in connection with the transportation of any Cuban national, except a Cuban national holding an unexpired immigrant or non-immigrant visa or a returning resident of the United States, from Cuba to the United States, unless otherwise licensed:

(1) Transactions incident to travel to, from, or within Cuba;

(2) The transportation to Cuba of a vessel or aircraft;

(3) The transportation into the United States of any vessel or aircraft which has been in Cuba since the effective date, regardless of registry;

(4) The provision of any services to a Cuban national, regardless of whether any consideration for such services is furnished by the Cuban national;

(5) The transportation or importation of baggage or other property of a Cuban national;

(6) The transfer of funds or other property to any person where such transfer involves the provision of services to a Cuban national or the transportation or importation of, or any transactions involving, property in which Cuba or any Cuban national has any interest, including baggage or other such property;

(7) Any other transaction such as payment of port fees and charges in Cuba and payment for fuel, meals, lodging; and

(8) The receipt or acceptance of any gratuity, grant, or support in the form of meals, lodging, fuel, payments of travel or maintenance expenses, or otherwise, in connection with travel to or from Cuba or travel or maintenance within Cuba.

(b) Transactions incident to the travel to the United States of Cuban nationals traveling without a visa issued by the Department of State are not authorized under the provisions of § 515.571.

(c) Transactions described in paragraph (a) of this section are not ''transactions ordinarily incident to travel to and from Cuba'' as set forth in § 515.560(c).

[45 FR 32671, May 19, 1980, as amended at 64 FR 25812, May 13, 1999]

§§ 515.416–515.419 [Reserved]

§ 515.420 Travel to Cuba.

The prohibition on dealing in property in which Cuba or a Cuban national has an interest set forth in § 515.201(b)(1) includes a prohibition on the receipt of goods or services in Cuba, even if provided free-of-charge by the Government of Cuba or a national of Cuba or paid for by a third-country national who is not subject to U.S. jurisdiction. The prohibition set forth in § 515.201(b)(1) also prohibits payment for air travel to Cuba on a third-country carrier unless the travel is pursuant to an OFAC general or specific license.

[69 FR 33771, June 16, 2004]

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 515.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53657, Sept. 11, 2003]

§ 515.502 Effect of subsequent license or authorization.

(a) No license or other authorization contained in this part or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 3(a) or 5(b) of the Trading With the Enemy Act, as amended, or section 620(a), Pub. L. 87–195, or Proclamation 3447, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Treasury Department and specifically refers to this part. No regulation, ruling, instruction or license referring to this part shall be deemed to authorize any transaction prohibited by part 500 of this chapter unless the regulation, ruling, instruction or license specifically refers to part 500.

§ 515.503 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude from the operation of any license or from the privileges therein conferred or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

§ 515.504 Certain judicial proceedings with respect to property of designated nationals.

(a) Subject to the limitations of paragraphs (b), (c) and (d) of this section judicial proceedings are authorized with respect to property in which on or since the ''effective date'' there has existed the interest of a designated national.

(b) A judicial proceeding is authorized by this section only if it is based upon a cause of action which accrued prior to the ''effective date''.

(c) This section does not authorize or license:

(1) The entry of any judgment or of any decree or order of similar or analogous effect upon any judgment book, minute book, journal or otherwise, or the docketing of any judgment in any docket book, or the filing of any judgment roll or the taking of any other similar or analogous action.

(2) Any payment or delivery out of a blocked account based upon a judicial proceeding nor does it authorize the enforcement or carrying out of any judgment or decree or order of similar or analogous effect with regard to any property in which a designated national has an interest.

(d) If a judicial proceeding relates to property in which there exists the interest of any designated national other than a person who would not have been a designated national except for his relationship to an occupied area, such proceeding is authorized only if it is based upon a claim in which no person other than any of the following has had an interest since the ''effective date'':

(1) A citizen of the United States;

(2) A corporation organized under the laws of the United States or any State, territory or possession thereof, or the District of Columbia;

(3) A natural person who is and has been since the ''effective date'' a resident of the United States and who has not been a specially designated national;

(4) A legal representative (whether or not appointed by a court of the United States) or successor in interest by inheritance, device, bequest, or operation of law, who falls within any of the categories specified in paragraphs (a) (1), (2), and (3) of this section but only to the same extent that their principals or predecessors would be qualified by such paragraphs.

§ 515.505 Certain Cuban nationals unblocked; transactions of certain other Cuban nationals lawfully present in the United States; transactions with Cuban nationals who have taken up permanent residence outside of Cuba.

(a) *General license unblocking certain persons*. The following persons are licensed as unblocked nationals, as that term is defined in § 515.307 of this part:

(1) Any individual who:

(i) Has taken up residence in the United States;

(ii) Is a United States citizen, a permanent resident alien of the United States, or has applied to become a permanent resident alien of the United States and has an adjustment of status application pending; and

(iii) Is not a specially designated national; and

(2) Any entity that otherwise would be a national of Cuba solely because of the interest therein of an individual licensed in paragraph (a)(1) of this section as an unblocked national.

NOTE TO PARAGRAPH (a): An individual unblocked pursuant to this paragraph does not become blocked again merely by leaving the United States. An individual unblocked national remains unblocked unless and until the individual thereafter becomes domiciled in or a permanent resident of Cuba, meets any of the criteria in § 515.302(a)(2) through (5), or is a ''specially designated national'' of Cuba, as that term is defined in § 515.306 of this part.

(b) *Specific licenses unblocking certain individuals who have taken up permanent residence outside of Cuba*. Individual nationals of Cuba who have taken up permanent residence outside of Cuba may apply to the Office of Foreign Assets Control to be specifically licensed as unblocked nationals. Applications for specific licenses under this paragraph should include copies of at least two documents indicating permanent residence issued by the government authorities of the new country of permanent residence, such as a passport, voter registration card, permanent resident alien card, or national identity card. In cases where two of such

documents are not available, other information will be considered, such as evidence that the individual has been resident for the past two years without interruption in a single country outside of Cuba or evidence that the individual does not intend to, or would not be welcome to, return to Cuba.

(c) *General license authorizing certain transactions of individuals who are lawfully present in the United States in a non-visitor status.* An individual national of Cuba who is lawfully present in the United States in a non-visitor status is authorized to engage in all transactions available to an unblocked national, as that term is defined in §515.307 of this part, except that all property in which the individual has an interest that was blocked pursuant to this part prior to the date on which the individual became lawfully present in the United States in a non-visitor status shall remain blocked. Such an individual is further authorized to withdraw a total amount not to exceed $250 in any one calendar month from any blocked accounts held in the individual's name. For the purposes of this section, the term ''non-visitor status'' does not apply to an individual who is present in the United States on a nonimmigrant visa valid only for a specified period of time.

(d) *General license authorizing certain transactions with individuals who have taken up permanent residence outside of Cuba.* Persons subject to U.S. jurisdiction are authorized to engage in any transaction with an individual national of Cuba who has taken up permanent residence outside of Cuba as if the individual national of Cuba were an unblocked national, as defined in §515.307 of this part, except that all property in which the individual national of Cuba has an interest that was blocked pursuant to this part prior to the later of the date on which the individual took up permanent residence outside of Cuba or January 28, 2011 shall remain blocked. In determining whether an individual national of Cuba has taken up permanent residence outside of Cuba, persons subject to U.S. jurisdiction must obtain from the individual copies of at least two documents indicating permanent residence issued by the government authorities of the new country of permanent residence, such as a passport, voter registration card, permanent resident alien card, or national identity card.

(e) The licensing of any person pursuant to this section shall not suspend the requirements of any section of this chapter relating to the maintenance or production of records.

(f) The following examples illustrate the application of this section:

(1) Example 1: A national of Cuba with a blocked U.S. bank account receives a U.S immigration visa. Upon arrival in the United States, she is issued a permanent resident alien card and thereby is licensed as an unblocked national pursuant to paragraph (a) of this section. She can apply immediately to OFAC for a specific license to have her bank account unblocked.

(2) Example 2: A national of Cuba with a blocked U.S. bank account arrives in the United States without a valid visa but is allowed by the U.S. Government to remain in the United States in a non-visitor status. One year later, he applies for and receives permanent resident alien status. From the date he was permitted to remain in the United States in a non-visitor status until the date he applies for permanent resident alien status, he qualifies for the general license contained in paragraph (c) of this section. During this time he can engage in all transactions as if he is an unblocked national, with the exception that he cannot gain access to his blocked bank account other than to withdraw $250 each month. Beginning at the point in time when he applies for permanent resident alien status, he is licensed as an unblocked national pursuant to paragraph (a) of this section. At this time, he can apply to OFAC for a specific license to have his blocked bank account unblocked.

(3) Example 3: A national of Cuba with a blocked U.S. bank account arrives in the United States on a temporary visa valid for six months. After her visa expires, she remains in the United States for an additional six months and then applies to become a permanent resident alien. She has an adjustment of status application pending until she receives permanent resident alien status one year later. From her arrival in the United States until her application for permanent resident alien status, she does not qualify for any of the authorizations contained in this section. Instead, she is authorized by §515.571 only to engage in transactions ordinarily incident to her travel and maintenance in the United States and to withdraw $250 each month from her blocked account to cover her living expenses. Beginning with her application to become a permanent resident alien, she is licensed as an unblocked national pursuant to paragraph (a) of this section. At

this time, she can apply to OFAC for a specific license to have her bank account unblocked.

(4) Example 4: An individual national of Cuba who has taken up permanent residence outside of Cuba wishes to open a bank account at a branch of a U.S. bank in Spain and then withdraw a portion of her previously blocked funds held by the same U.S. bank's New York branch. The individual provides the Spanish branch with a copy of her third-country passport and voter registration card demonstrating her permanent residence status in the third country. The Spanish branch may open an account for the individual and provide her with banking services. The New York branch may also handle any transactions related to this new account processed through the United States but may not unblock her funds that had been blocked prior to the later of the date on which the individual took up permanent residence outside of Cuba or January 28, 2011. Those funds remain blocked unless and until the individual is licensed as an unblocked national pursuant to paragraph (a) or (b) of this section or the funds are otherwise unblocked by a separate Office of Foreign Assets Control authorization.

NOTE TO § 515.505: See § 515.571 for the authorization of certain limited transactions incident to travel to, from, and within the United States by Cuban nationals who enter the United States on a non-immigrant visa or other non-immigrant travel authorization issued by the State Department.

[68 FR 14145, Mar. 24, 2003, as amended at 74 FR 46004, Sept. 8, 2009; 76 FR 5074, Jan. 28, 2011]

§§ 515.506–515.507 [Reserved]

§ 515.508 Payments to blocked accounts in domestic banks.

(a) Any payment or transfer of credit to a blocked account in a domestic bank in the name of any designated national is hereby authorized providing such payment or transfer shall not be made from any blocked account if such payment or transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of the designated national who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(c) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(d) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, or the income derived from such securities to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(e) This section does not authorize any payment or transfer from a blocked account in a domestic bank to a blocked account held under any name or designation which differs from the name or designation of the blocked account from which the payment or transfer is made.

NOTE TO § 515.508: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers.

[32 FR 10846, July 25, 1967, as amended at 58 FR 47645, Sept. 10, 1993; 62 FR 45106, Aug. 25, 1997]

§ 515.509 Entries in certain accounts for normal service charges.

(a) Any banking institution within the United States is hereby authorized to:

(1) Debit any blocked account with such banking institution (or with another office within the United States of such banking institution) in payment or reimbursement for normal service charges owed to such banking institution by the owner of such blocked account.

(2) Make book entries against any foreign currency account maintained by it with a banking institution in a designated foreign country for the purpose of responding to debits to such account for normal service charges in connection therewith.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to

correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, account carrying charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§515.510 Payments to the United States, States and political subdivisions.

(a) The payment from any blocked account to the United States or any agency or instrumentality thereof or to any State, territory, district, county, municipality or other political subdivision in the United States, of customs duties, taxes, and fees payable thereto by the owner of such blocked account is hereby authorized.

(b) This section also authorizes transactions incident to the payment of customs duties, taxes, and fees from blocked accounts, such as the levying of assessments, the creation and enforcement of liens, and the sale of blocked property in satisfaction of liens for customs duties, taxes, and fees.

§515.511 Transactions by certain business enterprises.

(a) Except as provided in paragraphs (b), (c) and (d) of this section any partnership, association, corporation or other organization which on the ''effective date'' was actually engaged in a commercial, banking or financial business within the United States and which is a national of a designated foreign country, is hereby authorized to engage in all transactions ordinarily incidental to the normal conduct of its business activities within the United States.

(b) This section does not authorize any transaction which would require a license if such organization were not a national of a designated foreign country.

(c) This section does not authorize any transaction by a specially designated national.

(d) Any organization engaging in business pursuant to this section shall not engage in any transaction, pursuant to this section or any other license or authorization contained in this part, which, directly or indirectly, substantially diminishes or imperils the assets of such organization or otherwise prejudicially affects the financial position of such organization.

(e) No dealings with regard to any account shall be evidence that any person having an interest therein is actually engaged in commercial, banking or financial business within the United States.

§515.512 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of Cuba or a Cuban national is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to Cuba or a Cuban national, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter

or affect property in which Cuba or a Cuban national has had an interest at any time on or since 12:01 a.m., e.s.t., July 8, 1963, is prohibited except to the extent otherwise provided by law or unless otherwise authorized by or pursuant to this part.

[68 FR 14146, Mar. 24, 2003]

§ 515.513 Purchase and sale of certain securities.

(a) The bona fide purchase and sale of securities on a national securities exchange by banking institutions within the United States for the account, and pursuant to the authorization, of nationals of a designated foreign country and the making and receipt of payments, transfers of credit, and transfers of such securities which are necessary incidents of any such purchase or sale are hereby authorized provided the following terms and conditions are complied with:

(1) In the case of the purchase of securities, the securities purchased shall be held in an account in a banking institution within the United States in the name of the national whose account was debited to purchase such securities; and

(2) In the case of the sale of securities, the proceeds of the sale shall be credited to an account in the name of the national for whose account the sale was made and in the banking institution within the United States which held the securities for such national.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(c) Securities issued or guaranteed by the Government of the United States or any State, territory, district, county, municipality, or other political subdivision thereof (including agencies and instrumentalities of the foregoing) need not be purchased or sold on a national securities exchange, but purchases or sales of such securities shall be made at market value and pursuant to all other terms and conditions prescribed in this section.

§ 515.514 Payment of dividends and interest on and redemption and collection of securities.

(a) The payment to, and receipt by, a banking institution within the United States of funds or other property representing dividends or interest on securities held by such banking institution in a blocked account is hereby authorized provided the funds or other property are credited to or deposited in a blocked account in such banking institution in the name of the national for whose account the securities were held. Notwithstanding § 515.202, this paragraph authorizes the foregoing transactions although such securities are registered or inscribed in the name of any designated national and although the national in whose name the securities are registered or inscribed may not be the owner of such blocked account.

(b) The payment to, and receipt by, a banking institution within the United States of funds payable in respect of securities (including coupons) presented by such banking institution to the proper paying agents within the United States for redemption or collection for the account and pursuant to the authorization of nationals of a designated country is hereby authorized provided the proceeds of the redemption or collection are credited to a blocked account in such banking institution in the name of the national for whose account the redemption or collection was made.

(c) The performance of such other acts, and the effecting of such other transactions, as may be necessarily incident to any of the foregoing, are also hereby authorized.

(d) This section does not authorize the crediting of the proceeds of the redemption or collection of securities (including coupons) held in a blocked account or a subaccount thereof, or the income derived from such securities to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

(e) This section does not authorize any issuer or other obligor, with respect to a security, who is a designated national, to make any payment, transfer or withdrawal.

§ 515.515 Transfers of securities to blocked accounts in domestic banks.

(a) Transactions ordinarily incident to the transfer of securities from a blocked account in the name of any person to a blocked account in the same name in a domestic bank are hereby authorized provided such securities shall not be transferred from any blocked account if such transfer represents, directly or indirectly, a transfer of the interest of a designated national to any other country or person.

(b) This section does not authorize the transfer of securities held in a blocked account or subaccount thereof to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

[32 FR 10847, July 25, 1967]

§ 515.516 Voting and soliciting of proxies on securities.

Notwithstanding § 515.202, the voting and the soliciting of proxies or other authorizations is authorized with respect to the voting of securities issued by a corporation organized under the laws of the United States or of any State, territory, or district thereof, in which a designated national has any interest.

§ 515.517 Access to safe deposit boxes under certain conditions.

(a) Access to any safe deposit box leased to a designated national or containing property in which any designated national has an interest, and the deposit therein or removal therefrom of any property is hereby authorized, provided the following terms and conditions are complied with:

(1) Access shall be permitted only in the presence of an authorized representative of the lessor of such box; and

(2) In the event that any property in which any designated national has any interest is to be removed from such box, access shall be permitted only in the presence of an authorized representative of a banking institution within the United States, which may be the lessor of such box, which shall receive such property into its custody immediately upon removal from such box and which shall hold the same in a blocked account under an appropriate designation indicating the interest therein of designated nationals.

(b) The terms and conditions set forth in paragraph (a) of this section shall not apply to access granted to a representative of the Office of Alien Property pursuant to any rule, regulation or order of such Office.

§ 515.518 [Reserved]

§ 515.519 Limited payments from accounts of United States citizens abroad.

(a) Payments and transfers of credit from blocked accounts for expenditures within the United States or the authorized trade territory of any citizens of the United States who are within any foreign country are hereby authorized provided the following terms and conditions are complied with:

(1) Such payments and transfers shall be made only from blocked accounts in the name, or in which the beneficial interest is held by, such citizen or his family; and

(2) The total of all such payments and transfers made under this section shall not exceed $1,000 in any one calendar month for any such citizen or his family.

(b) This section does not authorize any remittance to a designated foreign country or, any payment, transfer, or withdrawal which could not be effected without a license by a person within the United States who is not a national of a designated foreign country.

[28 FR 6974, July 9, 1963, as amended at 49 FR 27144, July 2, 1984]

§ 515.520 Payments from accounts of United States citizens in employ of United States in foreign countries and certain other persons.

(a) Banking institutions within the United States are hereby authorized to make all payments, transfers and withdrawals from accounts in the name of citizens of the United States while such citizens are within any foreign country in the course of their employment by the Government of the United States.

(b) Banking institutions within the United States are also hereby authorized to make all payments, transfers and withdrawals from accounts in the name of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by any organization acting on behalf of the Government of the United States while such persons are within any foreign country.

(c) This section is deemed to apply to the accounts of members of the armed forces of the United States and of citizens of the United States accompanying such armed forces in the course of their employment by the Government of the United States or by any organization acting on its behalf even though they are captured or reported missing.

§ 515.521 U.S. assets of certain Cuban corporations.

(a) Specific licenses may be issued unblocking the net pro rata shares of individuals who are permanent residents of the United States or the authorized trade territory, and who are not specially designated nationals, in U.S.-located assets of corporations formed under the laws of Cuba, after deducting the total debt due creditors for claims that accrued prior to the effective date, in cases where all of the following conditions are met:

(1) The assets were owned by, or accrued to, the corporation before the effective date of the regulations;

(2) The corporation did not carry on substantial business in Cuba under the management or control of the applicant(s) after the effective date;

(3) In cases where the blocked assets purportedly have been nationalized by Cuba, compensation has not been paid to the applicant(s).

(b) Applications for specific licenses under this section must include all of the following information:

(1) A detailed description of the corporation, its by-laws, activities, distribution of shares, and its current status;

(2) Proof of the permanent residence of the applicant(s) in the United States or the authorized trade territory;

(3) A list of all officers, directors and shareholders of the corporation, giving the citizenship and the residence of each person as of the date of the application;

(4) A detailed description of all of the assets of the corporation, wherever located, including a statement of all known encumbrances or claims against them; and

(5) Detailed information regarding the status of all debts and other obligations of the corporation, specifying the citizenship and residence of each creditor on the effective date and on the date of the application.

[50 FR 33720, Aug. 21, 1985. Redesignated at 64 FR 25813, May 13, 1999]

§ 515.522 U.S. assets of certain Cuban decedents.

(a) Specific licenses may be issued unblocking the net pro rata shares of certain heirs of designated nationals in U.S.-located estate assets, after deducting the total debt due creditors for claims that accrued prior to the effective date, in cases where all of the following conditions are met:

(1) The applicant is a permanent resident of the United States or the authorized trade territory and is not a specially designated national; and

(2) No interest on the part of a designated national not licensed as an unblocked national pursuant to § 515.505 exists in that portion of the assets to which the applicant is entitled.

(b) Applications for specific licenses under this section must include all of the following information:

(1) Proof of permanent residence in the United States or the authorized trade territory, to be established by the submission of documentation issued by relevant government authorities that must include at least two of the following documents: (i) passport; (ii) voter registration card; (iii) permanent resident alien card; or (iv) national identity card. Other documents tending to show residency, such as income tax returns, may also be submitted in support of government documentation, but will not suffice in and of themselves;

(2) Proof of death of the designated national to be established by a death certificate;

(3) Proof of heirship, to be established by a copy of the decedent's duly executed will certified by a probate court, a court decree determining the heirs, or, failing the availability of such documents, copies of certificates establishing the relationship of the heir to the deceased, e.g., birth or marriage certificates;

(4) A description of the assets involved, including interest due on blocked funds since April 1, 1979, the name and address of the institution in which the assets are held, the account or safe deposit box number, the name in which the assets are held and a statement of all known encumbrances or claims against them; and

(c) Any document provided pursuant to this section that is not written in the English language must be accompanied by a translation into English, as well as a certification by the translator that he is not an interested party to the proceeding, is qualified to make the translation, and has made an accurate translation of the document in question.

[54 FR 5235, Feb. 2, 1989. Redesignated at 64 FR 25813, May 13, 1999]

§515.523 Transactions incident to the administration of decedents' estates.

(a) The following transactions are authorized in connection with the administration of the assets in the United States of any blocked estate of a decedent:

(1) The appointment and qualification of a personal representative;

(2) The collection and preservation of such assets by such personal representative and the payment of all costs, fees and charges in connection therewith; and

(3) The payment by such personal representative of funeral expenses and expenses of the last illness.

(4) Any transfer of title pursuant to a valid testamentary disposition.

This paragraph does not authorize any unblocking or distribution of estate assets to a designated national.

(b) In addition to the authorization contained in paragraph (a) of this section, all other transactions incident to the administration of assets situated in the United States of any blocked estate of a decedent are authorized if:

(1) The decedent was not a national of a designated foreign country at the time of his death;

(2) The decedent was a citizen of the United States and a national of a designated foreign country at the time of his death solely by reason of his presence in a designated foreign country as a result of his employment by, or service with the United States Government; or

(3) The assets are unblocked under a specific license issued pursuant to §515.522.

(c) Any property or interest therein distributed pursuant to this section to a designated national shall be regarded for the purpose of this chapter as property in which such national has an interest and shall accordingly be subject to all the pertinent sections of this chapter. Any payment or distribution of any funds, securities or other choses in action to a designated national shall be made by deposit in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by a court having jurisdiction of the estate. Any such deposit shall be made in one of the following ways:

(1) In the name of the national who is the ultimate beneficiary thereof;

(2) In the name of a person who is not a national of a designated foreign country in trust for the national who is the ultimate beneficiary; or

(3) Under some other designation which clearly shows the interest therein of such national.

(d) Any distribution of property authorized pursuant to this section may be made to a trustee of any testamentary trust or to the guardian of an estate of a minor or of an incompetent.

(e) This section does not authorize:

(1) Any designated national to act as personal representative or co-representative of any estate;

(2) Any designated national to represent, directly or indirectly, any person who has an interest in an estate;

(3) Any designated national to take distribution of any property as the trustee of any testamentary trust or as the guardian of an estate of a minor or of an incompetent; or

(4) Any transaction which could not be effected if no designated national had any interest in such estate.

(f) Any payment or distribution authorized by this section may be deposited in a blocked account in a domestic bank or with a public officer, agency, or instrumentality designated by the court having jurisdiction of the estate in one of the ways prescribed in paragraph (c) (1), (2) or (3) of this section, but this section does not authorize any other transaction directly or indirectly at the request, or upon the instructions of any designated national.

[28 FR 6974, July 9, 1963, as amended at 54 FR 5234, Feb. 2, 1989; 64 FR 25813, May 13, 1999]

§ 515.524 Payment from, and transactions in the administration of certain trusts and estates.

(a) Any bank or trust company incorporated under the laws of the United States, or of any State, territory, possession, or district of the United States, or any private bank subject to supervision and examination under the banking laws of any State of the United States, acting as trustee of a trust created by gift, donation or bequest and administered in the United States, or as legal representative of an estate of an infant or incompetent administered in the United States, in which trust or estate one or more persons who are designated nationals have an interest, beneficial or otherwise, or are co-trustees or co-representatives, is hereby authorized to engage in the following transactions:

(1) Payments of distributive shares of principal or income to all persons legally entitled thereto upon the condition prescribed in paragraph (b) of this section.

(2) Other transactions arising in the administration of such trust or estate which might be engaged in if no national of a designated foreign country were a beneficiary, co-trustee or co-representative of such trust or estate upon the condition prescribed in paragraph (b) of this section.

(b) Any payment or distribution of any funds, securities or other choses in action to a national of a designated foreign country under this section shall be made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) Any payment or distribution into a blocked account in a domestic bank in the name of any such national of a designated foreign country who is the ultimate beneficiary of and legally entitled to any such payment or distribution is authorized by this section, but this section does not authorize such trustee or legal representative to engage in any other transaction at the request, or upon the instructions, of any beneficiary, co-trustee or co-representative of such trust or estate or other person who is a national of any designated foreign country.

(d) The application of this section to trusts is limited to trusts established by gift, donation, or bequest from individuals or entities to benefit specific heirs, charitable causes, and similar beneficiaries. This section does not apply to trusts established for business or commercial purposes, such as sinking funds established by an issuer of securities in order to secure payment of interest or principal due on such securities.

[28 FR 6974, July 9, 1963, as amended at 49 FR 27144, July 2, 1984; 54 FR 5234, Feb. 2, 1989]

§ 515.525 Certain transfers by operation of law.

(a) The following are hereby authorized:

(1) Any transfer of any dower, curtesy, community property, or other interest of any nature whatsoever, provided that such transfer arises solely as a consequence of the existence or change of marital status;

(2) Any transfer to any person by intestate succession;

(3) Any transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition; and

(4) Any transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession.

(b) Except to the extent authorized by § 515.522, § 515.523 or by any other license or authorization contained in or issued pursuant to this part no transfer to any person by intestate succession

and no transfer to any person as administrator, executor, or other fiduciary by reason of any testamentary disposition, and no transfer to any person as administrator, executor, or fiduciary by reason of judicial appointment or approval in connection with any testamentary disposition or intestate succession shall be deemed to terminate the interest of the decedent in the property transferred if the decedent was a designated national.

[28 FR 6974, July 9, 1963, as amended at 54 FR 5234, Feb. 2, 1989; 64 FR 25813, May 13, 1999]

§515.526 Transactions involving blocked life insurance policies.

(a) The following transactions are hereby authorized:

(1) The payment of premiums and interest on policy loans with respect to any blocked life insurance policy;

(2) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest is that of one or more of the following:

(i) A member of the armed forces of the United States or a person accompanying such forces (including personnel of the American Red Cross, and similar organizations);

(ii) An officer or employee of the United States; or

(iii) A citizen of the United States resident in a designated foreign country; and

(3) The issuance, servicing or transfer of any blocked life insurance policy in which the only blocked interest (other than that of a person specified in paragraph (a)(2) of this section) is that of a beneficiary.

(b) Paragraph (a) of this section does not authorize:

(1) Any payment to the insurer from any blocked account except a blocked account of the insured or beneficiary, or

(2) Any payment by the insurer to a national of a designated foreign country unless payment is made by deposit in a blocked account in a domestic bank in the name of the national who is the ultimate beneficiary thereof.

(c) The application, in accordance with the provisions of the policy or the established practice of the insurer of the dividends, cash surrender value, or loan value, of any blocked life insurance policy is also hereby authorized for the purpose of:

(1) Paying premiums;

(2) Paying policy loans and interest thereon;

(3) Establishing paid-up insurance; or

(4) Accumulating such dividends or values to the credit of the policy on the books of the insurer.

(d) As used in this section:

(1) The term *blocked life insurance policy* shall mean any life insurance policy or annuity contract, or contract supplementary thereto, in which there is a blocked interest.

(2) Any interest of a national of a designated foreign country shall be deemed to be a ''blocked interest.''

(3) The term *servicing* shall mean the following transactions with respect to any blocked life insurance policy:

(i) The payment of premiums, the payment of loan interest, and the repayment of policy loans;

(ii) The effecting by a life insurance company or other insurer of loans to an insured;

(iii) The effecting on behalf of an insured or surrenders, conversions, modifications, and reinstatements; and

(iv) The exercise or election by an insured of nonforfeiture options, optional modes of settlement, optional disposition of dividends, and other policy options and privileges not involving payment by the insurer.

(4) The term *transfer* shall mean the change of beneficiary, or the assignment or pledge of the interest of an insured in any blocked life insurance policy subsequent to the issuance thereof.

(e) This section does not authorize any transaction with respect to any blocked life insurance policy issued by a life insurance company or other insurer which is a national of a designated foreign country or which is not doing business or effecting insurance in the United States.

§515.527 Certain transactions with respect to United States intellectual property.

(a)(1) Transactions related to the registration and renewal in the United States Patent and Trademark Office or the United States Copyright Office of patents, trademarks, and copyrights in which the Government of Cuba or a

Cuban national has an interest are authorized.

(2) No transaction or payment is authorized or approved pursuant to paragraph (a)(1) of this section with respect to a mark, trade name, or commercial name that is the same as or substantially similar to a mark, trade name, or commercial name that was used in connection with a business or assets that were confiscated, as that term is defined in § 515.336, unless the original owner of the mark, trade name, or commercial name, or the bona fide successor-in-interest has expressly consented.

(b) This section authorizes the payment from blocked accounts or otherwise of fees currently due to the United States Government in connection with any transaction authorized in paragraph (a) of this section.

(c) This section further authorizes the payment from blocked accounts or otherwise of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States in connection with the transactions authorized in paragraph (a) of this section.

[60 FR 54196, Oct. 20, 1995, as amended at 64 FR 25813, May 13, 1999]

§ 515.528 Certain transactions with respect to blocked foreign intellectual property.

(a) The following transactions by any person who is not a designated national are hereby authorized:

(1) The filing and prosecution of any application for a blocked foreign patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any blocked foreign patent, trademark or copyright;

(3) The filing and prosecution of opposition or infringement proceedings with respect to any blocked foreign patent, trademark, or copyright, and the prosecution of a defense to any such proceedings;

(4) The payment of fees currently due to the government of any foreign country, either directly or through an attorney or representative, in connection with any of the transactions authorized by paragraphs (a) (1), (2), and (3) of this section or for the maintenance of any blocked foreign patent, trademark or copyright; and

(5) The payment of reasonable and customary fees currently due to attorneys or representatives in any foreign country incurred in connection with any of the transactions authorized by paragraphs (a) (1), (2), (3), or (4) of this section.

(b) Payments effected pursuant to the terms of paragraphs (a) (4) and (5) of this section may not be made from any blocked account.

(c) As used in this section the term *blocked foreign patent, trademark, or copyright* shall mean any patent, petty patent, design patent, trademark or copyright issued by any foreign country in which a designated foreign country or national thereof has an interest, including any patent, petty patent, design patent, trademark, or copyright issued by a designated foreign country.

[28 FR 6974, July 9, 1963, as amended at 60 FR 54196, Oct. 20, 1995]

§ 515.529 Powers of attorney.

(a) No power of attorney, whether granted before or after the ''effective date'' shall be invalid by reason of any of the provisions of this part with respect to any transaction licensed by or pursuant to the provisions of this part.

(b) This section does not authorize any transaction pursuant to a power of attorney if such transaction is prohibited by § 515.201 and is not otherwise licensed or authorized by or pursuant to this part.

(c) This section does not authorize the creation of any power of attorney in favor of any person outside of the United States or the exportation from the United States of any power of attorney.

§ 515.530 Exportation of powers of attorney or instructions relating to certain types of transactions.

(a) The exportation to any foreign country of powers of attorney or other instruments executed or issued by any person within the United States who is not a national of a designated foreign country, which are limited to authorizations or instructions to effect transactions incident to the following, are hereby authorized upon the condition

prescribed in paragraph (b) of this section:

(1) The representation of the interest of such person in a decedent's estate which is being administered in a designated foreign country and the collection of the distributive share of such person in such estate;

(2) The maintenance, preservation, supervision or management of any property located in a designated foreign country in which such person has an interest; and

(3) The conveyance, transfer, release, sale or other disposition of any property specified in paragraph (a)(1) of this section or any real estate or tangible personal property if the value thereof does not exceed the sum of $5,000 or its equivalent in foreign currency.

(b) No instrument which authorizes the conveyance, transfer, release, sale or other disposition of any property may be exported under this section unless it contains an express stipulation that such authority may not be exercised if the value of such property exceeds the sum of $5,000 or the equivalent thereof in foreign currency.

(c) As used in this section, the term *tangible personal property* shall not include cash, bullion, deposits, credits, securities, patents, trademarks, or copyrights.

§ 515.531 Payment of certain checks and drafts.

(a) Any banking institution within the United States is hereby authorized to make payments from blocked accounts with such banking institution:

(1) Of checks and drafts drawn or issued prior to the ''effective date'' provided:

(i) The amount involved in any one payment, acceptance, or debit does not exceed $500; or

(ii) The check or draft was within the United States in process of collection by a domestic bank on or prior to the ''effective date.''

(2) [Reserved]

(b) This section does not authorize any payment to a designated foreign country or any designated national thereof except payments into a blocked account in a domestic bank, unless such designated national is otherwise licensed to receive such payment.

(c) The authorization contained in this section shall expire at the close of business on August 8, 1963.

§ 515.532 Completion of certain securities transactions.

(a) Banking institutions within the United States are hereby authorized to complete, on or before July 12, 1963 purchases and sales made prior to the ''effective date'' of securities purchased or sold for the account of a designated foreign country or any designated national thereof provided the following terms and conditions are complied with, respectively:

(1) The proceeds of such sale are credited to a blocked account in a banking institution in the name of the person for whose account the sale was made; and

(2) The securities so purchased are held in a blocked account in a banking institution in the name of the person for whose account the purchase was made.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a subaccount thereof, to a blocked account or subaccount under any name or designation which differs from the name or designation of the specific blocked account or subaccount in which such securities were held.

§ 515.533 Transactions incident to exportations from the United States and reexportations of 100% U.S.-origin items to Cuba; negotiation of executory contracts.

(a) All transactions ordinarily incident to the exportation of items from the United States, or the reexportation of 100% U.S.-origin items from a third country, to any person within Cuba are authorized, provided that:

(1) The exportation or reexportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–0420) (see the Export Administration Regulations, 15 CFR 730–774); and

(2) Only the following payment and financing terms may be used:

(i)(A) *Payment of cash in advance.* Except as provided in paragraph (a)(2)(i)(B) of this section, for the purposes of this section, the term ''payment of cash in advance'' means that payment is received by the seller or the seller's agent prior to shipment of the goods from the port at which they are loaded;

(B) *Payment of cash in advance during Fiscal Year 2010.* For sales of agricultural items delivered to Cuba between October 1, 2009, and September 30, 2010, or delivered pursuant to a contract entered into between October 1, 2009, and September 30, 2010, and shipped within twelve months from the signing of the contract, the term ''payment of cash in advance'' shall mean payment before the transfer of title to, and control of, the exported items to the Cuban purchaser;

NOTE TO § 515.533(a)(2)(i)(B): The payment rule set forth in this paragraph is required by Section 619 of the Omnibus Appropriations Act, 2010 (Pub. L. 111–117).

(ii) For authorized sales of agricultural items, financing by a banking institution located in a third country provided the banking institution is not a designated national, U.S. citizen, U.S. permanent resident alien, or an entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches). Such financing may be confirmed or advised by a U.S. banking institution; or

(iii) For all other authorized sales, financing by a banking institution located in a third country provided the banking institution is not a designated national or a person subject to the jurisdiction of the United States. Such financing may be confirmed or advised by a U.S. banking institution.

NOTE TO PARAGRAPH (a): The transactions authorized by this paragraph include, but are not limited to, all transactions that are directly incident to the shipping of specific exports or reexports (e.g., insurance and transportation of the exports to Cuba). Transactions that are not tied to specific exports or reexports, such as transactions involving future (non-specific) shipments, must be separately licensed by OFAC. For the waiver of the prohibitions on entry into U.S. ports contained in § 515.207 for vessels transporting shipments of items between the United States and Cuba pursuant to this section, see § 515.550.

(b) Persons subject to the jurisdiction of the United States are authorized to engage in all transactions ordinarily incident to negotiation of and entry into executory contracts for the sale of items that may be exported from the United States to Cuba or 100% U.S.-origin items that may be reexported from a third country to Cuba consistent with the export licensing policy of the Department of Commerce, provided that performance of such executory contracts is expressly made contingent on the prior authorization by the Department of Commerce.

NOTE TO PARAGRAPH (b): This paragraph does not authorize transactions related to travel to, from, or within Cuba. See paragraphs (e) and (f) for general licenses, and paragraph (g) for a statement of specific licensing policy, with respect to such transactions.

(c) This section does not authorize:

(1) The financing of any transactions from any blocked account.

(2) Any transaction involving, directly or indirectly, property in which any designated national, other than a person located in the country to which the exportation or reexportation is consigned, has an interest or has had an interest since the effective date set forth in § 515.201 of this part.

(d) In addition to those transactions authorized pursuant to paragraph (a) of this section, all transactions ordinarily incident to the processing of payments received for items exported from the United States to any person within Cuba are authorized, provided that:

(1) The exportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401–2420) (see the Export Administration Regulations, 15 CFR 730–774);

(2) The items are shipped from the port at which they are loaded on or before March 24, 2005; and

(3) Payment is received by a U.S. banking institution on or before March 24, 2005, and prior to the transfer of title to, and control of, the exported items to the Cuban purchaser.

(e) *General license for travel-related transactions incident to sales of agricultural commodities, medicine, or medical devices.* The travel-related transactions set forth in §515.560(c) and additional transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of agricultural commodities, medicine, or medical devices that appear consistent with the export or re-export licensing policy of the Department of Commerce are authorized, provided that:

(1) The traveler is regularly employed by a producer or distributor of the agricultural commodities, medicine, or medical devices or by an entity duly appointed to represent such a producer or distributor;

(2) The traveler's schedule of activities does not include free time, travel, or recreation in excess of that consistent with a full work schedule; and

(3) The traveler submits to OFAC at least 14 days in advance of each departure to Cuba a written report identifying both the traveler and the producer or distributor and describing the purpose and scope of such travel. Within 14 days of return from Cuba, the traveler shall submit a written report describing the business activities conducted, the persons with whom the traveler met in the course of such activities, and the expenses incurred. Such reports must be captioned ''Section 515.533(e) Report'' and faxed to 202/622–1657 or mailed to the Office of Foreign Assets Control, *Attn:* Licensing Division, 1500 Pennsylvania Avenue, NW., Annex–2nd Floor, Washington, DC 20220. If more than one traveler is traveling on the same trip for or on behalf of the same producer or distributor, one combined pre-trip and one combined post-trip report may be filed covering all such travelers.

(f) *General license for travel-related transactions incident to sales of telecommunications-related items.* The travel-related transactions set forth in §515.560(c) and additional transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of telecommunications-related items that have been authorized for commercial export or re-export to Cuba by the Department of Commerce are authorized, provided that:

(1) The traveler is regularly employed by a telecommunications services provider that is a person subject to U.S. jurisdiction or by an entity duly appointed to represent such a provider;

(2) The traveler's schedule of activities does not include free time, travel, or recreation in excess of that consistent with a full work schedule; and

(3) The traveler submits to OFAC at least 14 days in advance of each departure to Cuba a written report identifying both the traveler and the telecommunications services provider that is a person subject to U.S. jurisdiction and describing the purpose and scope of such travel. Within 14 days of return from Cuba, the traveler shall submit a written report describing the business activities conducted, the persons with whom the traveler met in the course of such activities, and the expenses incurred. Such reports must be captioned ''Section 515.533(f) Report'' and faxed to 202/622–1657 or mailed to the Office of Foreign Assets Control, *Attn:* Licensing Division, 1500 Pennsylvania Avenue, NW., Annex–2nd Floor, Washington, DC 20220. If more than one traveler is traveling on the same trip for or on behalf of the same telecommunications services provider that is a person subject to U.S. jurisdiction, one combined pre-trip and one combined post-trip report may be filed covering all such travelers.

(g) *Specific licenses for travel-related transactions incident to exports.* Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in §515.560(c) and additional transactions that are directly incident to the marketing, sales negotiation, accompanied delivery, or servicing in Cuba of exports that appear consistent with the export or re-export licensing policy of the Department of Commerce and are not authorized by the general licenses in paragraphs (e) and (f) of this section.

[68 FR 14146, Mar. 24, 2003, as amended at 70 FR 9225, Feb. 25, 2005; 74 FR 46004, Sept. 8, 2009; 75 FR 10997, Mar. 10, 2010]

§ 515.535 Exchange of certain securities.

(a) Subject to the limitations and conditions of paragraph (b) of this section and notwithstanding § 515.202, any banking institution within the United States is authorized to engage in the following transactions with respect to securities listed on a national securities exchange, including the withdrawal of such securities from blocked accounts:

(1) Exchange of certificates necessitated by reason of changes in corporate name, par value or capitalization,

(2) Exchanges of temporary for permanent certificates,

(3) Exchanges or deposits under plans of reorganization,

(4) Exchanges under refunding plans, or

(5) Exchanges pursuant to conversion privileges accruing to securities held.

(b) This section does not authorize the following transactions:

(1) Any exchange of securities unless the new securities and other proceeds, if any, received are deposited in the blocked account in which the original securities were held immediately prior to the exchange.

(2) Any exchange of securities registered in the name of any designated national, unless the new securities received are registered in the same name in which the securities exchanged were registered prior to the exchange.

(3) Any exchange of securities issued by a person engaged in the business of offering, buying, selling, or otherwise dealing, or trading in securities, or evidences thereof, issued by another person.

(4) Any transaction with respect to any security by an issuer or other obligor who is a designated national.

§ 515.536 Certain transactions with respect to merchandise affected by § 515.204.

(a) With respect to merchandise the importation of which is prohibited by § 515.204, all Customs transactions are authorized except the following:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone.

(b) Paragraph (a) of this section is intended solely to allow certain restricted disposition of merchandise which is imported without proper authorization. Paragraph (a) of this section does not authorize the purchase or importation of any merchandise.

(c) The purchase outside the United States for importation into the United States of nickel-bearing materials presumptively subject to § 515.204 and the importation of such merchandise into the United States (including transactions listed in paragraph (a) of this section) are authorized if there is presented to the collector of customs in connection with such importation the original of an appropriate certificate of origin as defined in paragraph (d) of this section and provided that the merchandise was shipped to the United States directly, or on a through bill of lading, from the country issuing the appropriate certificate of origin.

(d) A certificate of origin is appropriate for the purposes of this section only if

(1) It is a certificate of origin the availability of which for Cuban Assets Control purposes has been announced in the FEDERAL REGISTER by the Office of Foreign Assets Control; and

(2) It bears a statement by the issuing agency referring to the Cuban Assets Control Regulations or stating that the certificate has been issued under procedures agreed upon with the U.S. Government.

[30 FR 15371, Dec. 14, 1965, as amended at 47 FR 4254, Jan. 29, 1982; 50 FR 5753, Feb. 12, 1985; 54 FR 5234, Feb. 2, 1989]

§ 515.540 [Reserved]

§ 515.542 Mail and telecommunications-related transactions.

(a) All transactions of common carriers incident to the receipt or transmission of mail between the United States and Cuba are authorized.

(b) All transactions, including but not limited to payments, incident to the provision of telecommunications services between the United States and Cuba, the provision of satellite radio or satellite television services to Cuba, or the entry into and performance under roaming service agreements with telecommunications services providers in Cuba, by a telecommunications services provider that is a person subject to U.S. jurisdiction are authorized. This paragraph does not authorize any transactions addressed in paragraphs (c), (d), (f) or (g) of this section, nor does it authorize the entry into or performance of a contract with or for the benefit of any particular individual in Cuba.

(c) All persons subject to U.S. jurisdiction are authorized to enter into, and make payments under, contracts with non-Cuban telecommunications services providers, or particular individuals in Cuba, for telecommunications services provided to particular individuals in Cuba, provided that such individuals in Cuba are not prohibited officials of the Government of Cuba, as defined in § 515.337 of this part, or prohibited members of the Cuban Communist Party, as defined in § 515.338 of this part. The authorization in this paragraph includes, but is not limited to, payment for activation, installation, usage (monthly, pre-paid, intermittent, or other), roaming, maintenance, and termination fees.

(d)(1) *General license for telecommunications facilities linking the United States and Cuba.* Transactions incident to the establishment of facilities to provide telecommunications services linking the United States and Cuba, including but not limited to fiber-optic cable and satellite facilities, are authorized.

(2) *Specific licenses for telecommunications facilities linking third countries and Cuba.* Specific licenses may be issued on a case-by-case basis authorizing transactions incident to the establishment of facilities to provide telecommunications services linking third countries and Cuba, including but not limited to fiber-optic cable and satellite facilities, provided that such facilities are necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

(e) Any entity subject to U.S. jurisdiction relying on paragraph (b), (c), (d)(1), or (d)(2) of this section shall notify OFAC in writing within 30 days after commencing or ceasing to offer such services, as applicable, and shall furnish by January 15 and July 15 of each year semiannual reports providing the total amount of all payments made to Cuba or a third country related to any of the services authorized by this section during the prior six months. These notifications and reports must be captioned ''Section 515.542 Notification'' or ''Section 515.542 Report'' and faxed to 202/622–6931 or mailed to the Office of Foreign Assets Control, *Attn:* Policy Division, 1500 Pennsylvania Avenue, NW., Annex–4th Floor, Washington, DC 20220.

(f) For the purposes of this section, the term *telecommunications services* includes but is not limited to telephone, telegraph, and similar services and the transmission of satellite radio and satellite television broadcasts and news wire feeds.

(g) Nothing in this section authorizes the exportation or re-exportation of any items to Cuba. For the rules related to authorization of exports and re-exports to Cuba, see §§ 515.533 and 515.559 of this part.

(h) For an authorization of travel-related transactions that are directly incident to the commercial marketing, sales negotiation, accompanied delivery, or servicing in Cuba of telecommunications-related items that have been authorized for commercial export to Cuba by the U.S. Department of Commerce, see § 515.533(f) of this part. For an authorization of travel-related transactions that are directly incident to participation in professional meetings for the commercial marketing of, sales negotiation for, or performance under contracts for the provision of the telecommunications services, or the establishment of facilities

to provide telecommunications services, authorized by paragraphs (b), (c), or (d)(1) of this section, see paragraph (a)(3) of § 515.564 of this part. Nothing in this § 515.542 authorizes transactions related to travel to, from, or within Cuba.

[74 FR 46005, Sept. 8, 2009]

§ 515.543 Proof of origin.

Specific licenses for importation of goods of Cuban origin are generally not issued unless the applicant submits satisfactory documentary proof of the location of the goods outside Cuba prior to July 8, 1963 and of the absence of any Cuban interest in the goods at all times on or since that date. Since the type of document which would constitute satisfactory proof varies depending upon the facts of the particular case, it is not possible to state in advance the type of documents required. However, it has been found that affidavits, statements, invoices, and other documents prepared by manufacturers, processors, sellers or shippers cannot be relied on and are therefore not by themselves accepted by the Office of Foreign Assets Control as satisfactory proof of origin. Independent corroborating documentary evidence, such as insurance documents, bills of lading, etc., may be accepted as satisfactory proof.

[39 FR 25317, July 10, 1974]

§ 515.544 Gifts of Cuban origin goods.

(a) Except as stated in paragraph (b) of this section, specific licenses are not issued for the importation of Cuban-origin goods sent as gifts to persons in the United States or acquired abroad as gifts by persons entering the United States. However, licenses are issued upon request for the return of such goods to the donors in countries other than Cuba.

(b) Specific licenses are issued for the importation directly from Cuba:

(1) Of goods which are claimed by the importer to have been sent as a bona fide gift or

(2) Of goods which are imported by a person entering the U.S., which are claimed to have been acquired in Cuba as a bona fide gift, subject to the conditions that:

(i) The goods are of small value, and

(ii) There is no reason to believe that there is, or has been since July 8, 1963, any direct or indirect financial or commercial benefit to Cuba or nationals thereof from the importation.

[39 FR 25317, July 10, 1974; 39 FR 28434, Aug. 7, 1974, as amended at 49 FR 27144, July 2, 1984]

§ 515.545 Transactions related to information and informational materials.

(a) Transactions relating to the dissemination of informational materials are authorized, including remittance of royalties paid for informational materials that are reproduced, translated, subtitled, or dubbed. This section does not authorize the remittance of royalties or other payments relating to works not yet in being, or for marketing and business consulting services, or artistic or other substantive alteration or enhancements to informational materials, as provided in § 515.206(a)(3).

(b) Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) for purposes related to the exportation, importation, or transmission of information or informational materials as defined in § 515.332.

NOTE TO § 515.545. With respect to transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals and newspapers, see § 515.577.

[54 FR 5234, Feb. 2, 1989, as amended at 60 FR 39257, Aug. 2, 1995; 64 FR 25813, May 13, 1999; 69 FR 75469, Dec. 17, 2004; 74 FR 46006, Sept. 8, 2009]

§ 515.546 Accounts of Cuban sole proprietorships.

Specific licenses are issued unblocking sole proprietorships established under the laws of Cuba if the proprietor has emigrated from Cuba and established residence in the United States or a country in the authorized trade territory.

[39 FR 25319, July 10, 1974. Redesignated at 64 FR 25813, May 13, 1999]

§ 515.547 Research samples.

Specific licenses are issued for importation of Cuban-origin commodities for

bona-fide research purposes in sample quantities only.

[39 FR 25318, July 10, 1974]

§ 515.548 Services rendered by Cuba to United States aircraft.

Specific licenses are issued for payment to Cuba of charges for services rendered by Cuba in connection with overflights of Cuba or emergency landings in Cuba, of private, commercial or government-owned United States aircraft.

[39 FR 25318, July 10, 1974, as amended at 49 FR 27144, July 2, 1984]

§ 515.549 Bank accounts and other property of non-Cuban citizens who were in Cuba on or after July 8, 1963.

(a) *Citizens of foreign countries.* Specific licenses are issued unblocking the accounts and other property of non-Cuban citizens who have left Cuba, provided that they submit evidence satisfactorily demonstrating that they have established residence in a foreign country in the authorized trade territory.

(b) *Decedents who died in Cuba on or after July 8, 1963.* Specific licenses are issued authorizing the administration of the estates of non-Cuban decedents who died in Cuba, provided that any distribution to a blocked national of Cuba is made by deposit in a blocked account in a domestic bank in the name of the blocked national.

[39 FR 25318, July 10, 1974]

§ 515.550 Certain vessel transactions authorized.

Unless a vessel has otherwise engaged in transactions that would prohibit entry pursuant to § 515.207, § 515.207 shall not apply to a vessel that is:

(a) Engaging in trade with Cuba authorized by licenses issued pursuant to § 515.533 or § 515.559; or

(b) Engaging in trade with Cuba that is exempt from the prohibitions of this part (see § 515.206).

[64 FR 25813, May 13, 1999]

§ 515.551 Joint bank accounts.

(a) Specific licenses are issued unblocking a portion of or all of a joint bank account blocked by reason of the fact that one or more of the persons in whose names the account is held is a blocked national, where a non-blocked applicant claims beneficial ownership, as follows:

(1) *Joint bank account, without survivorship provisions.* Specific licenses are issued unblocking only that amount with respect to which the applicant is able to prove beneficial ownership by documentary evidence independent of his assertions of interest.

(2) *Joint bank account, with survivorship provisions.* Specific licenses are issued unblocking an amount equivalent to that portion of the total amount to which the applicant would be entitled if the total were divided evenly among the persons in whose names the account is held (e.g. 50 percent where there are two names; 33⅓ percent where there are three names). Such licenses generally are issued on the basis of applicant's assertions of beneficial ownership interest without the requirement of independent evidence.

(3) *Joint bank account in the names of a husband and wife, with survivorship provision.* Specific licenses are issued unblocking portions of such accounts blocked by reason of the residence of one spouse in Cuba in favor of the non-blocked spouse under the policy stated in paragraph (a)(2) of this section. However, if 50 percent of the account has been unblocked under that policy, and the spouse who is the blocked Cuban national subsequently dies, the surviving spouse may be entitled to a license unblocking the remainder of the assets under § 515.522.

(b) [Reserved]

[39 FR 25318, July 10, 1974, as amended at 49 FR 27145, July 2, 1984; 54 FR 5234, Feb. 2, 1989; 64 FR 25813, May 13, 1999]

§ 515.552 Proceeds of insurance policies.

(a) Specific licenses are issued authorizing payment of the proceeds of blocked life insurance policies issued on the life of a Cuban national who died in Cuba after July 8, 1963, to certain beneficiaries licensed as unblocked nationals pursuant to § 515.505, as follows:

(1) The applicant is a permanent resident of the United States or the authorized trade territory and is not a specially designated national; and

(2) No interest on the part of a designated national not licensed as an unblocked national exists in that portion of the funds to which the applicant is entitled.

(b) Applications for specific licenses under this section must include all of the following information:

(1) Proof of permanent residence in the United States or the authorized trade territory, to be established by the submission of documentation issued by relevant government authorities that must include at least two of the following documents:

(i) Passport;

(ii) Voter registration card;

(iii) Permanent resident alien card; or

(iv) National identity card.

Other documents tending to show residency, such as income tax returns, may also be submitted in support of government documentation, but will not suffice in and of themselves;

(2) Proof of entitlement under the insurance policy to be established by a copy of the policy and an affidavit from an appropriate officer of a recognized insurance company acknowledging the legitimacy of the beneficiary's claim and the amount of the payment; and

(c) Any document provided pursuant to this section that is not written in the English language must be accompanied by a translation into English, as well as a certification by the translator that he is not an interested party to the proceeding, is qualified to make the translation, and has made an accurate translation of the document in question.

[54 FR 5234, Feb. 2, 1989]

§ 515.553 Bank accounts of official representatives in Cuba of foreign governments.

Specific licenses are issued authorizing payments from accounts of official representatives in Cuba of foreign governments for transactions which are not inconsistent with the purposes of any of the regulations in this chapter.

[39 FR 25319, July 10, 1974]

§ 515.554 Transfers of abandoned property under State laws.

(a) Except as stated in paragraphs (b) and (c) of this section, specific licenses are not issued authorizing the transfer of blocked property to State agencies under State laws governing abandoned property.

(b) Specific licenses are issued authorizing the transfer of blocked property, pursuant to the laws of the State governing abandoned property, to the appropriate State agency: *Provided*, That the State's laws are custodial in nature, i.e., there is no permanent transfer of beneficial interest to the State. Licenses require the property to be held by the State in accounts which are identified as blocked under the regulations. A separate index of these blocked assets is required to be maintained by the State agency. The requirements of this section for identification and separate indexing of blocked assets apply to all blocked assets held by State agencies and any licenses issued prior to the effective date of this section hereby are amended by the incorporation of such requirements.

(c) To be eligible for a specific license under this section, the state agency must demonstrate that it has the statutory authority under appropriate state law to comply with the requirements of § 515.205. Such a showing shall include an opinion of the State Attorney General that such statutory authority exists.

[44 FR 11771, Mar. 2, 1979]

§ 515.555 Assets of Cuban firms wholly or substantially owned by U.S. citizens.

(a) Specific licenses are issued to applicants requesting the unblocking of their stock in Cuban corporations if:

(1) The corporation was wholly or substantially owned by United States citizens on July 8, 1963;

(2) The assets are in the United States and either;

(3) The applicant is a stockholder who was a United States citizen on

July 8, 1963 and owned the stock interests on that date; or,

(4) The applicant is a non-blocked person who acquired such stock interest after July 8, 1963 from a person specified in paragraph (a)(3) of this section.

(b) The issuance of licenses is conditioned on the applicant's furnishing the following information:

(1) Detailed information as to the status of all debts and other obligations of the Cuban corporation, specifying the citizenship and residence of each creditor as of July 8, 1963, and as of the date of filing of the application;

(2) Current status of the Cuban corporation, e.g., liquidated, nationalized, inoperative, etc.;

(3) A detailed description of all the corporation's assets, wherever located;

(4) A list of all officers, directors, and stockholders giving the citizenship and the residence of each such person as of July 8, 1963; and,

(5) Satisfactory proof that such stock was owned by U.S. citizens as of July 8, 1963. Such proof may consist of sworn statements by the persons in question attesting to their citizenship. The Office of Foreign Assets Control reserves the right to require additional proof of citizenship.

[39 FR 25319, July 10, 1974]

§ 515.556 [Reserved]

§ 515.557 Accounts of Cuban partnerships.

Specific licenses are issued unblocking partnerships established under the laws of Cuba as follows:

(a) Where all of the general partners and limited partners, if any, have emigrated from Cuba and have established residence in the United States or in a country in the authorized trade territory, specific licenses are issued unblocking the assets of the partnership after deducting the total debt due creditors wherever located.

(b) Where one or more partners, whether general or limited, is still in Cuba (or elsewhere but still blocked), specific licenses are issued unblocking only the net pro-rata shares of those partners who are resident in the United States or in a country in the authorized trade territory after deducting the total debt due creditors wherever located.

(c) The issuance of licenses is conditioned on the applicant's furnishing the following information:

(1) Detailed information as to the status of all debts and other obligations of the blocked partnership, specifying the citizenship and residence of each creditor as of July 8, 1963, and as of the date of the application;

(2) Current status of the Cuban partnership, e.g., liquidated, nationalized, inoperative, etc.;

(3) A detailed description of all the partnership's assets, wherever located; and,

(4) A list of all partners, indicating whether they are general, limited, etc. and giving their citizenship and residence as of July 8, 1963, and as of the date of filing of the application.

[39 FR 25319, July 10, 1974]

§ 515.558 Bunkering of Cuban vessels and fueling of Cuban aircraft by American-owned or controlled foreign firms.

Foreign firms owned or controlled by United States persons are authorized to engage in transactions ordinarily incident to the bunkering of vessels and to the fueling of aircraft owned or controlled by, or chartered to, Cuba or nationals thereof.

(50 U.S.C. App. 5(b); 22 U.S.C. 2370(a); E. O. 9193, 3 CFR 1943 Cum. Supp.; Treas. Dept. Order No. 128, 32 FR 3472)

[42 FR 58518, Nov. 10, 1977; 43 FR 19852, May 9, 1978. Redesignated at 64 FR 25813, May 13, 1999]

§ 515.559 Certain transactions by U.S.-owned or controlled foreign firms with Cuba.

(a) Effective October 23, 1992, no specific licenses will be issued pursuant to paragraph (b) of this section for transactions between U.S.-owned or controlled firms in third countries and Cuba for the exportation to Cuba of commodities produced in the authorized trade zone or for the importation of goods of Cuban origin into countries in the authorized trade zone, unless, in addition to meeting all requirements of paragraph (b), one or more of the following conditions are satisfied:

(1) The contract underlying the proposed transaction was entered into prior to October 23, 1992;

(2) The transaction is for the exportation of medicine or medical supplies from a third country to Cuba, which shall not be restricted:

(i) Except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act if the exportation were subject to these provisions;

(ii) Except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(iii) Except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; or

(iv) Except in a case in which the item to be exported could be used in the production of any biotechnological product; and

(v) Except in a case where it is determined that the United States Government is unable to verify, by on-site inspection or other means, that the item to be exported will be used for the purpose for which it was intended and only for the use and benefit of the Cuban people, but this exception shall not apply to donations for humanitarian purposes to a nongovernmental organization in Cuba.

(3) The transaction is for the exportation of telecommunications equipment from a third country, when the equipment is determined to be necessary for efficient and adequate telecommunications service between the United States and Cuba.

(b) Specific licenses will be issued in appropriate cases for certain categories of transactions between U.S.-owned or controlled firms in third countries and Cuba, where local law requires, or policy in the third country favors, trade with Cuba. The categories include:

(1) Exportation to Cuba of commodities produced in the authorized trade territory, provided:

(i) The commodities to be exported are non-strategic;

(ii) United States-origin technical data (other than maintenance, repair and operations data) will not be transferred;

(iii) If any U.S.-origin parts and components are included therein, such inclusion has been authorized by the Department of Commerce;

(iv) If any U.S.-origin spares are to be reexported to Cuba in connection with a licensed transaction, such reexport has been authorized by the Department of Commerce;

(v) No U.S. dollar accounts are involved; and

(vi) Any financing or other extension of credit by a U.S.-owned or controlled firm is granted on normal short-term conditions which are appropriate for the commodity to be exported.

(2) Travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to marketing, sales negotiation, accompanied delivery, or servicing of exports that are consistent with the licensing policy under this section.

(3) Importation of goods of Cuban origin into countries in the authorized trade territory.

NOTE TO PARAGRAPH (b): On October 23, 1992, sections 1705 and 1706 of the Cuban Democracy Act of 1992, Pub. L. 102–484 (Oct. 23, 1992) (codified at 22 U.S.C. 6004 and 6005, respectively), prohibited OFAC from issuing licenses for any transaction described in this paragraph other than those transactions currently set forth in paragraph (a).

(c) The term *strategic goods* means any item, regardless of origin, of a type included in the Commodity Control List of the U.S. Department of Commerce (15 CFR part 399) and identified by the code letter ''A'' following the Export Control Commodity Numbers, or of a type the unauthorized exportation of which from the United States is prohibited by regulations issued under the Arms Export Control Act of 1976, 22 U.S.C. 2778, or under the Atomic Energy Act of 1954, 42 U.S.C. 2011, et seq., or successor acts restricting the export of strategic goods.

NOTE TO § 515.559: For reexportation of U.S.-origin goods, wares, or merchandise by U.S.-owned or controlled foreign firms, see § 515.533. Transactions by U.S.-owned or controlled foreign firms directly incident to the exportation of information or informational materials or the donation of food to nongovernmental entities or individuals in Cuba are exempt from the prohibitions of this

part. See § 515.206. For the waiver of the prohibitions contained in § 515.207 with respect to vessels transporting shipments of goods, wares, or merchandise pursuant to this section, see § 515.550.

[40 FR 47108, Oct. 8, 1975, as amended at 42 FR 1472, Jan. 7, 1977; 42 FR 16621, Mar. 29, 1977; 50 FR 27438, July 3, 1985; 53 FR 47527, Nov. 23, 1988; 58 FR 34710, June 29, 1993; 64 FR 25814, May 13, 1999; 66 FR 36687, July 12, 2001; 68 FR 14146, Mar. 24, 2003]

§ 515.560 Travel-related transactions to, from, and within Cuba by persons subject to U.S. jurisdiction.

(a) The travel-related transactions listed in paragraph (c) of this section may be authorized either by a general license or on a case-by-case basis by a specific license for travel related to the following activities (see the referenced sections for the applicable general and specific licensing criteria):

(1) Family visits (general and specific licenses) (see § 515.561);

(2) Official business of the U.S. government, foreign governments, and certain intergovernmental organizations (general license) (see § 515.562);

(3) Journalistic activity (general and specific licenses) (see § 515.563);

(4) Professional research and professional meetings (general and specific licenses) (see § 515.564);

(5) Educational activities (general and specific licenses) (*see* § 515.565);

(6) Religious activities (general and specific licenses) (*see* § 515.566);

(7) Public performances, clinics, workshops, athletic and other competitions, and exhibitions (specific licenses) (*see* § 515.567);

(8) Support for the Cuban people (specific licenses) (see § 515.574);

(9) Humanitarian projects (specific licenses) (see § 515.575);

(10) Activities of private foundations or research or educational institutes (specific licenses) (see § 515.576);

(11) Exportation, importation, or transmission of information or informational materials (specific licenses) (see § 515.545); and

(12) Certain export transactions that may be considered for authorization under existing Department of Commerce regulations and guidelines with respect to Cuba or engaged in by U.S.-owned or -controlled foreign firms (general and specific licenses) (see §§ 515.533 and 515.559).

(b) Effective October 28, 2000, no specific licenses will be issued authorizing the travel-related transactions in paragraph (c) of this section in connection with activities other than those referenced in paragraph (a) of this section.

(c) Persons generally or specifically licensed under this part to engage in transactions in connection with travel to, from, and within Cuba may engage in the following transactions:

(1) *Transportation to and from Cuba.* All transportation-related transactions ordinarily incident to travel to and from (not within) Cuba are authorized.

(2) *Living expenses in Cuba.* All transactions ordinarily incident to travel anywhere within Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there, are authorized, provided that, unless otherwise authorized, the total for such expenses does not exceed the ''maximum per diem rate'' for Havana, Cuba, in effect during the period that the travel takes place. The maximum per diem rate is published in the Department of State's ''Maximum Travel per Diem Allowances for Foreign Areas,'' a supplement to section 925, Department of State Standardized Regulations (Government Civilians, Foreign Areas), which is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371945, Pittsburgh, PA 1520–7954, and on the Department of State's Office of Allowances Web site (*http://aoprals.state.gov*).

(3) *Importation of Cuban merchandise prohibited.* Nothing in this section authorizes the importation into the United States of any merchandise purchased or otherwise acquired in Cuba, including but not limited to any importation of such merchandise as accompanied baggage. The importation of Cuban-origin information and informational materials is exempt from the prohibitions of this part, as described in § 515.206.

(4) *Carrying remittances to Cuba.* The carrying to Cuba of any remittances that the licensed traveler is authorized to remit pursuant to § 515.570 is authorized, provided that:

(i) The total of all remittances authorized by § 515.570(a) through (d) does not exceed $3,000; and

(ii) No emigration remittances authorized by § 515.570(e) are carried to Cuba unless a U.S. immigration visa has been issued for each payee and the licensed traveler can produce the visa recipients' full names, dates of birth, visa numbers, and visa dates of issuance.

NOTE TO PARAGRAPH (c)(4): This paragraph does not authorize a traveler to carry remittances on behalf of other remitters.

(5) *Processing certain financial instruments.* All transactions incident to the processing and payment of checks, drafts, travelers' checks, and similar instruments negotiated in Cuba by any person authorized pursuant to this part to engage in financial transactions in Cuba. For purposes of this section, the authorized transactions may be conducted using currency, which is defined as money, cash, drafts, notes, travelers' checks, negotiable instruments, or scrip having a specified or readily determinable face value or worth, but which does not include gold or other precious metals in any form.

(d) A blocked Cuban national permanently resident outside the United States who is departing the United States may carry currency, as that term is defined in paragraph (c)(5) of this section, as follows:

(1) The amount of any currency brought into the United States by the Cuban national and registered with U.S. Customs and Border Protection upon entry;

(2) Up to $3,000 in funds received as remittances by the Cuban national during his or her stay in the United States; and

(3) Compensation earned by a Cuban national from a U.S. academic institution up to any amount that can be substantiated through payment receipts from such institution as authorized pursuant to § 515.565(a)(5).

(e) The following transactions by persons generally or specifically licensed to engage in travel-related transactions to, from, and within Cuba are prohibited by § 515.201 unless specifically authorized:

(1) All transactions by persons subject to U.S. jurisdiction related to the utilization of charge cards, including but not limited to debit or credit cards, for expenditures in Cuba.

(2) All transactions related to the processing and payment by persons subject to U.S. jurisdiction, such as charge card issuers or intermediary banks, of charge card instruments (e.g., vouchers, drafts, or sales receipts) for expenditures in Cuba. The issuer of a charge card, or a foreign charge card firm owned or controlled by persons subject to U.S. jurisdiction, is not authorized to deal with a Cuban enterprise, a Cuban national, or a third-country person, such as a franchisee, in connection with the extension of charge card services to any person in Cuba.

(f) Nothing in this section authorizes transactions in connection with tourist travel to Cuba.

[64 FR 25814, May 13, 1999, as amended at 66 FR 36688, July 12, 2001; 68 FR 14146, Mar. 24, 2003; 69 FR 33771 and 33773, June 16, 2004; 74 FR 46006, Sept. 8, 2009; 76 FR 5074, Jan. 28, 2011]

§ 515.561 Persons visiting close relatives in Cuba.

(a) *General license.* (1) Persons subject to the jurisdiction of the United States and persons traveling with them who share a common dwelling as a family with them are authorized to engage in the travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to visiting a close relative, as defined in § 515.339 of this part, who is a national of Cuba, as defined in § 515.302 of this part.

(2) Persons subject to the jurisdiction of the United States and persons traveling with them who share a common dwelling as a family with them are authorized to engage in the travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to visiting a close relative, as defined in § 515.339 of this part, who is a U.S. Government employee assigned to the U.S. Interests Section in Havana.

(b) *Specific licenses.* Specific licenses may be issued on a case-by-case basis authorizing persons subject to the jurisdiction of the United States and persons traveling with them who share a common dwelling as a family with

them to engage in the travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to visiting a close relative, as defined in § 515.339 of this part, who is neither a national of Cuba, as defined in § 515.302 of this part, nor a U.S. Government employee assigned to the U.S. Interests Section in Havana.

[74 FR 46006, Sept. 8, 2009]

§ 515.562 Officials of the U.S. government, foreign governments, and certain intergovernmental organizations traveling to, from, and within Cuba on official business.

The travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to activities in their official capacities by persons who are officials of the United States Government, any foreign government, or any intergovernmental organization of which the United States is a member and who are traveling on the official business of their government or international organization are authorized.

[64 FR 25815, May 13, 1999]

§ 515.563 Journalistic activities in Cuba.

(a) *General license*. The travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to journalistic activities in Cuba by persons regularly employed as journalists by a news reporting organization or by persons regularly employed as supporting broadcast or technical personnel are authorized.

NOTE TO PARAGRAPH (a): See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. The exportation of equipment and other items to be used in journalistic activities may require separate licensing by the Department of Commerce.

(b) *Specific licenses*. (1) Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to journalistic activities in Cuba for a free-lance journalistic project upon submission of an adequate written application including the following documentation:

(i) A detailed itinerary and a detailed description of the proposed journalistic activities; and

(ii) A resume or similar document showing a record of journalism.

(2) To qualify for a specific license pursuant to this section, the itinerary in Cuba for a free-lance journalistic project must demonstrate that the journalistic activities constitute a full work schedule that could not be accomplished in a shorter period of time.

(3) Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips to Cuba over an extended period of time by applicants demonstrating a significant record of journalism.

[64 FR 25815, May 13, 1999, as amended at 76 FR 5075, Jan. 28, 2011]

§ 515.564 Professional research and professional meetings in Cuba.

(a) *General license*—(1) *Professional research*. The travel-related transactions set forth in § 515.560(c) and such additional transactions that are directly incident to professional research by full-time professionals who travel to Cuba to conduct professional research in their professional areas are authorized, provided that:

(i) The research is of a noncommercial, academic nature;

(ii) The research comprises a full work schedule in Cuba;

(iii) The research has a substantial likelihood of public dissemination; and

(iv) The research does not fall within the categories of activities described in paragraph (c), (d), or (e) of this section.

NOTE TO PARAGRAPH (a)(1): This general license does not authorize as professional research any travel-related transactions incident to attendance at professional meetings or conferences. Such transactions must either qualify under the general license set forth in paragraph (a)(2) of this section or be the subject of a request for a specific license under paragraph (b) of this section.

(2) *Professional meetings organized by an international professional organization*. The travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to travel to Cuba by full-time professionals to attend professional meetings or conferences in Cuba organized

by an international professional organization, institution, or association that regularly sponsors meetings or conferences in other countries are authorized, provided that:

(i) The international professional organization, institution, or association is not headquartered in the United States unless that organization, institution, or association has been specifically licensed to sponsor the meeting in Cuba;

(ii) The purpose of the meeting or conference is not the promotion of tourism in Cuba or other commercial activities involving Cuba that are inconsistent with this part; and

(iii) The meeting or conference is not intended primarily for the purpose of fostering production of any biotechnological products.

(3) *Professional meetings for commercial telecommunications transactions.* The travel-related transactions set forth in § 515.560(c) and additional transactions directly incident to participation in professional meetings for the commercial marketing of, sales negotiation for, or performance under contracts for the provision of the telecommunications services, or the establishment of facilities to provide telecommunications services, authorized by paragraphs (b), (c), or (d)(1) of § 515.542 of this part by a telecommunications services provider that is a person subject to U.S. jurisdiction are authorized, provided that:

(i) The traveler is regularly employed by a telecommunications services provider that is a person subject to U.S. jurisdiction or by an entity duly appointed to represent such a provider; and

(ii) The traveler's schedule of activities does not include free time, travel, or recreation in excess of that consistent with a full work schedule.

NOTE TO PARAGRAPH (a): See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. Exportation of equipment and other items, including the transfer of technology or software to foreign persons (''deemed exportation'') and items not eligible for Department of Commerce GFT or BAG License Exceptions, 15 CFR 740.12 and 740.14, may require separate authorization by the Department of Commerce.

(b) *Specific licensing.* Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to professional research and professional meetings that do not qualify for the general license in paragraph (a) of this section. Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips to Cuba over an extended period of time by applicants demonstrating a significant record of research. Specific licenses will not be issued for travel-related transactions for purposes of attendance at meetings or conferences in Cuba organized by the Cuban government where such meetings or conferences could be intended primarily for the purpose of fostering the production of any biotechnological products.

(c) Categories of activities that do not qualify for the general license in paragraph (a) of this section and for which the specific licenses described in paragraph (b) of this section will not be issued include recreational travel; tourist travel; travel in pursuit of a hobby; research for personal satisfaction only; and any travel for an authorized professional research purpose if the schedule of activities includes free time, travel, or recreation in excess of that consistent with a full work schedule of professional research or attendance at professional meetings or conferences.

(d) An entire group does not qualify for the general license in paragraph (a) of this section and will not be issued a specific license under paragraph (b) of this section merely because some members of the group could qualify individually for such licenses.

Example 1 to paragraph (d): A musicologist travels to Cuba to do research on Cuban music pursuant to the general license for professional researchers set forth in paragraph (a) of this section. Others who are simply interested in music but who do not research music as part of their careers may not engage in travel-related transactions with the musicologist in reliance on this general license. For example, an art historian who plays in the same band with the musicologist would not qualify as a professional researcher of Cuban music for purposes of this general license.

Example 2 to paragraph (d): A specific license issued pursuant to paragraph (b) of this section authorizing travel-related transactions by a fish biologist who travels to Cuba to engage in professional research does not authorize transactions by other persons who might travel with the fish biologist but whose principal purpose in travel is to engage in recreational or trophy fishing. The fact that such persons may engage in certain activities with or under the direction of the professional fish biologist, such as measuring or recording facts about their catch, does not bring these individuals' activities within the scope of professional research and similar activities.

(e) A person will not qualify as engaging in professional research merely because that person is a professional who plans to travel to Cuba.

Example 1 to paragraph (e): A professor of history interested in traveling to Cuba for the principal purpose of learning or practicing Spanish or attending general purpose lectures devoted to Cuban culture and contemporary life does not qualify for the general license in paragraph (a) of this section or for a specific license issued pursuant to paragraph (b) of this section.

Example 2 to paragraph (e): A professional photographer who wishes to take photographs in Cuba that will become the basis for creating post cards, paintings, and other secondary products or that merely document the photographer's travel does not qualify for the general license in paragraph (a) of this section or for a specific license issued pursuant to paragraph (b) of this section.

[64 FR 25815, May 13, 1999, as amended at 69 FR 33772, June 16, 2004; 74 FR 46006, Sept. 8, 2009]

§515.565 Educational activities.

(a) *General license.* Accredited U.S. graduate and undergraduate degree-granting academic institutions, including faculty, staff, and students of such institutions, are authorized to engage in the travel-related transactions set forth in §515.560(c) and such additional transactions that are directly incident to:

(1) Participation in a structured educational program in Cuba as part of a course offered for credit by the sponsoring U.S. academic institution. An individual traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the Cuba-related travel is part of a structured educational program of the sponsoring U.S. academic institution, and stating that the individual is a member of the faculty or staff of that institution or is a student currently enrolled in a graduate or undergraduate degree program at an accredited U.S. academic institution and that the study in Cuba will be accepted for credit toward that degree;

(2) Noncommercial academic research in Cuba specifically related to Cuba and for the purpose of obtaining a graduate degree. A student traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is a student currently enrolled in a graduate degree program at an accredited U.S. academic institution, and stating that the research in Cuba will be accepted for credit toward that degree;

(3) Participation in a formal course of study at a Cuban academic institution, provided the formal course of study in Cuba will be accepted for credit toward the student's graduate or undergraduate degree. An individual traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is a student currently enrolled in a graduate or undergraduate degree program at an accredited U.S. academic institution and that the study in Cuba will be accepted for credit toward that degree;

(4) Teaching at a Cuban academic institution by an individual regularly employed in a teaching capacity at the sponsoring U.S. academic institution, provided the teaching activities are related to an academic program at the Cuban institution and provided that the duration of the teaching will be no shorter than 10 weeks. An individual traveling to engage in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is regularly employed in a teaching capacity at that institution;

(5) Sponsorship, including the payment of a stipend or salary, of a Cuban

scholar to teach or engage in other scholarly activity at the sponsoring U.S. academic institution (in addition to those transactions authorized by the general license contained in § 515.571). Such earnings may be remitted to Cuba as provided in § 515.570 or carried on the person of the Cuban scholar returning to Cuba as provided in § 515.560(d)(3); or

(6) The organization of, and preparation for, activities described in paragraphs (a)(1) through (a)(5) of this section by members of the faculty and staff of the sponsoring U.S. academic institution. An individual engaging in such transactions must carry a letter on official letterhead, signed by a designated representative of the sponsoring U.S. academic institution, stating that the individual is a member of the faculty or staff of that institution, and is traveling to engage in the transactions authorized by this paragraph on behalf of that institution.

NOTE 1 TO PARAGRAPH (a): U.S. academic institutions and individual travelers must retain records related to the travel transactions authorized pursuant to this paragraph. See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. Exportation of equipment and other items, including the transfer of technology or software to foreign persons (''deemed exportation''), may require separate authorization from the Department of Commerce.

NOTE 2 TO PARAGRAPH (a): This paragraph authorizes all members of the faculty and staff (including but not limited to adjunct faculty and part-time staff) of the sponsoring U.S. academic institution to participate in the activities described in this paragraph. A student currently enrolled in a graduate or undergraduate degree program at any accredited U.S. academic institution is authorized pursuant to this paragraph to participate in the academic activities in Cuba described above through any sponsoring U.S. academic institution, not only through the institution at which the student is pursuing a degree.

(b) *Specific licenses*. Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions directly incident to:

(1) An individual's educational activities of the types described in paragraphs (a)(2) through (a)(4) of this section but not authorized by the general license contained in paragraph (a) of this section;

(2) Educational exchanges not involving academic study pursuant to a degree program when those exchanges take place under the auspices of an organization that sponsors and organizes such programs to promote people-to-people contact; or

(3) Sponsorship or co-sponsorship by an accredited U.S. graduate or undergraduate degree-granting academic institution of academic seminars, conferences, and workshops related to Cuba or global issues involving Cuba and attendance at such events by faculty, staff, and students of the licensed institution.

(c) Transactions related to activities that are primarily tourist-oriented, including self-directed educational activities that are intended only for personal enrichment, will not be authorized pursuant to this section.

(d) For the purposes of this section, the term *designated representative of the sponsoring U.S. academic institution* means a person designated by the relevant dean or the academic vice-president, provost, or president of the institution as the official responsible for overseeing the institution's Cuba travel program.

NOTE TO § 515.565: Accredited U.S. academic institutions engaging in activities authorized pursuant to this section are permitted to open and maintain accounts at Cuban financial institutions for the purpose of accessing funds in Cuba for transactions authorized pursuant to this section.

[76 FR 5075, Jan. 28, 2011]

§ 515.566 Religious activities in Cuba.

(a) *General license*. Religious organizations located in the United States, including members and staff of such organizations, are authorized to engage in the travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to religious activities in Cuba under the auspices of the organization. Travel-related transactions pursuant to this authorization must be for the purpose of engaging, while in Cuba, in a full-time program of religious activities. Financial and material donations to Cuba or Cuban nationals are not authorized by this paragraph (a). All individuals who

engage in transactions in which Cuba or Cuban nationals have an interest (including travel-related transactions) pursuant to this paragraph (a) must carry with them a letter on official letterhead, signed by a designated representative of the U.S. religious organization, confirming that they are members or staff of the organization and are traveling to Cuba to engage in religious activities under the auspices of the organization.

NOTE TO PARAGRAPH (a): U.S. religious organizations and individual travelers must retain records related to the travel transactions authorized pursuant to this paragraph. See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. Financial donations require separate authorization under § 515.570. See § 515.533 for an authorization of the exportation of items from the United States to Cuba. Exportation of items to be used in Cuba may require separate licensing by the Department of Commerce.

(b) *Specific licenses*. Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to religious activities not authorized by the general license contained in paragraph (a) of this section. The application for the specific license must set forth examples of religious activities to be undertaken in Cuba. Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips over an extended period of time to engage in a full-time program of religious activities in Cuba.

(c) For the purposes of this section, the term *designated representative of the U.S. religious organization* means a person designated as the official responsible for overseeing the organization's Cuba travel program.

NOTE TO § 515.566: Religious organizations engaging in activities authorized pursuant to this section are permitted to open and maintain accounts at Cuban financial institutions for the purpose of accessing funds in Cuba for transactions authorized pursuant to this section.

[76 FR 5076, Jan. 28, 2011]

§ 515.567 Public performances, clinics, workshops, athletic and other competitions, and exhibitions.

(a) *Amateur and semi-professional international sports federation competitions*. Specific licenses, including for multiple trips to Cuba over an extended period of time, may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to athletic competition by amateur or semi-professional athletes or athletic teams wishing to travel to participate in athletic competition in Cuba, provided that:

(1) The athletic competition in Cuba is held under the auspices of the international sports federation for the relevant sport;

(2) The U.S. participants in the athletic competition are selected by the U.S. federation for the relevant sport; and

(3) The competition is open for attendance, and in relevant situations participation, by the Cuban public.

(b) *Public performances, clinics, workshops, other athletic or non-athletic competitions, and exhibitions*. Specific licenses, including for multiple trips to Cuba over an extended period of time, may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to participation in a public performance, clinic, workshop, athletic competition not covered by paragraph (a) of this section, non-athletic competition, or exhibition in Cuba by participants in such activities, provided that:

(1) The event is open for attendance, and in relevant situations participation, by the Cuban public;

(2) All U.S. profits from the event after costs are donated to an independent nongovernmental organization in Cuba or a U.S.-based charity, with the objective, to the extent possible, of promoting people-to-people contacts or otherwise benefiting the Cuban people; and

(3) Any clinics or workshops in Cuba must be organized and run, at least in part, by the licensee.

(c) Specific licenses will not be issued pursuant to this section authorizing any debit to a blocked account.

NOTE TO § 515.567: See § 515.571 for the authorization of certain transactions related to the activities of nationals of Cuba traveling in the United States.

[69 FR 33772, June 16, 2004, as amended at 76 FR 5076, Jan. 28, 2011]]

§ 515.568 [Reserved]

§ 515.569 Foreign passengers' baggage.

The importation of Cuban-origin goods, otherwise prohibited by this part, brought into the United States as baggage by any person arriving in the United States other than a citizen or resident of the United States is hereby authorized, notwithstanding the provisions of § 515.803, provided that such goods are not in commercial quantities and are not imported for resale. This authorization does not apply to the importation of Cuban-origin alcohol or tobacco products.

[64 FR 25818, May 13, 1999]

§ 515.570 Remittances.

(a) *Family remittances authorized.* Persons subject to the jurisdiction of the United States who are 18 years of age or older are authorized to make remittances to nationals of Cuba who are close relatives, as defined in § 515.339 of this part, of the remitter, provided that:

(1) The remittances are not made from a blocked source. Certain remittances from blocked accounts are authorized pursuant to paragraph (f) of this section;

(2) The recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part; and

(3) The remittances are not made for emigration-related purposes. Remittances for emigration-related purposes are addressed by paragraph (e) of this section.

(b) *Periodic $500 remittances authorized.* Persons subject to the jurisdiction of the United States are authorized to make remittances to Cuban nationals, including, but not limited to, remittances to support the development of private businesses, provided that:

(1) The remitter's total remittances pursuant to paragraph (b) of this section to any one Cuban national do not exceed $500 in any consecutive three-month period;

(2) The remittances are not made from a blocked source;

(3) The recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part;

(4) The remittances are not made for emigration-related purposes. Remittances for emigration-related purposes are addressed by paragraph (e) of this section; and

(5) The remitter, if an individual, is 18 years of age or older.

(c) *Remittances to religious organizations in Cuba authorized.* Persons subject to the jurisdiction of the United States are authorized to make remittances to religious organizations in Cuba in support of religious activities, provided that the remittances are not made from a blocked source and that the remitter, if an individual, is 18 years of age or older.

(d) *Remittances to students in Cuba pursuant to an educational license authorized.* Persons subject to the jurisdiction of the United States who are 18 years of age or older are authorized to make remittances to close relatives, as defined in § 515.339 of this part, who are students in Cuba pursuant to the general license authorizing certain educational activities in § 515.565(a) of this part or a specific license issued pursuant to § 515.565(b) of this part, provided that the remittances are not made from a blocked source and are for the purpose of funding transactions authorized by the general license in § 515.565(a) of this part or the specific license issued pursuant to § 515.565(b) of this part under which the student is traveling.

(e) *Two one-time $1,000 emigration-related remittances authorized.* Persons subject to the jurisdiction of the United States are authorized to remit the following amounts:

(1) Up to $1,000 per payee on a one-time basis to Cuban nationals for the

purpose of covering the payees' preliminary expenses associated with emigrating from Cuba to the United States. These remittances may be sent before the payees have received valid visas issued by the State Department or other approved U.S. immigration documents, but may not be carried by a licensed traveler to Cuba until the payees have received valid visas issued by the State Department or other approved U.S. immigration documents. See §515.560(c)(4) of this part for the rules regarding the carrying of authorized remittances to Cuba. These remittances may not be made from a blocked source unless authorized pursuant to paragraph (f) of this section.

(2) Up to an additional $1,000 per payee on a one-time basis to Cuban nationals for the purpose of enabling the payees to emigrate from Cuba to the United States, including for the purchase of airline tickets and payment of exit or third-country visa fees or other travel-related fees. These remittances may be sent only once the payees have received valid visas issued by the State Department or other approved U.S. immigration documents. A remitter must be able to provide the visa recipients' full names, dates of birth, visa numbers, and visa dates of issuance. See §515.560(c)(4) of this part for the rules regarding the carrying of authorized remittances to Cuba. These remittances may not be made from a blocked source unless authorized pursuant to paragraph (f) of this section.

(f) *Certain remittances from blocked sources authorized*. Provided the recipient is not a prohibited official of the Government of Cuba, as defined in §515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in §515.338 of this part, certain remittances from blocked sources are authorized as follows:

(1) Funds deposited in a blocked account in a banking institution in the United States held in the name of, or in which the beneficial interest is held by, a national of Cuba as a result of a valid testamentary disposition, intestate succession, or payment from a life insurance policy or annuity contract triggered by the death of the policy or contract holder may be remitted:

(i) To that national of Cuba, provided that s/he is a close relative, as defined in §515.339 of this part, of the decedent;

(ii) To that national of Cuba as emigration-related remittances in the amounts and consistent with the criteria set forth in paragraph (e) of this section.

(2) Up to $300 in any consecutive three-month period may be remitted from any blocked account in a banking institution in the United States to a Cuban national in a third country who is an individual in whose name, or for whose beneficial interest, the account is held.

(g) *Specific licenses*. Specific licenses may be issued on a case-by-case basis authorizing the following:

(1) Remittances by persons subject to U.S. jurisdiction to independent non-governmental entities in Cuba, including but not limited to pro-democracy groups and civil society groups, and to members of such groups or organizations, or to individuals or independent non-governmental entities to support the development of private businesses, including small farms;

(2) Remittances from a blocked account to a Cuban national in excess of the amount specified in paragraph (f)(2) of this section; or

(3) Remittances by persons subject to U.S. jurisdiction to a person in Cuba, directly or indirectly, for transactions to facilitate non-immigrant travel by an individual in Cuba to the United States under circumstances where humanitarian need is demonstrated, including but not limited to illness or other medical emergency.

NOTE TO §515.570: For the rules relating to the carrying of remittances to Cuba, see §515.560(c)(4) of this part. Persons subject to U.S. jurisdiction are prohibited from engaging in the collection or forwarding of remittances to Cuba unless authorized pursuant to §515.572. For a list of authorized U.S. remittance service providers other than depository institutions, see the ''List of Authorized Providers of Air, Travel and Remittance Forwarding Services to Cuba'' available from OFAC's Web site (*http://www.treasury.gov/ofac*).

[76 FR 5076, Jan. 28, 2011]

§ 515.571 Certain transactions incident to travel to, from, and within the United States by Cuban nationals.

(a) Except as provided in paragraph (c) of this section, the following transactions by or on behalf of a Cuban national who enters the United States on a non-immigrant visa or other non-immigrant travel authorization issued by the State Department are authorized:

(1) All transactions ordinarily incident to travel between the United States and Cuba, including the importation into the United States of accompanied baggage for personal use;

(2) All transactions ordinarily incident to travel and maintenance within the United States, including the payment of living expenses and the acquisition of goods for personal consumption in the United States;

(3) All transactions on behalf of aircraft or vessels incident to non-scheduled flights or voyages between the United States and Cuba, provided that the carrier used has a carrier service provider license issued pursuant to § 515.572. This paragraph does not authorize the carriage of any merchandise into the United States except accompanied baggage; and

(4) Normal banking transactions involving foreign currency drafts, travelers' checks, or other instruments negotiated incident to travel in the United States by any person under the authority of this section.

(5) All transactions ordinarily incident to the activities for which a visa or other travel authorization was issued.

(i) This paragraph (a)(5) does not authorize receipt of compensation in excess of amounts covering living expenses and the acquisition of goods for personal consumption. See § 515.565(a)(5) of this part for an authorization of payments to certain Cuban scholars of stipends or salaries that exceed this limit.

(ii) Examples of transactions authorized by this paragraph (a)(5) include: the payment of tuition to a U.S. educational institution by a national of Cuba issued a student visa; the payment of compensation covering only living expenses and the purchase of goods for personal consumption to a national of Cuba issued a performance-related visa; and the rental of a stage by a Cuban group issued a performance visa.

(b) Payments and transfers of credit in the United States from blocked accounts in domestic banking institutions held in the name of a Cuban national who enters the United States on a visa or other travel authorization issued by the State Department to or upon the order of such Cuban national are authorized provided that:

(1) Such payments and transfers of credit are made only for the living, traveling, and similar personal expenses in the United States of such Cuban national or his or her family;

(2) The total of all such payments and transfers of credit made under this section from the accounts of such Cuban national do not exceed $250 in any one calendar month; and

(3) No payment or transfer is made from a blocked account in which a specially designated national has an interest.

(c) This section does not authorize any transfer of property to Cuba, or, except as otherwise authorized in paragraph (b) of this section, any debit to a blocked account.

NOTE TO § 515.571: For the authorization of certain transactions by Cuban nationals who become U.S. citizens, apply for or receive U.S. permanent resident alien status, or are lawfully present in the United States in a non-visitor status, see § 515.505 of this part.

[64 FR 25819, May 13, 1999, as amended at 68 FR 14148, Mar. 24, 2003; 69 FR 33773, June 16, 2004; 76 FR 5077, Jan. 28, 2011]

§ 515.572 Authorization of transactions incident to the provision of travel services, carrier services, and remittance forwarding services.

(a)(1) *Authorization of travel service provider*. The following persons wishing to provide services in connection with travel to Cuba are ''travel service providers'' for purposes of this part: Travel agents, ticket agents, commercial and noncommercial organizations that arrange travel to Cuba; tour operators; persons arranging through transportation to Cuba; persons chartering an aircraft or vessel on behalf of others in Cuba; and persons arranging hotel accommodations, ground transportation,

local tours, and similar travel activities on behalf of others in Cuba. Travel service providers must obtain authorization from the Office of Foreign Assets Control before providing services with respect to travel to Cuba. The list stated above should not be considered exhaustive, as other persons may be ''travel service providers'' within the meaning of this part. Opinions may be obtained from the Office of Foreign Assets Control concerning the applicability of this licensing requirement in individual cases.

(2) *Authorization of carrier service provider*. Persons subject to U.S. jurisdiction wishing to provide carrier services by aircraft or vessels incidental to their non-scheduled flights or voyages to, from, or within Cuba are ''carrier service providers'' for purposes of this part. Carrier service providers must obtain authorization from the Office of Foreign Assets Control before providing services with respect to non-scheduled flights or voyages to, from, or within Cuba. Carriage to or from Cuba of any merchandise, cargo or gifts, other than those permitted to individual travelers as accompanied baggage, must also be authorized by licenses issued by the U.S. Department of Commerce.

(3) *Authorization of remittance forwarders*. Persons subject to U.S. jurisdiction, including persons that provide payment forwarding services and noncommercial organizations acting on behalf of donors, that wish to provide services in connection with the collection or forwarding of remittances authorized pursuant to this part must obtain specific authorization from OFAC. Depository institutions, as defined in §515.333, are hereby authorized to provide these services without obtaining specific authorization from OFAC. However, all licensed remittance forwarders, including depository institutions, that forward remittances authorized pursuant to this part are required to collect from persons who use their services information showing compliance with the relevant remittance provisions of this part. Depository institutions are permitted to set up testing arrangements and exchange authenticator keys with Cuban financial institutions to forward remittances authorized by or pursuant to §515.570, but may not open or use direct correspondent accounts of their own with Cuban financial institutions.

NOTE TO PARAGRAPH (a)(3): A suggested form for the collection of information showing compliance with the remittance provisions in §515.570 is available from OFAC's Web site (*www.treas.gov/ofac*).

(b) *Terms and conditions of authorization to engage in service transactions*. Authorization to engage in service transactions will be issued only upon the applicant's written affirmation and subsequent demonstration that it does not participate in discriminatory practices of the Cuban government against certain residents and citizens of the United States. Examples of such practices include, but are not limited to, charging discriminatory rates for air travel or requiring payment for services, such as hotel accommodations and meals, not desired, planned to be utilized, or actually utilized, based on such characteristics as race, color, religion, sex, citizenship, place of birth, or national origin. Authorization, whether a grant of provisional authorization or a license issued pursuant to this part, does not permit a travel or carrier service provider to provide services in connection with any individual's transactions incident to travel which are prohibited by this part.

(c) *Initial applications for licenses*. The initial application for a license shall contain:

(1) The applicant organization's name, address, telephone number, and the name of an official of the applicant organization responsible for its licensed services;

(2) The state of applicant's organization, if a juridical entity, the address of its principal place of business and all branch offices, the identity and ownership percentages of all shareholders or partners, and the identity and position of all principal officers and directors;

(3) Copies of any bylaws, articles of incorporation, partnership agreements, management agreements, or other documents pertaining to the organization, ownership, control, or management of the applicant; and

(4)(i) In the case of applications for authorization to serve as travel or carrier service providers, a report on the

forms and other procedures used to establish that each customer is in full compliance with U.S. law implementing the Cuban embargo and either qualifies for one of the general licenses contained in this part authorizing travel-related transactions in connection with travel to Cuba or has received a specific license from the Office of Foreign Assets Control issued pursuant to this part. In the case of a customer traveling pursuant to a general license, the applicant must demonstrate that it requires each customer to attest, in a signed statement, to his or her qualification for the particular general license claimed. The statement must provide facts supporting the customer's belief that he or she qualifies for the general license claimed. In the case of a customer traveling under a specific license, the applicant must demonstrate that it requires the customer to furnish it with a copy of the license. The copy of the signed statement or the specific license must be maintained on file with the applicant.

(ii) In the case of applications for authorization as remittance forwarders, a report on the forms, account books, and other recordkeeping procedures used to determine whether each customer has violated the terms of any authorization for remittances contained in or issued pursuant to this part, or sent remittances to persons ineligible to receive them under § 515.570; and the method by which remittances are sent to Cuba and the procedures used by the applicant to ensure that the remittances are received by the persons intended.

(d) *Required reports and recordkeeping.* (1) Each specific license or grant of provisional authority shall require that the service provider furnish annual reports to the Department of the Treasury, Office of Foreign Assets Control, Washington, DC 20220, during the term of the license. The required content of such reports and their due dates shall be provided to the service provider in a letter authorizing the provider to commence services. Each such report will cover only the one-year period immediately preceding the date of the report.

(2) While the names and addresses of individual travelers or remitters, the number and amount of each remittance, and the name and address of each recipient, as applicable, need not be submitted with annual reports, this information must be retained on file with all other information required by § 515.601 of this chapter. These records must be furnished to the Office of Foreign Assets Control on demand pursuant to § 515.602 of this chapter.

(3) *Presentation of passenger lists.* Tour operators, persons operating an aircraft or vessel, or persons chartering an aircraft or vessel on behalf of others, for travel to, from, and within Cuba must furnish the U.S. Customs Service on demand a list of passengers on each flight or voyage to, from, and within Cuba.

(e) *Procedures governing the grant of provisional authority, denial, suspension, or revocation of authority to engage in service transactions*—(1) *Grant of provisional authority.* Following submission of a complete application as described in paragraph (c) of this section, the submission of any additional relevant information, and a preliminary evaluation by the Office of Foreign Assets Control, the applicant will be notified in writing that provisional authority has been granted to provide the services contemplated in the application. This provisional authority to provide services will remain in effect pending a final decision to grant or deny the license.

(2) *Denial of license*—(i) *Notice of denial.* If the Director, Office of Foreign Assets Control, determines that the application for a license to engage in service transactions related to travel to Cuba, carrier service transactions related to travel to Cuba, or transactions related to remittance forwarding should be denied for any reason, notice of denial shall be given to the applicant. The notice of denial shall state the reasons for the denial.

(ii) *Grounds for denial.* The causes sufficient to justify denial of an application for a license may include, but need not be limited to:

(A) Any cause which would justify suspension or revocation of the authority of a service provider pursuant to paragraph (e)(3) of this section;

(B) Failure to file a full and complete application;

(C) Any willful misstatement of pertinent facts in the application;

(D) Evidence indicating that the applicant participates in discriminatory practices of the Cuban Government against certain residents and citizens of the United States as described in paragraph (b) of this section; or

(E) A reputation imputing to the applicant criminal, dishonest, or unethical conduct, or a record of such conduct.

(3) *Suspension or revocation of a license or provisional authorization.* A license or provisional authorization issued pursuant to this section may be suspended for a specific period of time, or revoked, for the following reasons:

(i) The service provider has willfully made or caused to be made in any application for any license, request for a ruling or opinion, or report be filed with the Office of Foreign Assets Control, any statement that was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact, or has omitted to state in any application, request for ruling or opinion, or report any material fact that was required;

(ii) The service provider has failed to file timely reports or comply with the recordkeeping requirements of his license or provisional authorization.

(iii) The service provider has been convicted, at any time after filing an application for a license under this section, of any felony or misdemeanor that:

(A) Involved the importation, exportation, or transfer of property in violation of any law or regulation administered by the Office of Foreign Assets Control;

(B) Arose directly out of the conduct of the business covered by the license; or

(C) Involved larceny, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, misappropriation of funds, or a violation of the Customs laws, export or import control laws, or banking laws.

(iv) The service provider has violated any provision of law enforced by the Office of Foreign Assets Control or the rules or regulations issued under any such provision;

(v) The service provider has counseled, commanded, induced, procured, or knowingly aided or abetted the violation by any other person of any provision of any law or regulation referred to above;

(vi) The service provider has, in the course of the business covered by the license, with felonious intent, in any manner willfully and knowingly deceived, defrauded, misled, threatened, or coerced any client or prospective client; or

(vii) The service provider has committed any other act or omission that demonstrates unfitness to conduct the business covered by the license.

[57 FR 53999, Nov. 16, 1992, as amended at 59 FR 31142, June 17, 1994; 59 FR 44886, Aug. 30, 1994; 63 FR 27349, May 18, 1998. Redesignated and amended at 64 FR 25813, 25819, May 13, 1999; 68 FR 14148, Mar. 24, 2003; 69 FR 33773, June, 16, 2004; 74 FR 46007, Sept. 8, 2009]

§515.573 Transactions by news organizations.

(a) Specific licenses may be issued authorizing all transactions necessary for the establishment and operation of news bureaus in Cuba whose primary purpose is the gathering and dissemination of news to the general public. Transactions that may be authorized include, but are not limited to, those incident to the following:

(1) Leasing office space and securing related goods and services;

(2) Hiring Cuban nationals to serve as support staff;

(3) Purchasing Cuban-origin goods for use in the operation of the office; and

(4) Paying fees related to the operation of the office in Cuba.

(b) Specific licenses may be issued authorizing transactions necessary for the establishment and operation of news bureaus in the United States by Cuban organizations whose primary purpose is the gathering and dissemination of news to the general public.

(c) Specific licenses may be issued authorizing transactions related to hiring Cuban nationals to provide reporting services or other services related to the gathering and dissemination of news.

(d) NOTE: The number assigned to a specific license issued pursuant to this section should be referenced in all import documents, and in all funds transfers and other banking transactions through banks organized or located in the United States, in connection with the licensed transaction to avoid the blocking of goods imported from Cuba and the interruption of the financial transactions with Cuba.

[60 FR 54197, Oct. 20, 1995. Redesignated at 64 FR 25813, May 13, 1999]

§ 515.574 Support for the Cuban People.

(a) Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are intended to provide support for the Cuban people including, but not limited to, the following:

(1) Activities of recognized human rights organizations,

(2) Activities of independent organizations designed to promote a rapid, peaceful transition to democracy, and

(3) Activities of individuals and nongovernmental organizations that promote independent activity intended to strengthen civil society in Cuba.

(b) Licenses will be issued pursuant to this section once the applicant shows that the proposed transactions are consistent with the purposes of this section and provides an explanation that no significant accumulation of funds or financial benefit will accrue to the government of Cuba.

[68 FR 14148, Mar. 24, 2003]

§ 515.575 Humanitarian projects.

Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to certain humanitarian projects in or related to Cuba not otherwise covered by this part that are designed to directly benefit the Cuban people. Such projects may include, but are not limited to: medical and health-related projects; construction projects intended to benefit legitimately independent civil society groups; environmental projects; projects involving formal or non-formal educational training, within Cuba or off-island, on topics including civil education, journalism, advocacy and organizing, adult literacy, and vocational skills; community-based grassroots projects; projects suitable to the development of small scale private enterprise; projects that are related to agricultural and rural development that promote independent activity; and projects to meet basic human needs. Specific licenses may be issued authorizing transactions for multiple visits for the same project over an extended period of time by applicants demonstrating a significant record of overseas humanitarian projects.

[68 FR 14148, Mar. 24, 2003]

§ 515.576 Activities of private foundations or research or educational institutes.

Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to activities by private foundations or research or educational institutes that have an established interest in international relations to collect information related to Cuba for noncommercial purposes, not otherwise covered by the general license for professional research contained in § 515.564 or more properly issued under § 515.575, relating to humanitarian projects. Specific licenses may be issued pursuant to this section authorizing transactions for multiple trips to Cuba for the same project over an extended period of time.

[64 FR 25820, May 13, 1999]

§ 515.577 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, persons subject to the jurisdiction of the United States are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, ''written publications''). This

section does not apply if the parties to the transactions described in this paragraph include the Government of Cuba. For the purposes of this section, the term ''Government of Cuba'' includes the state and the Government of Cuba, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Cuba; prohibited officials of the Government of Cuba, as defined in §515.337 of this part; prohibited members of the Cuban Communist Party, as defined in §515.338 of this part; employees of the Ministry of Justice; and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term ''Government of Cuba'' does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are authorized, provided that persons subject to the jurisdiction of the United States ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written publication in electronic format, provided that, to the extent a license is required under the Export Administration Regulations, 15 CFR parts 730 through 774 (the ''EAR''), the exportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described in paragraph (a) of this section. For example, this section does not authorize persons subject to the jurisdiction of the United States:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Cuba;

(3) To engage in the exportation or importation of goods to or from Cuba other than the exportation of embedded software described in paragraph (a)(3)(ii) of this section;

(4) To operate a publishing house, sales outlet, or other office in Cuba; or

(5) To engage in transactions related to travel to, from, or within Cuba.

NOTE TO PARAGRAPH (b): The importation from Cuba and the exportation to Cuba of information or informational materials, as defined in §515.332, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part. See §515.206(a).

(c) This section does not authorize persons subject to the jurisdiction of the United States to engage the services of publishing houses or translators

in Cuba unless such activity is primarily for the dissemination of written publications in Cuba.

(d) This section does not authorize:

(1) Transactions for the development, production, or design of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (the ''ITAR''), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) The exportation of information subject to licensing requirements under the ITAR, or exchanges of information that are subject to regulation by other government agencies.

(e) Pursuant to § 515.564, specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and such additional transactions that are directly incident to attendance of professional meetings that are necessary and ordinarily incident to the publishing and marketing of written publications.

[72 FR 50048, Aug. 30, 2007, as amended at 76 FR 5077, Jan. 28, 2011]

§ 515.578 Exportation of certain services incident to Internet-based communications.

(a) Except as provided in paragraph (b) of this section, the exportation from the United States or by persons subject to U.S. jurisdiction to persons in Cuba of services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, is authorized, provided that such services are publicly available at no cost to the user.

(b) This section does not authorize:

(1) The direct or indirect exportation of services with knowledge or reason to know that such services are intended for a prohibited official of the Government of Cuba, as defined in § 515.337 of this part, or a prohibited member of the Cuban Communist Party, as defined in § 515.338 of this part.

(2) The direct or indirect exportation of Internet connectivity services or telecommunications transmission facilities (such as satellite links or dedicated lines).

NOTE TO § 515.578(b)(2): For general licenses related to the provision of telecommunications services between the United States and Cuba and contracts for telecommunications services provided to particular individuals in Cuba, see § 515.542(b) and § 515.542(c), respectively, of this part. For a general license and a statement of specific licensing policy related to the establishment of telecommunications facilities linking the United States or third countries and Cuba, see § 515.542(d) of this part.

(3) The direct or indirect exportation of web-hosting services that are for purposes other than personal communications (e.g., web-hosting services for commercial endeavors) or of domain name registration services.

(4) The direct or indirect exportation of any items to Cuba.

NOTE TO § 515.578(b)(4): For the rules related to transactions ordinarily incident to the exportation or reexportation of items, including software, to Cuba, see §§ 515.533 and 515.559 of this part.

(c) Specific licenses may be issued on a case-by-case basis for the exportation

of other services incident to the sharing of information over the Internet.

[75 FR 10999, Mar. 10, 2010]

Subpart F—Reports

§515.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45106, Aug. 25, 1997]

Subpart G—Penalties

SOURCE: 63 FR 10331, Mar. 3, 1998, unless otherwise noted.

§515.701 Penalties.

For provisions relating to penalties, see part 501, subpart D, of this chapter.

[68 FR 53657, Sept. 11, 2003]

Subpart H—Procedures

§515.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 45106, Aug. 25, 1997, as amended at 68 FR 53657, Sept. 11, 2003]

§515.802 Delegation by the Secretary of the Treasury.

Any action under §515.201 which the Secretary of the Treasury is authorized to take pursuant to Proclamation 3447 or the Trading With the Enemy Act may be taken by the Director, Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[28 FR 6974, July 9, 1963. Redesignated at 62 FR 45106, Aug. 25, 1997]

§515.803 Customs procedures; merchandise specified in §515.204.

(a) With respect to merchandise specified in §515.204 (including nickel-bearing materials presumptively subject thereto) whether or not such merchandise has been imported into the United States, collectors of customs shall not accept or allow any:

(1) Entry for consumption (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any other informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Transfer or withdrawal from a foreign-trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign-trade zone, unless either:

(i) The merchandise was imported prior to 12:01 a.m., February 7, 1962, or

(ii) A specific license pursuant to this part is presented, or

(iii) Instructions from the Office of Foreign Assets Control, authorizing the transaction are received, or

(iv) The original of an appropriate certificate of origin as defined in §515.536(d) is presented.

(b) Whenever a specific license is presented to a collector of customs in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the collector of customs at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, shall bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license shall be presented to the collector in respect of each such transaction and shall bear a notation in ink by the licensee or person presenting the license showing the description, quantity and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation should be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal or other transaction with regard to the merchandise the collector, or other authorized customs employee, shall verify the notation by

signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the collector to the Foreign Assets Control.

(c)(1) Whenever the original of an appropriate certificate or origin as defined in § 515.536(d) is presented to a collector of customs in accordance with this section, an additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise involved shall be filed with the collector of customs at the port where the transaction is to take place. Each copy of the entry, withdrawal, or other appropriate document, including the additional copy, shall bear plainly on its face the following statement: ''This document is presented under the provisions of § 515.536 (c) of the Cuban Assets Control Regulations.'' The original of the certificate of origin shall not be returned to the person presenting it. It shall be securely attached to the additional copy required by this subparagraph and shall be forwarded by the collector to the Office of Foreign Assets Control, Treasury Department, Washington, DC 20220. Collectors may forward such documents weekly or more often if the volume warrants.

(2) If the original of an appropriate certificate of origin is properly presented to a collector of customs with respect to a transaction which is the first of a series of transactions which may be allowed in connection therewith under paragraph (a)(6)(iv) of this section (as, for example, where merchandise has been entered in a bonded warehouse and an appropriate certificate of origin is presented which relates to all of the merchandise entered therein but the importer desires to withdraw only part of the merchandise in the first transaction), the collector shall so note on the original of the appropriate certificate of origin and return it to the importer. In addition, the collector shall endorse his pertinent records so as to record what merchandise is covered by the appropriate certificate of origin presented. The collector may thereafter allow subsequent authorized transactions on presentation of the certificate of origin. The collector shall, with respect to each such transaction, demand an additional copy of each withdrawal or other appropriate document, which copy shall be promptly forwarded by the collector to the Office of Foreign Assets Control, Treasury Department, Washington, DC 20220, with an endorsement thereon reading:

This document has been accepted pursuant to § 515.808(c) (2) of the Cuban Assets Control Regulations. Appropriate certificate of origin No._____from (country).

When the final transaction has been effected under the certificate of origin, the original shall be taken up and attached to the entry and forwarded as in this paragraph.

(d) Whenever a person shall present an entry, withdrawal or other appropriate document affected by this section and shall assert that no specific Foreign Assets Control license or appropriate certificate of origin as defined in § 515.536 (d) is required in connection therewith, the collector of customs shall withhold action thereon and shall advise such person to communicate directly with the Office of Foreign Assets Control to request that instructions be issued to the collector to authorize him to take action with regard thereto.

[30 FR 15371, Dec. 14, 1965, as amended at 57 FR 1388, Jan. 14, 1992. Redesignated at 62 FR 45106, Aug. 25, 1997]

Subpart I—Miscellaneous Provisions

§ 515.901 Paperwork Reduction Act notice.

Collection of information on TDF 90–22.39, ''Declaration, Travel to Cuba,'' has been approved by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act (44 U.S.C. 3507(j)) and assigned control number 1505–0118. For approval by OMB under the Paperwork Reduction Act of

information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45106, Aug. 25, 1997]

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12170, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR, 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR, 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR, 1981 Comp., p. 110; E.O. 12281, 46 FR 7923, 3 CFR, 1981 Comp., p. 110; E.O. 12282, 46 FR 7925, 3 CFR, 1981 Comp., p. 113; E.O. 12283, 46 FR 7927, 3 CFR, 1981 Comp., p. 114; and E.O. 12294, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

SOURCE: 44 FR 65956, Nov. 15, 1979, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 535.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. No license or authorization contained in or issued pursuant to such parts shall be deemed to authorize any transaction prohibited by this part, nor shall any license or authorization issued pursuant to any other provision of law (except this part) be deemed to authorize any transaction so prohibited.

(b) No license or authorization contained in or issued pursuant to this part shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any law or any statute other than the International Emergency Economic Powers Act, as amended, or any proclamation order or regulation other than those contained in or issued pursuant to this part.

[44 FR 65956, Nov. 15, 1979, as amended at 62 FR 45107, Aug. 25, 1997]

Subpart B—Prohibitions

§ 535.201 Transactions involving property in which Iran or Iranian entities have an interest.

No property subject to the jurisdiction of the United States or which is in the possession of or control of persons subject to the jurisdiction of the United States in which on or after the effective date Iran has any interest of any nature whatsoever may be transferred, paid, exported, withdrawn or

otherwise dealt in except as authorized.

[45 FR 24432, Apr. 9, 1980]

§ 535.202 Transactions with respect to securities registered or inscribed in the name of Iran.

Unless authorized by a license expressly referring to this section, the acquisition, transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of any Iranian entity is prohibited irrespective of the fact that at any time (either prior to, on, or subsequent to the effective date) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred or otherwise disposed of any such security.

§ 535.203 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date which is in violation of any provision of this part or of any regulation, ruling, instruction, license, or other direction or authorization thereunder and involves any property in which Iran has or has had an interest since such effective date is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property in which Iran has or has had an interest since the effective date unless the person with whom such property is held or maintained had written notice of the transfer or by any written evidence had recognized such transfer prior to such effective date.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Secretary of the Treasury before, during or after a transfer shall validate such transfer or render it enforceable to the same extent as it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act and this part and any ruling, order, regulation, direction or instruction issued hereunder.

(d) Transfers of property which otherwise would be null and void, or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void, or unenforceable pursuant to such provisions, as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to the provision of this part and was not so licensed or authorized or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license or other direction or authorization thereunder, or

(ii) Such transfer was not licensed or authorized by the Secretary of the Treasury, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation or the withholding of material facts or was otherwise fraudulently obtained; the person with whom such property was held or maintained filed with the Treasury Department, Washington, D.C., a report in triplicate setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed to be compliance or evidence of compliance

with paragraphs (d) (1) and (2) of this section.

(e) Unless licensed or authorized pursuant to this part any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date there existed an interest of Iran.

(f) For the purpose of this section the term *property* includes gold, silver, bullion, currency, coin, credit, securities (as that term is defined in section 2(l) of the Securities Act of 1933, as amended), bills of exchange, notes, drafts, acceptances, checks, letters of credit, book credits, debts, claims, contracts, negotiable documents of title, mortgages, liens, annuities, insurance policies, options and futures in commodities, and evidences of any of the foregoing. The term *property* shall not, except to the extent indicated, be deemed to include chattels or real property.

[44 FR 65956, Nov. 15, 1979, as amended at 45 FR 24432, Apr. 9, 1980]

§ 535.208 Evasions; effective date.

(a) Any transaction for the purpose of, or which has the effect of, evading or avoiding any of the prohibitions set forth in this subpart is hereby prohibited.

(b) The term *effective date* means, with respect to transactions prohibited in § 535.201, 8:10 a.m. eastern standard time, November 14, 1979, and with respect to the transactions prohibited in §§ 535.206 and 535.207, 4:19 p.m. eastern standard time, April 7, 1980.

(c) With respect to any amendments of the foregoing sections or any other amendments to this part the term ''effective date'' shall mean the date of filing with the FEDERAL REGISTER.

[45 FR 24433, Apr. 9, 1980, as amended at 45 FR 26940, Apr. 21, 1980]

§ 535.210 Direction for establishing an escrow agreement.

(a) The Federal Reserve Bank of New York, as fiscal agent of the United States, is licensed, authorized, directed and compelled to enter into escrow and related agreements under which certain money and other assets shall be credited to escrow accounts by the Bank of England or the N.V. Settlement Bank of the Netherlands.

(b) The Federal Reserve Bank of New York is licensed, authorized, directed and compelled, as fiscal agent of the United States, to receive certain money and other assets in which Iran or its agencies, instrumentalities or controlled entities have an interest and to hold or transfer such money and other assets, and any earnings or interest payable thereon, in such manner and at such times as the Secretary of the Treasury deems necessary to fulfill the rights and obligations of the United States under the Declaration of the government of the Democratic and Popular Republic of Algeria dated January 19, 1981, and the Undertakings of the Government of the United States of America and the Government of Islamic Republic of Iran with respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria, and the escrow and related agreements described in paragraph (a) of this section. Such money and other assets may be invested, or not, at the discretion of the Federal Reserve Bank of New York, as fiscal agent of the United States.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14333, Feb. 26, 1981, as amended at 46 FR 42063, Aug. 19, 1981]

§ 535.211 Direction involving transfers by the Federal Reserve Bank concerning certain Iranian property.

The Federal Reserve Bank of New York is licensed, authorized, directed and compelled to transfer to its account at the Bank of England, and subsequently to transfer to accounts in the name of the Central Bank of Algeria as Escrow Agent at the Bank of England that are established pursuant to an escrow and related agreements approved by the Secretary of the Treasury, all gold bullion, together with all other assets in its custody (or the cash equivalent thereof), of Iran or its agencies, instrumentalities or controlled entities. Such transfers, and

whatever further related transactions are deemed appropriate by the Secretary of the Treasury, shall be executed when and in the manner directed by the Secretary of the Treasury.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14333, Feb. 26, 1981]

§ 535.212 Direction to transfer property in which Iran or an Iranian entity has an interest by branches and offices of United States banks located outside the United States.

(a) Any branch or office of a United States bank or subsidiary thereof, which branch, office or subsidiary is located outside the territory of the United States, and which, on or after 8:10 a.m., e.s.t., on November 14, 1979:

(1) Has been or is in possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities, or controlled entities, or

(2) Has carried or is carrying on its books deposits standing to the credit of or beneficially owned by such government, its agencies, instrumentalities or controlled entities, is licensed, authorized, directed and compelled to transfer such funds, securities and deposits, held on January 19, 1981, including interest from November 14, 1979, at commercially reasonable rates, to the account of the Federal Reserve Bank of New York, as fiscal agent of the U.S., at the Bank of England, to be held or transferred as directed by the Secretary of the Treasury. The funds, securities and deposits described in this section shall be further transferred as provided for in the Declarations of the Government of the Democratic and Popular Republic of Algeria and the Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with respect to the Declaration.

(b) Any banking institution subject to the jurisdiction of the United States that has executed a set-off on or after 8:10 a.m., e.s.t., November 14, 1979, against Iranian funds, securities or deposits referred to in paragraph (a) of this section is hereby licensed, authorized, directed and compelled to cancel such set-off and to transfer all funds, securities and deposits which have been subject to such set-off, including interest from November 14, 1979, at commercially reasonable rates, pursuant to the provisions of paragraph (a) of this section.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14333, Feb. 26, 1981]

§ 535.213 Direction involving property held by offices of banks in the United States in which Iran or an Iranian entity has an interest.

(a) Any branch or office of a bank, which branch or office is located within the United States and is, on the effective date of this section, either:

(1) In possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities or controlled entities, or

(2) Carrying on its books deposits standing to the credit of or beneficially owned by such government or its agencies, instrumentalities or controlled entities, is licensed, authorized, directed and compelled to transfer such funds, securities and deposits, held on January 19, 1981, including interest from November 14, 1979, at commercially reasonable rates, to the Federal Reserve Bank of New York, as fiscal agent of the U.S., to be held or transferred as directed by the Secretary of the Treasury.

(b) Transfer of funds, securities or deposits under paragraph (a) of this section shall be in accordance with the provisions of § 535.221 of this part, and such funds, securities or deposits, plus interest at commercially reasonable rates from November 14, 1979, to the transfer date, shall be received by the Federal Reserve Bank of New York by 11 a.m., E.D.T., July 10, 1981. For periods for which rates are to be determined in the future, whether by agreement between Iran and the bank or

otherwise (see § 535.440), interest for such periods shall be transferred to the Federal Reserve Bank of New York promptly upon such determination. Such interest shall include interest at commercially reasonable rates from July 19, 1981, on the interest which would have accrued by July 19, 1981.

(c) Any funds, securities or deposits subject to a valid attachment, injunction or other like proceeding or process not affected by § 535.218 need not be transferred as otherwise required by this section.

(d) The transfers of securities required by this section shall be made notwithstanding § 535.202.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 26477, May 13, 1981, as amended at 46 FR 30341, June 8, 1981; 46 FR 35106, July 7, 1981; 48 FR 253, Jan. 4, 1983]

§ 535.214 Direction involving other financial assets in which Iran or an Iranian entity has an interest held by any person subject to the jurisdiction of the United States.

(a) Any person subject to the jurisdiction of the United States which is not a banking institution and is on January 19, 1981, in possession or control of funds or securities of Iran or its agencies, instrumentalities or controlled entities is licensed, authorized, directed and compelled to transfer such funds or securities to the Federal Reserve Bank of New York, as fiscal agent of the U.S. to be held or transferred as directed by the Secretary of the Treasury. However, such funds and securities need not be transferred until any disputes (not relating to any attachment, injunction or similar order) as to the entitlement of Iran and its entities to them are resolved.

(b) Transfers of funds and securities under paragraph (a) of this section shall be in accordance with the provisions of § 535.221 of this part, and such funds and securities shall be received by the Federal Reserve Bank of New York by 11 a.m., E.D.T., July 10, 1981.

(c) Any funds, securities or deposits subject to a valid attachment, injunction or other like proceeding or process not affected by § 535.218 need not be transferred as otherwise required by this section.

(d) The transfers of securities required by this section shall be made notwithstanding § 535.202.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 26447, May 13, 1981, as amended at 46 FR 30341, June 8, 1981; 46 FR 35107, July 7, 1981]

§ 535.215 Direction involving other properties in which Iran or an Iranian entity has an interest held by any person subject to the jurisdiction of the United States.

(a) Except as provided in paragraphs (b) and (c) of this section, all persons subject to the jurisdiction of the United States in possession or control of properties, as defined in § 535.333 of this part, not including funds and securities owned by Iran or its agencies, instrumentalities or controlled entities, are licensed, authorized, directed and compelled to transfer such properties held on January 18, 1981 as directed after that day by the Government of Iran, acting through its authorized agent. Such directions shall include arrangements for payment of the costs of transporting the properties, unless the possessors of the properties were required to pay such costs by contract or applicable law on January 19, 1981. Except where specifically stated, this license, authorization and direction does not relieve persons subject to the jurisdiction of the United States from existing legal requirements other than those based upon the International Emergency Economic Powers Act.

(b) Any properties subject to a valid attachment, injunction or other like proceeding or process not affected by § 535.218 need not be transferred as otherwise required by this section.

(c) Notwithstanding paragraph (a) of this section, persons subject to the jurisdiction of the United States, including agencies, instrumentalities and entities controlled by the Government of Iran, who have possession, custody or

control of blocked tangible property covered by § 535.201, shall not transfer such property without a specific Treasury license, if the export of such property requires a specific license or authorization pursuant to the provisions of any of the following acts, as amended, or regulations in force with respect to them: the Export Administration Act, 50 U.S.C. App. 2403, et seq., the Aims Export Control Act, 22 U.S.C. 2751, et seq., the Atomic Energy Act, 42 U.S.C. 2011, et seq., or any other act prohibiting the export of such property, except as licensed.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14334, Feb. 26, 1981, as amended at 46 FR 26477, May 13, 1981; 49 FR 21322, May 21, 1984; 66 FR 38554, July 25, 2001]

§ 535.216 Prohibition against prosecution of certain claims.

(a) Persons subject to the jurisdiction of the United States are prohibited from prosecuting in any court within the United States or elsewhere, whether or not litigation was commenced before or after January 19, 1981, any claim against the Government of Iran arising out of events occurring before January 19, 1981 relating to:

(1) The seizure of the hostages on November 4, 1979;

(2) The subsequent detention of such hostages;

(3) Injury to United States property or property of United States nationals within the United States Embassy compound in Tehran after November 3, 1979; or

(4) Injury to United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran.

(b) Any persons who are not United States nationals are prohibited from prosecuting any claim described in paragraph (a) of this section in any court within the United States.

(c) No further action, measure or process shall be taken after the effective date of this section in any judicial proceeding instituted before the effective date of this section which is based upon any claim described in paragraph (a) of this section, and all such proceedings shall be terminated.

(d) No judicial order issued in the course of the proceedings described in paragraph (c) of this section shall be enforced in any way.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14334, Feb. 26, 1981]

§ 535.217 Blocking of property of the former Shah of Iran and of certain other Iranian nationals.

(a) For the purpose of protecting the rights of litigants in courts within the United States, all property and assets located in the United States in the control of the estate of Mohammad Reza Pahlavi, the former Shah of Iran, or any close relative of the former Shah served as a defendant in litigation in such courts brought by Iran seeking the return of property alleged to belong to Iran, is blocked as to each such estate or person, until all such litigation against such estate or person is finally terminated. This provision shall apply only to such estate or persons as to which Iran has furnished proof of service to the Office of Foreign Assets Control and which the Office has identified in paragraph (b) of this section.

(b) [No persons presently listed].

(c) The effective date of this section is January 19, 1981, except as otherwise specified after the name of a person identified in paragraph (b) of this section.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 26478, May 13, 1981, as amended at 61 FR 8216, Mar. 4, 1996; 61 FR 15382, Apr. 8, 1996]

§ 535.218 Prohibitions and nullifications with respect to property described in §§ 535.211, 535.212, 535.213, 535.214 and 535.215 and standby letters of credit.

(a) All licenses and authorizations for acquiring or exercising any right, power or privilege, by court order, attachment, or otherwise, including the license contained in § 535.504, with respect to the property described in §§ 535.211, 535.212, 535.213, 535.214 and 535.215 are revoked and withdrawn.

(b) All rights, powers and privileges relating to the property described in §§ 535.211, 535.212, 535.213, 535.214 and 535.215 and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m., e.s.t., including those derived from § 535.504, other than rights, powers and privileges of the Government of Iran and its agencies, instrumentalities and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power or privilege, whether by court order or otherwise, with respect to property (and any income earned thereon) referred to in §§ 535.211, 535.212, 535.213, 535.214 and 535.215.

(d) The prohibitions contained in paragraph (c) of this section shall not apply to Iran, its agencies, instrumentalities or controlled entities.

(e) Paragraph (a) of this section does not revoke or withdraw specific licenses authorizing the operation of blocked accounts which were issued prior to January 19, 1981, and which do not relate to litigation. Such licenses shall be deemed to be revoked as of May 31, 1981, unless extended by general or specific license issued subsequent to February 26, 1981.

(f) The provisions of paragraphs (a), (b) and (c) of this section shall apply to contested and contingent liabilities and property interests of the Government of Iran, its agencies, instrumentalities or controlled entities, including debts.

(g) All existing attachments on standby letters of credit, performance bonds and similar obligations and on substitute blocked accounts established under § 535.568 relating to standby letters of credit, performance bonds and similar obligations are nullified and all future attachments on them are hereafter prohibited. All rights, powers and privileges relating to such attachments are nullified and all persons hereafter are barred from asserting or exercising any rights, powers or privileges derived therefrom.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14334, Feb. 26, 1981, as amended at 46 FR 26477, May 13, 1981]

§ 535.219 Discharge of obligation by compliance with this part.

Compliance with §§ 535.210, 535.211, 535.212, 535.213, 535.214 and 535.215, or any other orders, regulations, instructions or directions issued pursuant to this part licensing, authorizing, directing or compelling the transfer of the assets described in those sections, shall, to the extent thereof, be a full acquittance and discharge for all purposes of the obligation of the person making the same. No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to and in reliance on, such orders, regulations, instructions or directions.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14334, Feb. 26, 1981]

§ 535.220 Timing of transfers required by § 535.212.

Transfers required by § 535.212 to the account of the Federal Reserve Bank of New York, as fiscal agent of the U.S.,

at the Bank of England shall be executed no later than 6 a.m., e.s.t., January 20, 1981, when the banking institution had knowledge of the terms of Executive Order 12278 of January 19, 1981.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14335, Feb. 26, 1981]

§ 535.221 Compliance with directive provisions.

(a) Transfers of deposits or funds required by §§ 535.213 and 535.214 of this part shall be effected by means of wire transfer to the Federal Reserve Bank of New York for credit to the following accounts: with respect to transfers required by § 535.213, to the Federal Reserve Bank of New York, as fiscal agent of the United States, Special Deposit Account A, and with respect to transfers required by § 535.214, to the Federal Reserve Bank of New York, as fiscal agent of the United States, Special Deposit Account B.

(b) Securities to be transferred as required by §§ 535.213 and 535.214 of this part that are not presently registered in the name of Iran or an Iranian entity shall be delivered to the Federal Reserve Bank of New York in fully transferable form (bearer or endorsed in blank), accompanied by all necessary transfer documentation, e.g., stock or bond powers or powers of attorney. All securities transferred, including those presently registered in the name of Iran or an Iranian entity, shall be accompanied by instructions to deposit such securities to the following accounts: with respect to transfers required by § 535.213, to the Federal Reserve Bank of New York, as fiscal agent of the United States, Special Custody Account A, and with respect to transfers required by § 535.214, to the Federal Reserve Bank of New York, as fiscal agent of the United States, Special Custody Account B.

(1) Securities which are in book-entry form shall be transferred by wire transfer to the Federal Reserve Bank of New York to the appropriate account named in this paragraph.

(2) Definitive securities which are in bearer or registered form shall be hand delivered or forwarded by registered mail, insured, to the Federal Reserve Bank of New York, Safekeeping Department, to the appropriate account named in this paragraph.

(c) If a security in which Iran or an Iranian entity has an interest is evidenced by a depositary receipt or other evidence of a security, the legal owner of such security shall arrange to have the security placed in fully transferable form (bearer or endorsed in blank) as provided in paragraph (b) of this section, and transferred pursuant to paragraph (b)(2) of this section.

(d) Any person delivering a security or securities to the Federal Reserve Bank of New York under paragraph (b) of this section, shall provide the Bank at least 2 business days prior written notice of such delivery, specifically identifying the sending person, the face or par amount and type of security, and whether the security is in bearer, registered or book-entry form.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 30341, June 8, 1981]

§ 535.222 Suspension of claims eligible for Claims Tribunal.

(a) All claims which may be presented to the Iran-United States Claims Tribunal under the terms of Article II of the Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran, dated January 19, 1981, and all claims for equitable or other judicial relief in connection with such claims, are hereby suspended, except as they may be presented to the Tribunal. During the period of this suspension, all such claims shall have no legal effect in any action now pending in any court in the United States, including the courts of any state and any locality thereof, the District of Columbia and Puerto Rico, or in any action

commenced in any such court after the effective date of this section.

(b) Nothing in paragraph (a) of this section shall prohibit the assertion of a defense, set-off or counterclaim in any pending or subsequent judicial proceeding commenced by the Government of Iran, any political subdivision of Iran, or any agency, instrumentality or entity controlled by the Government of Iran or any political subdivision thereof.

(c) Nothing in this section precludes the commencement of an action after the effective date of this section for the purpose of tolling the period of limitations for commencement of such action.

(d) Nothing in this section shall require dismissal of any action for want of prosecution.

(e) Suspension under this section of a claim or a portion thereof submitted to the Iran-United States Claims Tribunal for adjudication shall terminate upon a determination by the Tribunal that it does not have jurisdiction over such claim or portion thereof.

(f) A determination by the Iran-United States Claims Tribunal on the merits that a claimant is not entitled to recover on a claim or part thereof shall operate as a final resolution and discharge of such claim or part thereof for all purposes. A determination by the Tribunal that a claimant shall have recovery on a claim or part thereof in a specified amount shall operate as a final resolution and discharge of such claim or part thereof for all purposes upon payment to the claimant of the full amount of the award including any interest awarded by the Tribunal.

(g) Nothing in this section shall apply to any claim concerning the validity or payment of a standby letter of credit, performance or payment bond, or other similar instrument that is not the subject of a determination by the Iran-United States Claims Tribunal on the merits thereof. However, assertion of such a claim through judicial proceedings is governed by the general license in § 535.504. A determination by the Iran-United States Claims Tribunal on the merits that a standby letter of credit, performance bond or similar obligation is invalid, has been paid or otherwise discharged, or has no further purpose, or any similar determination shall operate as a final resolution and discharge or Iran's interest therein and, notwithstanding the provisions of § 535.504, may be enforced by a judicial proceeding to obtain a final judicial judgment or order permanently disposing of that interest.

(h) The effective date of this section is February 24, 1981.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14335, Feb. 26, 1981, as amended at 47 FR 29529, July 7, 1982; 56 FR 6546, Feb. 15, 1991]

Subpart C—General Definitions

§ 535.301 Iran; Iranian Entity.

(a) The term *Iran* and *Iranian Entity* includes:

(1) The state and the Government of Iran as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof;

(2) Any partnership, association, corporation, or other organization substantially owned or controlled by any of the foregoing;

(3) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date acting or purporting to act directly or indirectly on behalf of any of the foregoing;

(4) Any territory which on or since the effective date is controlled or occupied by the military, naval or police forces or other authority of Iran; and

(5) Any other person or organization determined by the Secretary of the Treasury to be included within paragraph (a) of this section.

(b) A person specified in paragraph (a)(2) of this section shall not be deemed to fall within the definition of Iran solely by reason of being located in, organized under the laws of, or having its principal place of business in, Iran.

§ 535.308 Person.

The term *person* means an individual, partnership, association, corporation or other organization.

[45 FR 24433, Apr. 9, 1980]

§ 535.310 Transfer.

The term *transfer* shall mean any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent or effect of which is to create, surrender, release, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgement, decree, attachment, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition, or the exercise of any power of appointment, power of attorney, or other power.

[44 FR 75352, Dec. 19, 1979]

§ 535.311 Property; property interests.

Except as defined in § 535.203(f) for the purposes of that section, the terms *property* and *property interest* or *property interests* shall include, but not by way of limitation, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, debentures, stocks, bonds, coupons, any other financial securities, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, real estate and any interest therein, leaseholds, grounds rents, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 535.312 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

[44 FR 75352, Dec. 19, 1979]

§ 535.316 License.

Except as otherwise specified, the term *license* shall mean any license or authorization contained in or issued pursuant to this part.

[44 FR 66832, Nov. 21, 1979]

§ 535.317 General license.

A general license is any license or authorization the terms of which are set forth in this part.

[44 FR 66832, Nov. 21, 1979]

§ 535.318 Specific license.

A specific license is any license or authorization issued pursuant to this part but not set forth in this part.

[44 FR 66832, Nov. 21, 1979]

§ 535.320 Domestic bank.

(a) The term *domestic bank* shall mean any branch or office within the United States of any of the following which is not Iran or an Iranian entity: any bank or trust company incorporated under the banking laws of the United States or of any state, territory, or district of the United States, or any private bank or banker subject to supervision and examination under the banking laws of the United States or of any state, territory or district of

the United States. The Secretary of the Treasury may also authorize any other banking institution to be treated as a ''domestic bank'' for the purpose of this definition or for the purpose of any or all sections of this part.

(b) For purposes of §§ 535.413, 535.508, 535.531 and 535.901, the term *domestic bank* includes any branch or office within the United States of a non-Iranian foreign bank.

[44 FR 66832, Nov. 21, 1979]

§ 535.321 United States; continental United States.

The term *United States* means the United States and all areas under the jurisdiction or authority thereof including the Trust Territory of the Pacific Islands. The term *continental United States* means the states of the United States and the District of Columbia.

[44 FR 66833, Nov. 21, 1979]

§ 535.329 Person subject to the jurisdiction of the United States.

The term *person subject to the jurisdiction of the United States* includes:

(a) Any person wheresoever located who is a citizen or resident of the United States;

(b) Any person actually within the United States;

(c) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(d) Any partnership, association, corporation, or other organization wheresoever organized or doing business which is owned or controlled by persons specified in paragraph (a), (b), or (c) of this section.

§ 535.333 Properties.

(a) The term properties as used in § 535.215 means all uncontested and non-contingent liabilities and property interests of the Government of Iran, its agencies, instrumentalities, or controlled entities, including debts. It does not include bank deposits or funds and securities. It also does not include obligations under standby letters of credit or similar instruments in the nature of performance bonds, including accounts established pursuant to § 535.568.

(b) Properties do not cease to fall within the definition in paragraph (a), above, merely due to the existence of unpaid obligations, charges or fees relating to such properties, or undischarged liens against such properties.

(c) Liabilities and property interests of the Government of Iran, its agencies, instrumentalities, or controlled entities may be considered contested only if the holder thereof reasonably believes that Iran does not have title or has only partial title to the asset. After October 23, 2001, such a belief may be considered reasonable only if it is based upon a bona fide opinion, in writing, of an attorney licensed to practice within the United States stating that Iran does not have title or has only partial title to the asset. For purposes of this paragraph, the term holder shall include any person who possesses the property, or who, although not in physical possession of the property, has, by contract or otherwise, control over a third party who does in fact have physical possession of the property. A person is not a holder by virtue of being the beneficiary of an attachment, injunction or similar order.

(d) Liabilities and property interests shall not be deemed to be contested solely because they are subject to an attachment, injunction, or other similar order.

[66 FR 38554, July 25, 2001]

§ 535.334 Act of the Government of Iran.

For purposes of § 535.216, an act of the Government of Iran, includes any acts ordered, authorized, allowed, approved, or ratified by the Government of Iran, its agencies, instrumentalities or controlled entities.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14336, Feb. 26, 1981]

§ 535.335 Claim arising out of events in Iran.

For purposes of § 535.216, a claim is one ''arising out of events'' of the type

specified only if such event is the specific act that is the basis of the claim.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14336, Feb. 26, 1981]

§ 535.337 Funds.

For purposes of this part, the term *funds* shall mean monies in trust, escrow and similar special funds held by non-banking institutions, currency and coins. It does not include accounts created under § 535.568.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 30341, June 8, 1981]

Subpart D—Interpretations

§ 535.401 Reference to amended sections.

Reference to any section of this part or to any regulation, ruling, order, instruction, direction or license issued pursuant to this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

[45 FR 24433, Apr. 9, 1980]

§ 535.402 Effect of amendment of sections of this part or of other orders, etc.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Secretary of the Treasury pursuant to section 203 of the International Emergency Economic Powers Act shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation and all penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

[45 FR 24433, Apr. 9, 1980]

§ 535.403 Termination and acquisition of an interest of Iran or an Iranian entity.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from Iran or an Iranian entity, such property shall no longer be deemed to be property in which Iran or an Iranian entity has or has had an interest, unless there exists in the property another such interest the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization contained in or issued pursuant to this part, if property (including any property interest) is transferred to Iran or an Iranian interest, such property shall be deemed to be property in which there exists an interest of Iran or an Iranian entity.

[45 FR 24433, Apr. 9, 1980]

§ 535.413 Transfers between dollar accounts held for foreign banks.

Transfers authorized by § 535.901 include transfers by order of a non-Iranian foreign bank from its account in a domestic bank (directly or through a foreign branch or subsidiary of a domestic bank) to an account held by a domestic bank (directly or through a foreign branch or subsidiary) for a second non-Iranian foreign bank which in turn credits an account held by it abroad for Iran. For the purposes of this section, a non-Iranian foreign bank means a bank which is not a person subject to the jurisdiction of the United States.

[44 FR 66833, Nov. 21, 1979]

§ 535.414 Payments to blocked accounts under § 535.508.

(a) Section 535.508 does not authorize any transfer from a blocked account within the United States to an account held by any bank outside the United States or any other payment into a

blocked account outside the United States.

(b) Section 535.508 only authorizes payment into a blocked account held by a domestic bank as defined by § 535.320.

[44 FR 67617, Nov. 26, 1979]

§ 535.415 Payment by Iranian entities of obligations to persons within the United States.

A person receiving payment under § 535.904 may distribute all or part of that payment to anyone: *Provided,* That any such payment to Iran or an Iranian entity must be to a blocked account in a domestic bank.

[44 FR 67617, Nov. 26, 1979]

§ 535.416 Letters of credit.

(a) *Question*. Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. Can payment be made upon presentation of documentary drafts?

Answer. Yes, provided payment is made into a blocked account in a domestic bank.

(b) *Question*. Prior to the effective date, a domestic branch of a bank organized or incorporated under the laws of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. Payment is to be made through a foreign branch of the bank. Can payment be made upon presentation of documentary drafts?

Answer. Yes, provided payment is made into a blocked account in a domestic bank.

(c) *Question*. Prior to the effective date, a foreign bank confirms a documentary letter of credit issued by its U.S. agency or branch for a non-Iranian account party in favor of an Iranian entity. Can the U.S. agency or branch of the foreign bank transfer funds to the foreign bank in connection with that foreign bank's payment under the letter of credit?

Answer. No, the U.S. agency's payment is blocked, unless the foreign bank made payment to the Iranian entity prior to the effective date.

(d) *Question*. Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. The Iranian entity presents documentry drafts which are deficient in some detail. May the non-Iranian account party waive the documentary deficiency and authorize the bank to make payment?

Answer. Yes, provided payment is made into a blocked account in a domestic bank. However, the non-Iranian account party is not obligated by these Regulations to exercise a waiver of documentary deficiencies. In cases where such a waiver is not exercised, the bank's payment obligation, if any, under the letter of credit remains blocked, as does any obligation, contingent or otherwise, of the account party. The documents are also blocked.

(e) *Question*. Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. The Iranian entity does not make timely, complete, or proper presentation of documents, and the letter of credit expires. Does there remain a blocked payment obligation held by the bank?

Answer. No, but any documents held by the bank continue to be blocked. It is also possible that the account party still has a related obligation to the Iranian entity and any such obligation would be blocked.

(f) *Question*. A bank subject to the jurisdiction of the United States has issued a letter of credit for a U.S. account party in favor of an Iranian entity. The letter of credit is confirmed by a foreign bank. Prior to or after the effective date, the Iranian entity presents documents to the U.S. issuing bank. Payment is deferred. After the effective date, the Iranian entity requests that the issuing bank either return the documents to the Iranian entity or transfer them to the confirming bank. Can the issuing bank do so?

Answer. No. The U.S. issuing bank can neither return nor transfer the documents without a license. The documents constitute blocked property under the Regulations.

(g) *Question*. Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. The Iranian entity presents documentary drafts which are deficient in some detail. May the non-Iranian account party waive the documentary deficiency and make payment?

Answer. Yes, provided payment is made into a blocked account in a domestic bank. However, the non-Iranian account party is not obligated by these Regulations to exercise a waiver of documentary deficiencies. In cases where such a waiver is not exercised, the amount of the payment held by the account party is blocked.

[44 FR 69287, Dec. 3, 1979, as amended at 44 FR 75353, Dec. 19, 1979]

§ 535.420 Transfers of accounts under § 535.508 from demand to interest-bearing status.

Section 535.508 authorizes transfer of a blocked demand deposit account to interest-bearing status at the instruction of the Iranian depositor at any time.

[44 FR 76784, Dec. 28, 1979]

§ 535.421 Prior contractual commitments not a basis for licensing.

Specific licenses are not issued on the basis that an unlicensed firm commitment or payment has been made in connection with a transaction prohibited by this part. Contractual commitments to engage in transactions subject to the prohibitions of this part should not be made, unless the contract specifically states that the transaction is authorized by general license or that it is subject to the issuance of a specific license.

[45 FR 24433, Apr. 9, 1980]

§ 535.433 Central Bank of Iran.

The Central Bank of Iran (Bank Markazi Iran) is an agency, instrumentality and controlled entity of the Government of Iran for all purposes under this part.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14336, Feb. 26, 1981]

§ 535.437 Effect on other authorities.

Nothing in this part in any way relieves any persons subject to the jurisdiction of the United States from securing licenses or other authorizations as required from the Secretary of State, the Secretary of Commerce or other relevant agency prior to executing the transactions authorized or directed by this part. This includes licenses for transactions involving military equipment.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14336, Feb. 26, 1981]

§ 535.438 Standby letters of credit, performance or payment bonds and similar obligations.

(a) Nothing contained in §§ 535.212, 535.213 and 535.214 or in any other provision or revocation or amendment of any provision in this part affects the prohibition in § 535.201 and the licensing procedure in § 535.568 relating to certain standby letters of credit, performance bonds and similar obligations. The term *funds and securities* as used in this part does not include substitute blocked accounts established under section 535.568 relating to standby letters of credit, performance or payment bonds and similar obligations.

(b) No transfer requirement under § 535.213 or § 535.214 shall be deemed to authorize or compel any payment or transfer of any obligation under a standby letter of credit, performance bond or similar obligation as to which a blocked account has been established

pursuant to § 535.568 or as to which payment is prohibited under an injunction obtained by the account party.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14336, Feb. 26, 1981, as amended at 46 FR 30341, June 8, 1981]

§ 535.440 Commercially reasonable interest rates.

(a) For purposes of §§ 535.212 and 535.213, what is meant by ''commercially reasonable rates'' depends on the particular circumstances. In the case of time or savings deposits, the ''commercially reasonable rate'' is that rate provided for by the deposit agreement or applicable law. With respect to other obligations where the rate remains to be determined, it is presently expected that the ''commercially reasonable rate'' will be the rate agreed upon by the bank and Iran. However, where a deposit has in fact operated as a demand account under Treasury license, it would be appropriate to treat the deposit for purposes of §§ 535.212 and 535.213 as a non-interest bearing account. Furthermore, in the event that the Iran-U.S Claims Tribunal (the ''Tribunal'') determines that interest additional to that agreed upon between the bank and Iran, or compensation or damages in lieu of interest, is due Iran, then that amount determined by the Tribunal to be owing to Iran shall be transferred as, or as part of, the interest at ''commercially reasonable rates'' required to be transferred pursuant to §§ 535.212 and 535.213, regardless of any settlement between the bank and Iran or any release or discharge that Iran may have given the bank.

(b) The contingent interest of Iran in any liability for further or additional interest, or compensation or damages in lieu of interest, that may be claimed in, and determined by the Tribunal, constitutes an interest of Iran in property for purposes of this part, and no agreement between Iran and any person subject to the jurisdiction of the United States is effective to extinguish such Iranian interest in property unless so specifically licensed by the Treasury Department.

(c) For deposits held as time deposits, no penalty shall be imposed for early withdrawal. (In this connection, the Board of Governors of the Federal Reserve System has determined that application of the penalty for early withdrawal of time deposits transferred before maturity, pursuant to § 535.213 is not required.)

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205; 45 FR 24099; E.O. 12211, 45 FR 26605; E.O. 12276, 46 FR 7913; E.O. 12277, 46 FR 7915; E.O. 12278, 46 FR 7917; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; and E.O. 12294, 46 FR 14111)

[48 FR 253, Jan. 4, 1983]

§ 535.441 Settlement Agreement regarding small claims.

(a) Award No. 483 of June 22, 1990 of the Iran-United States Claims Tribunal, approving and giving effect to the Settlement Agreement in Claims of Less Than $250,000, Case No. 86 and Case No. B38, dated May 13, 1990 (the ''Settlement Agreement''), constitutes a determination by the Iran-United States Claims Tribunal of all claims encompassed therein within the meaning of § 535.222(f) of this part. In accordance with § 535.222(f), upon payment from the Security Account to the United States, the Settlement Agreement shall operate as a final resolution and discharge of all claims encompassed by the Settlement Agreement for all purposes. All such claims shall be subject to the exclusive jurisdiction of the Foreign Claims Settlement Commission on the terms established in the Settlement Agreement and by the provisions of Public Law 99–93, Title V, Aug. 16, 1985, 99 Stat. 437, applicable to en bloc settlements of claims of U.S. nationals against Iran.

(b) Pursuant to the Settlement Agreement, the private claims subject to that agreement and this part are ''* * * claims of less than $250,000 each, which have been filed with the Tribunal by the United States on behalf of U.S. nationals, which claims are included in Cases Nos. 10001 through 12785, and which are still pending, * * * ,'' and ''* * * claims of U.S. nationals for less than $250,000 which have been

submitted to the United States Department of State but were not timely filed with the Tribunal, as well as claims of U.S. nationals for less than $250,000 which have been either withdrawn by the Claimants or dismissed by the Tribunal for lack of jurisdiction, * * * .'' Settlement Agreement, Art. I(A).

[55 FR 40831, Oct. 5, 1990]

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 535.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53657, Sept. 11, 2003]

§ 535.502 Effect of license or authorization.

(a) No license or other authorization contained in this part or otherwise issued by or under the direction of the Secretary of the Treasury pursuant to section 203 of the International Emergency Economic Powers Act, shall be deemed to authorize or validate any transaction effected prior to the issuance thereof, unless such license or other authorization specifically so provides.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Treasury Department and specifically refers to this part. No regulation, ruling, instruction or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of parts 500, 505, 515, 520 or 530 of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction or license authorizing a transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions in subpart B from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

[44 FR 66833, Nov. 21, 1979, as amended at 44 FR 75353, Dec. 19, 1979]

§ 535.503 Exclusion from licenses and authorizations.

The Secretary of the Treasury reserves the right to exclude any person from the operation of any license or from the privileges therein conferred or to restrict the applicability thereof with respect to particular persons, transactions or property or classes thereof. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

[44 FR 66833, Nov. 21, 1979]

§ 535.504 Certain judicial proceedings with respect to property of Iran or Iranian entities.

(a) Subject to the limitations of paragraphs (b) and (c) of this section and § 535.222, judicial proceedings are authorized with respect to property in which on or after 8:10 a.m., e.s.t., November 14, 1979, there has existed an interest of Iran or an Iranian entity.

(b) This section does not authorize:

(1) Any pre-judgment attachment or any other proceeding of similar or analogous effect pertaining to any property (and any income earned thereon) subject to the provisions of § 535.211, § 535.212, § 535.213, § 535.214 or § 535.215 on January 19, 1981, including, but not limited to, a temporary restraining order or preliminary injunction, which operates as a restraint on property, for purposes of holding it within the jurisdiction of a court, or otherwise;

(2) Any payment or delivery out of a blocked account based upon a judicial proceeding, pertaining to any property subject to the provisions of §§ 535.211, 535.212, 535.213, 535.214 or 535.215 on January 19, 1981;

(3)(i) Any final judicial judgment or order (A) permanently enjoining, (B) terminating or nullifying, or (C) otherwise permanently disposing of any interest of Iran in any standby letter of

credit, performance bond or similar obligation. Any license authorizing such action is hereby revoked and withdrawn. This revocation and withdrawal of prior licenses prohibits judgments or orders that are within the terms of this paragraph (b)(3)(i), including any such judgments or orders which may have been previously entered but which had not become final by July 2, 1982, through the conclusion of appellate proceedings or the expiration of the time for appeal.

(ii) Nothing in this paragraph (b)(3) shall prohibit the assertion of any defense, set-off or counterclaim in any pending or subsequent judicial proceeding commenced by the Government of Iran, any political subdivision of Iran, or any agency, instrumentality or entity owned or controlled by the Government of Iran or any political subdivision thereof.

(iii) Nothing in this paragraph (b)(3) shall preclude the commencement of an action for the purpose of tolling the period of limitations for commencement of such action.

(iv) Nothing in this paragraph (b)(3) shall require dismissal of any action for want of prosecution.

(c) For purposes of this section, contested and contingent liabilities and property interests of the Government of Iran, its agencies, instrumentalities, or controlled entities, including debts, shall be deemed to be subject to § 535.215.

(d) A judicial proceeding is not authorized by this section if it is based on transactions which violated the prohibitions of this part.

(e) Judicial proceedings to obtain attachments on standby letters of credit, performance bonds or similar obligations and on substitute blocked accounts established under § 535.568 relating to standby letters of credit, performance bonds and similar obligations are not authorized or licensed.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14336, Feb. 26, 1981, as amended at 46 FR 26477, May 13, 1981; 47 FR 29529, July 7, 1982; 47 FR 55482, Dec. 10, 1982; 48 FR 57129, Dec. 28, 1983]

§ 535.508 Payments to blocked accounts in domestic banks.

(a) Any payment or transfer of credit, including any payment or transfer by any U.S.-owned or controlled foreign firm or branch to a blocked account in a domestic bank in the name of Iran or any Iranian entity is hereby authorized: *Provided*, Such payment or transfer shall not be made from any blocked account if such payment or transfer represents, directly or indirectly, a transfer of the interest of Iran or an Iranian entity to any other country or person.

(b) This section does not authorize:

(1) Any payment or transfer to any blocked account held in a name other than that of Iran or the Iranian entity who is the ultimate beneficiary of such payment or transfer; or

(2) Any foreign exchange transaction including, but not by way of limitation, any transfer of credit, or payment of an obligation, expressed in terms of the currency of any foreign country.

(c) This section does not authorize any payment or transfer of credit comprising an integral part of a transaction which cannot be effected without the subsequent issuance of a further license.

(d) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, or the income derived from such securities to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

(e) This section does not authorize any payment or transfer from a

blocked account in a domestic bank to a blocked account held under any name or designation which differs from the name or designation of the specified blocked account or sub-account from which the payment or transfer is made.

NOTE TO § 535.508: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers.

[44 FR 66590, Nov. 20, 1979, as amended at 62 FR 45107, Aug. 25, 1997]

§ 535.528 Certain transactions with respect to Iranian patents, trademarks and copyrights authorized.

(a) The following transactions by any person subject to the jurisdiction of the United States are authorized:

(1) The filing and prosecution of any application for an Iranian patent, trademark or copyright, or for the renewal thereof;

(2) The receipt of any Iranian patent, trademark or copyright;

(3) The filing and prosecution of opposition or infringement proceedings with respect to any Iranian patent, trademark, or copyright, and the prosecution of a defense to any such proceedings;

(4) The payment of fees currently due to the government of Iran, either directly or through an attorney or representative, in connection with any of the transactions authorized by paragraphs (a)(1), (2), and (3) of this section or for the maintenance of any Iranian patent, trademark or copyright; and

(5) The payment of reasonable and customary fees currently due to attorneys or representatives in Iran incurred in connection with any of the transactions authorized by paragraphs (a)(1), (2), (3) or (4) of this section.

(b) Payments effected pursuant to the terms of paragraphs (a)(4) and (5) of this section may not be made from any blocked account.

(c) As used in this section the term *Iranian patent, trademark, or copyright* shall mean any patent, petty patent, design patent, trademark or copyright issued by Iran.

[45 FR 29288, May 2, 1980]

§ 535.531 Payment of certain checks and drafts.

(a) A bank subject to the jurisdiction of the United States is hereby authorized to make payments from blocked accounts with such banking institution of checks and drafts drawn or issued prior to the effective date, *Provided,* That:

(1) The amount involved in any one payment, acceptance, or debit does not exceed $3000; or

(2) The check or draft was within the United States in process of collection by a domestic bank on or prior to the effective date and does not exceed $50,000.

(3) The authorization contained in this paragraph shall expire at the close of business on January 14, 1980.

(b) A bank subject to the jurisdiction of the United States as its own obligation may make payment to a person subject to the jurisdiction of the United States who is the beneficiary of any letter of credit issued or confirmed by it, or on a draft accepted by it, prior to the effective date, where the letter of credit was issued or confirmed on behalf of Iran or an Iranian entity, *Provided,* That:

(1) Notwithstanding the provisions of § 535.902, no blocked account may at any time be debited in connection with such a payment.

(2) Such a payment shall give the bank making payment no special priority or other right to blocked accounts it holds in the event that such blocked accounts are vested or otherwise lawfully used in connection with a settlement of claims.

(3) Nothing in this paragraph prevents payment being made to the beneficiary of any draft or letter of credit or to any banking institution pursuant to § 535.904.

(c) The office will consider on a case-by-case basis, without any commitment on its part to authorize any transaction or class of transactions, applications for specific licenses to make payments from blocked accounts of documentary drafts drawn under irrevocable letters of credit issued or confirmed by a domestic bank prior to the effective date, in favor of any person subject to the jurisdiction of the United States. Any bank or payee submitting such an application should include data on all such letters of credit in which it is involved. Applications

should be submitted not later than January 10, 1980.

(d) Paragraphs (a) and (b) of this section do not authorize any payment to Iran or an Iranian entity except payments into a blocked account in a domestic bank unless Iran or the Iranian entity is otherwise licensed to receive such payment.

[44 FR 75352, Dec. 19, 1979]

§ 535.532 Completion of certain securities transactions.

(a) Banking institutions within the United States are hereby authorized to complete, on or before November 21, 1979, purchases and sales made prior to the effective date of securities purchased or sold for the account of Iran or an Iranian entity provided the following terms and conditions are complied with, respectively.

(1) The proceeds of such sale are credited to a blocked account in a banking institution in the name of the person for whose account the sale was made; and

(2) The securities so purchased are held in a blocked account in a banking institution in the name of the person for whose account the purchase was made.

(b) This section does not authorize the crediting of the proceeds of the sale of securities held in a blocked account or a sub-account thereof, to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such securities were held.

§ 535.540 Disposition of certain tangible property.

(a) Specific licenses may be issued in appropriate cases at the discretion of the Secretary of the Treasury for the public sale and transfer of certain tangible property that is encumbered or contested within the meaning of § 535.333 (b) and (c) and that, because it is blocked by § 535.201, may not be sold or transferred without a specific license, provided that each of the following conditions is met:

(1) The holder or supplier of the property has made a good faith effort over a reasonable period of time to obtain payment of any amounts owed by Iran or the Iranian entity, or adequate assurance of such payment;

(2) Neither payment nor adequate assurance of payment has been received;

(3) The license applicant has, under provisions of law applicable prior to November 14, 1979, a right to sell, or reclaim and sell, such property by methods not requiring judicial proceedings, and would be able to exercise such right under applicable law, but for the prohibitions in this part, and

(4) The license applicant shall enter into an indemnification agreement acceptable to the United States providing for the applicant to indemnify the United States, in an amount up to 150 percent of the proceeds of sale, for any monetary loss which may accrue to the United States from a decision by the Iran-U.S. Claims Tribunal that the United States is liable to Iran for damages that are in any way attributable to the issuance of such license. In the event the applicant and those acting for or on its behalf are the only bidders on the property, the United States shall have the right to establish a reasonable indemnification amount.

(b) An applicant for a license under this section shall provide the Office of Foreign Assets Control with documentation on the points enumerated in paragraph (a) of this section. The applicant normally will be required to submit an opinion of legal counsel regarding the legal right claimed under paragraph (a)(3) of this section.

(c) Any sale of property licensed under this section shall be at public auction and shall be made in good faith in a commercially reasonable manner. Notwithstanding any provision of State law, the license applicant shall give detailed notice to the appropriate Iranian entity of the proposed sale or transfer at least 30 days prior to the sale or other transfer. In addition, if the license applicant has filed a claim with the Iran-U.S. Claims Tribunal, the license applicant shall give at least 30 days' advance notice of the sale to the Tribunal.

(d) The disposition of the proceeds of any sale licensed under this section, minus such reasonable costs of sale as are authorized by applicable law (which will be licensed to be deducted), shall

be in accordance with either of the following methods:

(1) Deposit into a separate blocked, interest-bearing account at a domestic bank in the name of the licensed applicant; or

(2) Any reasonable disposition in accordance with provisions of law applicable prior to November 14, 1979, which may include unrestricted use of all or a portion of the proceeds, provided that the applicant shall post a bond or establish a standby letter of credit, subject to the prior approval of the Secretary of the Treasury, in favor of the United States in the amount of the proceeds of sale, prior to any such disposition.

(e) For purposes of this section, the term *proceeds* means any gross amount of money or other value realized from the sale. The proceeds shall include any amount equal to any debt owed by Iran which may have constituted all or part of a successful bid at the licensed sale.

(f) The proceeds of any such sale shall be deemed to be property governed by § 535.215 of this part. Any part of the proceeds that constitutes Iranian property which under § 535.215 is to be transferred to Iran shall be so transferred in accordance with that section.

(g) Any license pursuant to this section may be granted subject to conditions deemed appropriate by the Secretary of the Treasury.

(h) Any person licensed pursuant to this section is required to submit a report to the Chief of Licensing, Office of Foreign Assets Control, within ten business days of the licensed sale or other transfer, providing a full accounting of the transaction, including the costs, any payment to lienholders or others, including payments to Iran or Iranian entities, and documentation concerning any blocked account established or payments made.

(Sec. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26605; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; and E.O. 12294, 46 FR 14111)

[47 FR 31683, July 22, 1982]

§ 535.566 Unblocking of foreign currency deposits held by U.S.-owned or controlled foreign firms.

Deposits held abroad in currencies other than U.S. dollars by branches and subsidiaries of persons subject to the jurisdiction of the United States are unblocked, provided however that conversions of blocked dollar deposits into foreign currencies are not authorized.

[44 FR 66833, Nov. 21, 1979]

§ 535.567 Payment under advised letters of credit.

(a) Specific licenses may be issued for presentation, acceptance, or payment of documentary drafts under a letter of credit opened by an Iranian entity and advised by a domestic bank or an Iranian bank subject to the jurisdiction of the United States, *provided*, That:

(1) The letter of credit was advised prior to the effective date;

(2) The property which is the subject of the payment under the letter of credit was not in the possession or control of the exporter on or after the effective date;

(3) The Beneficiary is a person subject to the jurisdiction of the United States.

(b) As a general matter, licenses will not be issued if the amount to be paid to a single payee exceeds $500,000, or if hardship cannot be shown.

[44 FR 75354, Dec. 19, 1979]

§ 535.568 Certain standby letters of credit and performance bonds.

(a) Notwithstanding any other provision of law, payment into a blocked account in a domestic bank by an issuing or confirming bank under a standby letter of credit in favor of an Iranian entity is prohibited by § 535.201 and not authorized, notwithstanding the provisions of § 535.508, if either:

(1) A specific license has been issued pursuant to the provisions of paragraph (b) of this section, or

(2) Eight business days have not expired after notice to the account party pursuant to paragraph (b) of this section.

(b) Whenever an issuing or confirming bank shall receive such demand for payment under a standby letter of credit, it shall promptly notify

the person for whose account the credit was opened. Such person may then apply within five business days for a specific license authorizing the account party to establish a blocked account on its books in the name of the Iranian entity in the amount payable under the credit, in lieu of payment by the issuing or confirming bank into a blocked account and reimbursement therefor by the account party.

(c) Where there is outstanding a demand for payment under a standby letter of credit, and the issuing or confirming bank has been enjoined from making payment, upon removal of the injunction, the person for whose account the credit was opened may apply for a specific license for the same purpose and in the same manner as that set forth in paragraph (b) of this section. The issuing or confirming bank shall not make payment under the standby letter of credit unless:

(1) Eight business days have expired since the bank has received notice of the removal of the injunction and;

(2) A specific license issued to the account party pursuant to the provisions of this paragraph has not been presented to the bank.

(d) If necessary to assure the availability of the funds blocked, the Secretary may at any time require the payment of the amounts due under any letter of credit described in paragraph (a) of this section into a blocked account in a domestic bank or the supplying of any form of security deemed necessary.

(e) Nothing in this section precludes any person for whose account a standby letter of credit was opened or any other person from at any time contesting the legality of the demand from the Iranian entity or from raising any other legal defense to payment under the standby letter of credit.

(f) This section does not affect the obligation of the various parties of the instruments covered by this section if the instruments and payment thereunder are subsequently unblocked.

(g) For the purposes of this section, the term *standby letter of credit* shall mean a letter of credit securing performance of, or repayment of, any advance payments of deposits, under a contract with Iran or an Iranian entity, or any similar obligation in the nature of a performance bond.

(h) The regulations do not authorize any person subject to the jurisdiction of the United States to reimburse a non-U.S. bank for payment to Iran or an Iranian entity under a standby letter of credit, except by payment into a blocked account in accordance with § 535.508 or paragraph (b) or (c) of this section.

(i) A person receiving a specific license under paragraph (b) or (c) of this section shall certify to the Office of Foreign Assets Control within five business days after receipt of that license that it has established the blocked account on its books as provided for in those paragraphs. However, in appropriate cases, this time may be extended upon application to the Office of Foreign Assets Control when the account party has filed a petition with an appropriate court seeking a judicial order barring payment by the issuing or confirming bank.

(j) The extension or renewal of a standby letter of credit is authorized.

(k) All specific licenses previously issued under this section to account parties to standby letters of credit are revoked, effective February 28, 1991, unless the license holder submits documentation to the Office of Foreign Assets Control establishing that the specific license pertains to a standby letter of credit obligation that (1) is at issue in any claim brought before the Iran-United States Claims Tribunal (''Tribunal''), (2) is or was at issue in any claim that the Tribunal resolves, or has resolved, on the merits in favor of the account party, or (3) was at issue in a matter that was settled by the parties. The documentation required for such a showing may include such items as a copy of a Tribunal Award, a copy of a signed settlement agreement, or copies of cover pages of recent filings in pending Tribunal cases.

[47 FR 12339, Mar. 23, 1982, as amended at 56 FR 6546, Feb. 15, 1991]

§ 535.569 Licensed letter of credit transactions; forwarding of documents.

When payment of a letter of credit issued, advised, or confirmed by a bank subject to the jurisdiction of the

United States is authorized by either general or specific license, the forwarding of the letter of credit documents to the account party is authorized.

[45 FR 1877, Jan. 9, 1980]

§ 535.576 Payment of non-dollar letters of credit to Iran.

Notwithstanding the prohibitions of §§ 535.201 and 535.206(a)(4), payment of existing non-dollar letters of credit in favor of Iranian entities or any person in Iran by any foreign branch or subsidiary of a U.S. firm is authorized, provided that the credit was opened prior to the respective effective date.

[45 FR 29288, May 2, 1980]

§ 535.579 Authorization of new transactions concerning certain Iranian property.

(a) Transactions involving property in which Iran or an Iranian entity has an interest are authorized where:

(1) The property comes within the jurisdiction of the United States or into the control or possession of any person subject to the jurisdiction of the United States after January 19, 1981, or

(2) The interest in the property of Iran or an Iranian entity (e.g. exports consigned to Iran or an Iranian entity) arises after January 19, 1981.

(b) Transactions involving standby letters of credit, performance or payment bonds and similar obligations, entered into prior to January 20, 1981, described in § 535.568 remain subject to the prohibitions and procedures contained in §§ 535.201 and 535.568.

(c) Property not blocked under § 535.201 as of January 19, 1981, in which the Government of Iran or an Iranian entity has an interest, which after that date is or becomes subject to the jurisdiction of the United States or comes within the control or possession of a person subject to the jurisdiction of the United States for the express purpose of settling claims against Iran or Iranian entities, is excluded from any authorization in this part for any attachment, injunction or other order of similar or analogous effect and any such attachment, injunction or order is prohibited by §§ 535.201 and 535.203.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14336, Feb. 26, 1981]

§ 535.580 Necessary living expenses of relatives of the former Shah of Iran.

The transfer, payment or withdrawal of property described in § 535.217 is authorized to the extent necessary to pay living expenses of any individual listed in that section. Living expenses for this purpose shall include food, housing, transportation, security and other personal expenses.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12211, 45 FR 26685; E.O. 12284, 46 FR 7929)

[46 FR 14330, Feb. 26, 1981]

Subpart F—Reports

§ 535.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45107, Aug. 25, 1997]

Subpart G—Penalties

§ 535.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 535.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater

of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104–132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

[44 FR 65956, Nov. 15, 1979, as amended at 61 FR 43461, Aug. 23, 1996; 61 FR 54938, Oct. 23, 1996; 62 FR 45107, Aug. 25, 1997; 71 FR 29252, May 22, 2006; 73 FR 32651, June 10, 2008]

§ 535.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control (hereinafter ''Director'') has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall:

(i) Describe the violation.

(ii) Specify the laws and regulations allegedly violated.

(iii) State the amount of the proposed monetary penalty.

(2) *Right to make presentations.* The prepenalty notice also shall inform the person of his right to make a written presentation within thirty (30) days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

[53 FR 7356, Mar. 8, 1988]

§ 535.703 Presentation responding to prepenalty notice.

(a) *Time within which to respond.* The named person shall have 30 days from the date of mailing of the prepenalty notice to make a written presentation to the Director.

(b) *Form and contents of written presentation.* The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the

prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

[53 FR 7356, Mar. 8, 1988]

§ 535.704 Penalty notice.

(a) *No violation*. If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation*. If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was a violation by the person named in the prepenalty notice, he promptly shall issue a written notice of the imposition of the monetary penalty to that person.

[53 FR 7356, Mar. 8, 1988]

§ 535.705 Administrative collection; referral to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

[70 FR 15762, Mar. 29, 2005]

Subpart H—Procedures

§ 535.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 45107, Aug. 25, 1997, as amended at 68 FR 53657, Sept. 11, 2003]

Subpart I—Miscellaneous Provisions

§ 535.901 Dollar accounts at banks abroad.

Any domestic bank is hereby authorized to effect withdrawals or other transfers from any account held in the name of a non-Iranian bank located in a foreign country, provided such non-Iranian foreign bank is not a person subject to the jurisdiction of the United States.

§ 535.902 Set-offs by U.S. owned or controlled firms abroad.

(a) Branches and subsidiaries in foreign countries of persons subject to the jurisdiction of the United States are licensed to set-off their claims against Iran or Iranian entities by debit to blocked accounts held by them for Iran or Iranian entities.

(b) The general license in paragraph (a) of this section is revoked as of January 19, 1981.

(c) For purposes of this section, set-offs include combinations of accounts and any similar actions.

(Secs. 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; E.O. 12276, 46 FR 7913; E.O. 12279, 46 FR 7919; E.O. 12280, 46 FR 7921; E.O. 12281, 46 FR 7923; E.O. 12282, 46 FR 7925; E.O. 12283, 46 FR 7927, and E.O. 12294, 46 FR 14111)

[46 FR 14337, Feb. 26, 1981]

§ 535.904 Payment by Iranian entities of obligations to persons within the United States.

The transfer of funds after the effective date by, through or to any U.S. banking institution or other person within the United States solely for purposes of payment of obligations by Iranian entities owed to persons within the United States is authorized: *Provided*, That there is no debit to a blocked account. Property is not blocked by virtue of being transferred or received pursuant to this section.

[44 FR 66591, Nov. 20, 1979]

§ 535.905 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45107, Aug. 25, 1997]

PART 536—NARCOTICS TRAFFICKING SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12978, 60 FR 54579, 3 CFR, 1995 Comp., p. 415; E.O. 13286, 68 FR 10619, 3 CFR, 2003 Comp., p. 166.

SOURCE: 62 FR 9960, Mar. 5, 1997, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 536.100 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53657, Sept. 11, 2003]

§ 536.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

[62 FR 9960, Mar. 5, 1997, as amended at 62 FR 45107, Aug. 25, 1997]

Subpart B—Prohibitions

§ 536.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, no property or interests in property of a specially designated narcotics trafficker that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

[62 FR 9960, Mar. 5, 1997, as amended at 62 FR 45107, Aug. 25, 1997]

§ 536.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date, which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property held in the name of a specially designated narcotics trafficker or in which a specially designated narcotics trafficker has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property held in the name of a specially designated narcotics trafficker or in which a specially designated narcotics trafficker has an interest, or has had an interest since such date, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d)(3): The filing of a report in accordance with the provisions of this paragraph (d)(3) shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property which, on or since the effective date, was held in the name of a specially designated narcotics trafficker or in which there existed an interest of a specially designated narcotics trafficker.

§ 536.203 Holding of certain types of blocked property in interest-bearing accounts.

(a)(1) Any person, including a U.S. financial institution, currently holding property subject to § 536.201 which, as of the effective date or the date of receipt if subsequent to the effective date, is not being held in an interest-bearing account, or otherwise invested in a manner authorized by the Office of Foreign Assets Control (*e.g.*, § 536.504), shall transfer such property to, or hold such property or cause such property to be held in, an interest-bearing account or interest-bearing status in a U.S. financial institution as of the effective date or the date of receipt if subsequent to the effective date of this section, unless otherwise authorized or directed by the Office of Foreign Assets Control.

(2) The requirement set forth in paragraph (a)(1) of this section shall apply to currency, bank deposits, accounts, obligations, and any other financial or economic resources or assets, and any proceeds resulting from the sale of tangible or intangible property. If interest is credited to an account separate from that in which the interest-bearing asset is held, the name of the account party on both accounts must be the same and must clearly indicate the specially designated narcotics trafficker having an interest in the accounts. If the account is held in the name of a specially designated narcotics trafficker, the name of the account to which interest is credited must be the same.

(b) For purposes of this section, the term *interest-bearing account* means a blocked account in a U.S. financial institution earning interest at rates that are commercially reasonable for the amount of funds in the account. Except as otherwise authorized, the funds may not be invested or held in instruments the maturity of which exceeds 90 days.

(c) This section does not apply to blocked tangible property, such as chattels, nor does it create an affirmative obligation on the part of the holder of such blocked tangible property to sell or liquidate the property and put the proceeds in a blocked account. However, the Office of Foreign Assets Control may issue licenses permitting or directing sales of tangible property in appropriate cases.

§ 536.204 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

§ 536.205 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials as defined in § 536.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services by a U.S. person. Such prohibited transactions include, without limitation, payment of advances for informational materials not yet created and completed, provision of services to market, produce or coproduce, create or assist in the creation of information and informational materials, and payment of royalties to a specially designated narcotics trafficker with respect to income received for enhancements or alterations made by U.S. persons to information or informational materials imported from a specially designated narcotics trafficker.

(3) This section does not authorize transactions incident to the exportation of technology that is not informational material as defined in § 536.306(b)(1) or incident to the exportation of goods for use in the transmission of any information.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including non-scheduled air, sea, or land voyages. Any transactions entered into by a specially designated narcotics trafficker while traveling in the United States that are outside the scope of those set forth in this paragraph are in violation of § 536.201.

Subpart C—General Definitions

§ 536.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 536.201 held in the name of a specially designated narcotics trafficker or in which a specially designated narcotics trafficker has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 536.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EDT, October 22, 1995, or, in the case of specially designated narcotics traffickers designated after that date, the earlier of

the date on which a person receives actual or constructive notice of such designation.

§ 536.303 Entity.

The term *entity* means a partnership, association, corporation, or other organization, group or subgroup.

§ 536.304 Foreign person.

The term *foreign person* means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States), or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state.

§ 536.305 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 536.306 Information and informational materials.

(a) For purposes of this part, the term *information and informational materials* means:

(1) Publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds, and other information and informational articles.

(2) To be considered informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The terms *information* and *informational materials* with respect to U.S. exports do not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (the ''EAA''), or section 6 of the EAA to the extent that such controls promote nonproliferation or antiterrorism policies of the United States, including *software* as defined in 15 CFR part 772 that is not *publicly available* (see 15 CFR parts 734 and 772); or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 536.307 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 536.308 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 536.309 Person.

The term *person* means an individual or entity.

§ 536.310 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 536.311 Narcotics trafficking.

The term *narcotics trafficking* means any activity undertaken illicitly to cultivate, produce, manufacture, distribute, sell, finance or transport, or

otherwise assist, abet, conspire, or collude with others in illicit activities relating to narcotic drugs, including, but not limited to, cocaine.

§ 536.312 Specially designated narcotics trafficker.

The term *specially designated narcotics trafficker* means:

(a) Persons listed in the annex to Executive Order 12978 (3 CFR, 1995 Comp., p.415);

(b) Foreign persons designated by the Secretary of Treasury, in consultation with the Attorney General and the Secretary of State, because they are found:

(1) To play a significant role in international narcotics trafficking centered in Colombia; or

(2) Materially to assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of specially designated narcotics traffickers; and

(c) Persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, any other specially designated narcotics trafficker.

NOTE TO § 536.312: The names of persons determined to fall within this definition, whose property and interests in property therefore are blocked pursuant to this part, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[SDNT].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this part.

[62 FR 9960, Mar. 5, 1997, as amended at 62 FR 45107, Aug. 25, 1997; 76 FR 38536, June 30, 2011]

§ 536.313 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 536.314 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 536.315 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 536.316 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen or national; permanent resident alien; entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches); or any person in the United States.

§ 536.317 U.S. financial institution.

The term *U.S. financial institution* means any U.S. person (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 536.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 536.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 536.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a specially designated narcotics trafficker, such property shall no longer be deemed to be property in which a specially designated narcotics trafficker has or has had an interest, or which is held in the name of a specially designated narcotics trafficker, unless there exists in the property another interest of a specially designated narcotics trafficker, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a specially designated narcotics trafficker, such property shall be deemed to be property in which there exists an interest of the specially designated narcotics trafficker.

§ 536.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 536.201 if effected after the effective date.

§ 536.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, specially designated narcotics trafficker or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license.

§ 536.406 Provision of services.

(a) Except as provided in § 536.205, the prohibitions contained in § 536.201 apply to services performed by U.S. persons, wherever located:

(1) On behalf of, or for the benefit of, a specially designated narcotics trafficker; or

(2) With respect to property interests of a specially designated narcotics trafficker.

(b) *Example:* U.S. persons may not, except as authorized by the Office of Foreign Assets Control by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, educational, or other services to a specially designated narcotics trafficker. See § 536.506, with respect to certain authorized legal services.

§ 536.407 Offshore transactions.

The prohibitions contained in § 536.201 apply to transactions by U.S. persons in locations outside the United States with respect to property which the U.S. person knows, or has reason to know, is held in the name of a specially designated narcotics trafficker, or in which the U.S. person knows, or has reason to know, a specially designated narcotics trafficker has or has had an interest since the effective date.

§ 536.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.

(a) A change or alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker shall not be the basis for removal of that entity from the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List unless, upon investigation by the Office of Foreign Assets Control and submission of evidence by the entity, it is demonstrated to the satisfaction of the Director of the Office of Foreign Assets Control that the transfer to a bona fide purchaser at arm's length is legitimate and that the entity no longer meets the criteria for designation under § 536.312. Evidence submitted must conclusively demonstrate that all ties with other specially designated narcotics traffickers have been completely severed, and may include, but is not limited to, articles of incorporation; identification of new directors, officers, shareholders, and sources of capital; and contracts evidencing the sale of the entity to its new owners.

(b) Any continuing substantial financial obligations on the part of the new owners to any specially designated narcotics traffickers, including long-term payment plans, leases, or rents, will be considered as evidence of continuing control of the entity by the specially designated narcotics trafficker. Purchase of a designated entity without ongoing substantial financial obligations to a specially designated narcotics trafficker may nonetheless be a basis for subsequent designation of the purchaser, if the transaction is determined materially to assist in or provide financial support for the narcotics trafficking activities of specially designated narcotics traffickers for purposes of § 536.312(b)(2). For example, any acquisition transaction resulting in a direct cash transfer to or other enrichment of a specially designated narcotics trafficker could lead to designation of the purchaser. Mere change in name of an entity will not be considered as constituting a change of the entity's status.

[62 FR 9960, Mar. 5, 1997, as amended at 76 FR 38536, June 30, 2011]

§ 536.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 536.201 on dealing in property in which a specially designated narcotics trafficker has an interest prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person designated under this part.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 536.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 536.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 536.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

NOTE TO § 536.503: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers.

[62 FR 9960, Mar. 5, 1997, as amended at 62 FR 45107, Aug. 25, 1997]

§ 536.504 Investment and reinvestment of certain funds.

(a) U.S. financial institutions are hereby authorized and directed to invest and reinvest assets held in blocked accounts in the name of a specially designated narcotics trafficker, subject to the following conditions:

(1) The assets representing such investments and reinvestments are credited to a blocked account or sub-account which is in the name of the specially designated narcotics trafficker and which is located in the United States or within the possession or control of a U.S. person; and

(2) The proceeds of such investments and reinvestments are not credited to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such funds or securities were held; and

(3) No immediate financial or economic benefit or access accrues (e.g., through pledging or other use) to the specially designated narcotics trafficker.

(b)(1) U.S. persons seeking to avail themselves of this authorization must register with the Office of Foreign Assets Control, Blocked Assets Division, before undertaking transactions authorized under this section.

(2) Transactions conducted pursuant to this section must be reported to the Office of Foreign Assets Control, Blocked Assets Division, in a report filed no later than 10 business days following the last business day of the month in which the transactions occurred.

§ 536.505 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement

for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, check books, and other similar items.

§ 536.506 Provision of certain legal services authorized.

(a) The provision to or on behalf of a specially designated narcotics trafficker of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment therefor must be specifically licensed.

(b) Specific licenses may be issued, on a case-by-case basis, authorizing receipt of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to a specially designated narcotics trafficker:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions that would violate any of the prohibitions contained in this part;

(2) Representation of a specially designated narcotics trafficker when named as a defendant in or otherwise made a party to domestic United States legal, arbitration, or administrative proceedings;

(3) Initiation of domestic United States legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of a specially designated narcotics trafficker;

(4) Representation before any federal or state agency with respect to the imposition, administration, or enforcement of United States sanctions against significant narcotics traffickers centered in Colombia or specially designated narcotics traffickers; and

(5) Provision of legal services in any other context in which prevailing United States law requires access to legal counsel at public expense.

(c) The provision of any other legal services to a specially designated narcotics trafficker, not otherwise authorized in or exempted by this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property of a specially designated narcotics trafficker or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of a specially designated narcotics trafficker is prohibited unless specifically licensed in accordance with § 536.202(e).

§ 536.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services to a specially designated narcotics trafficker located in the United States is authorized, provided that any payment for such services requires prior authorization by specific license.

Subpart F—Reports

§ 536.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45107, Aug. 25, 1997]

Subpart G—Penalties

§ 536.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705—the ''Act''), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 536.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[62 FR 9960, Mar. 5, 1997, as amended at 71 FR 29252, May 22, 2006; 73 FR 32652, June 10, 2008]

§ 536.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice may be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to respond to the notice within 30 days of its mailing as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 536.703 Response to prepenalty notice.

(a) *Time within which to respond.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to respond in writing to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written response.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should respond to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in

the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30–day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 536.704 Penalty notice.

(a) *No violation*. If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation*. If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition of the monetary penalty or other available disposition on the respondent.

§ 536.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 536.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 45107, Aug. 25, 1997, as amended at 68 FR 53657, Sept. 11, 2003]

§ 536.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 12978 or any further executive orders relating to the national emergency declared in Executive Order 12978 may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[62 FR 9960, Mar. 5, 1997. Redesignated at 62 FR 45108, Aug. 25, 1997]

Subpart I—Paperwork Reduction Act

§ 536.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45108, Aug. 25, 1997]

PART 537—BURMESE SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Sec. 570, Pub. L. 104–208, 110 Stat. 3009; Pub. L. 108–61, 117 Stat. 864; Pub. L. 110–96, 121 Stat. 1011; E.O. 13047, 62 FR 28301, 3 CFR, 1997 Comp., p. 202; E.O. 13310, 68 FR 44853, 3 CFR, 2003 Comp., p. 241.

SOURCE: 70 FR 48241, Aug. 16, 2005, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 537.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 537.201 Prohibited transactions involving certain blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to 12:01 a.m. eastern daylight time, July 29, 2003, all property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13310 of July 28, 2003 (68 FR 44853, July 30, 2003); and

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State,

(i) To be a senior official of the Government of Burma, the State Peace and Development Council of Burma, the Union Solidarity and Development Association of Burma, or any successor entity to any of the foregoing, or

(ii) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property or interests in property are blocked pursuant to this section.

NOTE 1 TO PARAGRAPH (a) OF § 537.201: The names of persons whose property and interests in property are blocked pursuant to paragraph (a) of this section are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[BURMA].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter.

NOTE 2 TO PARAGRAPH (a) OF § 537.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–BURMA].''

NOTE 3 TO PARAGRAPH (a) OF § 537.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property or interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to 12:01 a.m. eastern daylight time, July 29, 2003) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[70 FR 48241, Aug. 16, 2005, as amended at 76 FR 38536, June 30, 2011]

§ 537.202 Prohibited exportation or reexportation of financial services to Burma.

Except as authorized, and notwithstanding any contracts entered into or any license or permit granted prior to July 29, 2003, the exportation or reexportation of financial services to Burma, directly or indirectly, from the United States or by a U.S. person, wherever located, is prohibited.

§ 537.203 Prohibited importation of products of Burma.

Except as otherwise authorized, and notwithstanding any contracts entered into or any license or permit granted prior to August 28, 2003, the importation into the United States of any article that is a product of Burma is prohibited.

NOTE TO § 537.203: Section 3(b) of the Burmese Freedom and Democracy Act of 2003 provides that the prohibition contained in this section may be waived by the President for any or all articles that are a product of Burma if the President determines and notifies specified committees of Congress that to do so is in the national interest of the United States. Therefore, the Office of Foreign Assets Control will not issue licenses authorizing transactions prohibited under this section in the absence of such a waiver process. The President's waiver functions and authorities under section 3(b) have been delegated to the Secretary of State.

§ 537.204 Prohibited new investment in Burma.

Except as otherwise authorized, new investment, as defined in § 537.311, in Burma by U.S. persons is prohibited.

NOTE TO § 537.204: Section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (*Public Law 104–208*) provides that the prohibition contained in this section may be waived, temporarily or permanently, by the President if he determines and certifies to Congress that the application of this sanction would be contrary to the national interests of the United States. Licenses are thus not available for purposes of authorizing transactions prohibited under this section in the absence of such a waiver determination and certification to Congress.

§ 537.205 Prohibited facilitation.

(a) Except as otherwise authorized, U.S. persons, wherever located, are prohibited from approving, financing, facilitating, or guaranteeing a transaction by a person who is a foreign person where the transaction would be prohibited if performed by a U.S. person or within the United States.

(b) With respect to new investment in Burma, the prohibition against facilitation does not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology unless such contract includes any of the activities described in § 537.311(a)(2), (3) or (4).

NOTE TO § 537.205: This section's prohibitions include, but are not limited to, the approval, financing, facilitation, or guarantee of transactions prohibited by either section 570 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Pub. L. 104–208), or the Burmese Freedom and Democracy Act of 2003 (Pub. L. 108–61). The prohibitions of these two statutes may be waived by the President upon the making of certain determinations and notification to Congress. Therefore, the Office of Foreign Assets Control will not issue licenses authorizing the approval, financing, facilitation, or guarantee of the transactions prohibited by these statutes in the absence of such waivers.

§ 537.206 Evasions; attempts; conspiracies.

(a) Any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this part is prohibited.

NOTE TO § 537.206: See § 537.303 for a definition of the term *effective date*.

§ 537.207 Effect of transfers violating the provisions of this part.

(a) Any transfer after July 28, 2003, that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 537.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before July 29, 2003 shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 537.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706), this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization

had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 537.207: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Except to the extent otherwise provided by law or unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, at or since 12:01 a.m. eastern daylight time, July 29, 2003, there existed an interest of a person whose property or interests in property are blocked pursuant to § 537.201(a).

§ 537.208 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 537.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 537.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 537.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 537.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property or interests in property are blocked pursuant to

§ 537.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 537.209 Expenses of maintaining blocked property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 a.m. eastern daylight time, July 29, 2003, all expenses incident to the maintenance of physical property blocked pursuant to § 537.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 537.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 537.210 Exempt transactions.

(a) *Personal communications*. The prohibitions contained in this part, other than those set forth in § 537.203, do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials*. (1) The prohibitions contained in this part, other than those set forth in § 537.203, do not apply to the importation from any country, or the exportation to any country, whether commercial or otherwise, of information or informational materials, regardless of format or medium of transmission.

NOTE TO PARAGRAPH (b)(1) OF § 537.210: Section 537.203 prohibits the importation of products of Burma into the United States pursuant to the Burmese Freedom and Democracy Act of 2003. Therefore, the importation into the United States of information or informational materials that are products of Burma is not exempt from the prohibition set forth in § 537.203. However, such transactions are authorized by the general license set forth in § 537.515.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property or interests in property are blocked pursuant to § 537.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt from regulation or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to § 537.201(a) are prohibited.

(c) *Pre-1997 contracts*. The prohibitions contained in this part, other than those set forth in § 537.203, do not apply to any activity undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that was entered into by a U.S. person with the Government of Burma or a non-governmental entity in Burma prior to 12:01 a.m. eastern daylight time on May 21, 1997.

(d) *Travel exemption*. The prohibitions contained in this part, other than the prohibition against the importation into the United States of products of

Burma set forth in § 537.203, do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage (other than importation of baggage that comes within the prohibition set forth in § 537.203) for personal use, maintenance within any country, including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel, including nonscheduled air, sea, or land voyages.

NOTE TO § 537.211: See the authorizations relating to the importation of certain personal and household effects set forth in §§ 537.511 and 537.514.

Subpart C—General Definitions

§ 537.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 537.201 held in the name of a person whose property or interests in property are blocked pursuant to § 537.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 537.302 Economic development of resources located in Burma.

(a) The term *economic development of resources located in Burma* means activities pursuant to a contract the subject of which includes responsibility for the development or exploitation of resources located in Burma, including making or attempting to make those resources accessible or available for exploitation or economic use. The term shall not be construed to include not-for-profit educational, health, or other humanitarian programs or activities.

(b) *Examples:* The economic development of resources located in Burma includes a contract conferring rights to explore for, develop, extract, or refine petroleum, natural gas, or minerals in the ground in Burma; or a contract to assume control of a mining operation in Burma, acquire a forest or agricultural area for commercial use of the timber or other crops, or acquire land for the construction and operation of a hotel or factory.

§ 537.303 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to prohibited transfers or other dealings in blocked property or interests in property of persons listed in the Annex to Executive Order 13310 of July 28, 2003 (68 FR 44853, July 30, 2003), 12:01 a.m. eastern daylight time, July 29, 2003;

(b) With respect to prohibited transfers or other dealings in blocked property or interests in property of persons designated pursuant to § 537.201(a)(2), the earlier of the date on which either actual notice or constructive notice is received of such person's designation;

(c) With respect to the exportation or reexportation of financial services to Burma prohibited by § 537.202, 12:01 a.m. eastern daylight time, July 29, 2003;

(d) With respect to the importation into the United States of products of Burma prohibited by § 537.203, 12:01 a.m. eastern daylight time, August 28, 2003;

(e) With respect to new investment prohibited by § 537.204, 12:01 a.m. eastern daylight time, May 21, 1997.

§ 537.304 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 537.305 Exportation or reexportation of financial services to Burma.

The term *exportation or reexportation of financial services to Burma* means:

(a) The transfer of funds, directly or indirectly, from the United States or by a U.S. person, wherever located, to Burma; or

(b) The provision, directly or indirectly, to persons in Burma of insurance services, investment or brokerage services (including but not limited to brokering or trading services regarding securities, debt, commodities, options or foreign exchange), banking services, money remittance services; loans,

guarantees, letters of credit or other extensions of credit; or the service of selling or redeeming traveler's checks, money orders and stored value.

NOTE TO § 537.305: This defined term has not appeared in other parts of 31 CFR chapter V and is specifically tailored to further the goals of the sanctions prohibitions set forth in this part.

§ 537.306 Foreign person.

The term *foreign person* means any person that is not a U.S. person.

§ 537.307 Government of Burma.

The term *Government of Burma* means the Government of Burma (sometimes referred to as Myanmar), its agencies, instrumentalities and controlled entities, and the Central Bank of Burma.

§ 537.308 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a) OF § 537.307: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 537.309 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 537.310 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 537.309: See § 501.801 of this chapter on licensing procedures.

§ 537.311 New investment.

(a) The term *new investment* means any of the following activities if such activity is undertaken pursuant to an agreement, or pursuant to the exercise of rights under such an agreement, that is entered into with the Government of Burma or a nongovernmental entity in Burma on or after May 21, 1997:

(1) The entry into a contract that includes the economic development of resources located in Burma, as defined in § 537.302;

(2) The entry into a contract providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma;

(3) The purchase of a share of ownership, including an equity interest, in the economic development of resources located in Burma; or

(4) The entry into a contract providing for the participation in royalties, earnings, or profits in the economic development of resources located in Burma, without regard to the form of the participation.

(b) The term *new investment* shall not include the entry into, performance of, or financing of a contract to sell or purchase goods, services, or technology unless such contract includes any of the activities described in paragraph (a)(2), (a)(3) or (a)(4) of this section.

§ 537.312 Nongovernmental entity in Burma.

The term *nongovernmental entity in Burma* means a partnership, association, trust, joint venture, corporation, or other organization, wherever organized, that is located in Burma or exists for the exclusive or predominant purpose of engaging in the economic development of resources located in Burma or derives its income predominantly from such economic development, and is not the Government of Burma.

§ 537.313 Person.

The term *person* means an individual or entity.

§ 537.314 Product of Burma.

The term *product of Burma* means goods of Burmese origin pursuant to rules of origin of U.S. Customs and Border Protection.

§ 537.315 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 537.316 Resources located in Burma.

The term *resources located in Burma* means any resources, including natural, agricultural, commercial, financial, industrial and human resources, located within the territory of Burma, including the territorial sea, or located within the exclusive economic zone or continental shelf of Burma.

§ 537.317 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 537.318 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 537.319 U.S. depository institution.

The term *U.S. depository institution* means any entity (including its foreign branches) organized under the laws of the United States or of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies and United States bank holding companies) and is subject to regulation by federal or state banking authorities.

§ 537.320 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 537.321 U.S. person.

The term *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 537.322 U.S. registered broker or dealer in securities.

The term *U.S. registered broker or dealer in securities* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that:

(a) Is a ''broker'' or ''dealer'' in securities within the meanings set forth in the Securities Exchange Act of 1934;

(b) Holds or clears customer accounts; and

(c) Is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

§ 537.323 U.S. registered money transmitter.

The term *U.S. registered money transmitter* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that is a money transmitter, as defined in 31 CFR 103.11(uu)(5), and that is registered pursuant to 31 CFR 103.41.

Subpart D—Interpretations

§ 537.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 537.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment,

modification, or revocation had not been made.

§ 537.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 537.201(a), unless there exists in the property another interest that is blocked pursuant to § 537.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 537.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 537.404 Transactions incidental to a licensed transaction authorized.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) A transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 537.201(a), except as provided in paragraph (b) of this section; or

(2) A transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property, except as provided in paragraph (b) of this section.

(b) Transactions licensed pursuant to subpart E of this part and those transactions falling within the scope of paragraph (a) of this section are authorized even though they may involve transfers to or from an account of a financial institution whose property or interests in property are blocked pursuant to § 537.201(a), provided that the account is not on the books of a financial institution that is a U.S. person.

§ 537.405 Provision of services.

(a) Except as provided in § 537.210, the prohibitions on transactions involving blocked property contained in § 537.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property or interests in property are blocked pursuant to § 537.201(a); or

(2) With respect to property interests subject to § 537.201.

(b) *Example:* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property or interests in property are blocked pursuant to § 537.201(a).

NOTE TO § 537.405: See §§ 537.507 and 537.508 on licensing policy with regard to the provision of certain legal or medical services, respectively.

§ 537.406 Offshore transactions.

The prohibitions in § 537.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property that the U.S. person knows, or has reason to know, is held in the name of a person whose property or interests in property are blocked pursuant to § 537.201(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are blocked pursuant to § 537.201(a) has or has had an interest since the effective date.

§ 537.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 537.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 537.408 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 537.201 if effected after the effective date.

§ 537.409 Activities under pre-May 21, 1997 agreements.

Section 537.210(c) exempts from all prohibitions contained in this part, except those contained in § 537.203, activities undertaken by a U.S. person pursuant to an agreement entered into prior to May 21, 1997, between a U.S. person and the Government of Burma or a nongovernmental entity in Burma. A U.S. person who is a party to a pre-May 21, 1997 agreement falling outside the scope of § 537.203 may enter into subsequent agreements with foreign persons where such agreements are pursuant to, or in exercise of rights under, the pre-May 21, 1997 agreement and are specifically contemplated by the pre-May 21, 1997 agreement. The exercise of rights under a pre-May 21, 1997 agreement falling outside the scope of § 537.203 may include the exercise of options to extend the contract, depending on such factors as the degree of specificity with which the option to extend is described in the pre-May 21, 1997 agreement, and the degree to which the party wishing to renew can enforce its decision to exercise the option.

§ 537.410 Contracts and subcontracts regarding economic development of resources in Burma.

Section 537.204 prohibits new investment in Burma by U.S. persons. Section 537.311 defines the term *new investment* to include certain contracts providing for the general supervision and guarantee of another person's performance of a contract that includes the economic development of resources located in Burma. With respect to entry into such contracts, only the following will be considered new investment in Burma:

(a) Entry into contracts for supervision and guarantee at the highest level of project management, such as entry into a contract with a development project's sponsor or owner to become a prime contractor or general manager for a development project;

(b) Entry into subcontracts where the functional scope of the subcontractor's obligations is substantially similar to that of a prime contractor's or general manager's obligations for a development project; or

(c) Entry into a contract or subcontract where the consideration includes a share of ownership in, or participation in the royalties, earnings or profits of, the economic development of resources located in Burma.

§ 537.411 Purchase of shares in economic development projects in Burma.

The purchase, directly or indirectly, from the Government of Burma or a nongovernmental entity in Burma of shares of ownership, including an equity interest, in the economic development of resources located in Burma is prohibited unless the purchase is pursuant to an agreement entered into prior to May 21, 1997.

§ 537.412 Investments in entities involved in economic development projects in Burma.

(a) The purchase of shares in a third-country company that is engaged in the economic development of resources located in Burma is prohibited by § 537.204 where the company's profits are predominantly derived from the company's economic development of resources located in Burma.

(b) If a U.S. person holds shares in an entity which subsequently engages predominantly in the economic development of resources located in Burma or subsequently derives its income exclusively or predominantly from such economic development, the U.S. person is not required to relinquish its shares, but may not purchase additional shares. Divestiture of the shares in such an entity to a foreign person—otherwise constituting the facilitation of that foreign person's investment in Burma—is authorized under general license pursuant to § 537.524.

§ 537.413 Sale of interest in economic development projects in Burma.

The sale to a foreign person of a U.S. person's equity or income interest in a

development project in Burma constitutes facilitation of that foreign person's investment in Burma, unless pursuant to a pre-May 21, 1997 agreement. Such a sale, however, is authorized by general license under § 537.524.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 537.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart D, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 537.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited by this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 537.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 537.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to § 537.201(a) has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

NOTE TO § 537.504: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 537.208 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 537.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charge* shall include

charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 537.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 537.208, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 537.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property or interests in property are blocked pursuant to § 537.201(a).

§ 537.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property or interests in property are blocked pursuant to § 537.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 537.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 537.201(a) is prohibited except to the extent otherwise provided by law or unless specifically licensed in accordance with § 537.207(e).

§ 537.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 537.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 537.509 Official activities of the U.S. Government and certain international organizations.

All transactions and activities otherwise prohibited by this part that are for the conduct of the official business of the United States Government, the United Nations, the World Bank, or the

International Monetary Fund are authorized. This section does not authorize any importation into the United States of any article that is a product of Burma.

§ 537.510 Third-country diplomatic and consular funds transfers.

All transactions that are related to funds transfers otherwise prohibited by §§ 537.201 and 537.202 and that are for the conduct of diplomatic or consular activities of third-country diplomatic or consular missions in Burma are authorized.

§ 537.511 Importation of accompanied baggage and household effects of U.S. diplomatic and consular officials.

U.S. diplomatic or consular officials entering the United States directly or indirectly from Burma are authorized to engage in all transactions incident to the importation into the United States of products of Burma as accompanied baggage or household effects, provided that such products are not intended for any other person or for sale and are not otherwise prohibited from importation under applicable United States laws.

§ 537.512 Importation for official or personal use by foreign diplomatic and consular officials.

All transactions incident to the importation into the United States of any article that is a product of Burma that is destined for official or personal use by personnel employed by a diplomatic mission or consulate in the United States are authorized, provided that such article is not intended for any other person or for sale and is not otherwise prohibited from importation under applicable United States laws.

§ 537.513 Importation and exportation of diplomatic pouches.

All transactions in connection with the importation into the United States or the exportation from the United States of diplomatic pouches and their contents are authorized.

§ 537.514 Importation of certain personal and household effects.

(a) A U.S. person who maintained a residence in Burma prior to July 28, 2003, is authorized to import into the United States personal and household effects that are products of Burma, including accompanied baggage and articles for family use, provided the imported items were purchased by the U.S. person prior to July 28, 2003, have been actually used abroad by the U.S. person or by other family members arriving from the same foreign household, are not intended for any other person or for sale, and are not otherwise prohibited from importation.

(b) A national of Burma who arrives in the United States after July 28, 2003, is authorized to import into the United States personal and household effects that are products of Burma, including accompanied baggage and articles for family use, provided the imported items are ordinarily incident to the Burmese national's arrival in the United States, have been actually used abroad by the Burmese national or by other family members arriving from the same foreign household, are not intended for any other person or for sale, and are not otherwise prohibited from importation.

§ 537.515 Importation of information or informational materials.

The importation of information or informational materials that are products of Burma and all transactions directly incident to such importation are authorized.

§ 537.516 Importation of Burmese-origin articles and incidental transactions.

(a) The importation of an article that is a product of Burma, otherwise prohibited by § 537.203, is authorized, provided the article was purchased prior to July 28, 2003, shipped from Burma to the United States prior to August 28, 2003, and is not property in which a person whose property or interests in property are blocked pursuant to § 537.201(a) has an interest.

(b) All transactions otherwise prohibited by §§ 537.201 and 537.202 that are directly incident to the importation into the United States of an article that is a product of Burma are authorized, provided that:

(1) The importation is authorized pursuant to paragraph (a) of this section; or

(2) The importation occurred prior to August 28, 2003, and was not from a person whose property or interests in property are blocked pursuant to § 537.201(a).

(c) All transactions otherwise prohibited by §§ 537.201 and 537.202 that are directly incident to the importation into a country other than the United States or Burma of an article that is a product of Burma are authorized, provided that:

(1) The article was purchased prior to July 28, 2003, shipped from Burma prior to August 28, 2003, and is not property in which a person whose property or interests in property are blocked pursuant to § 537.201(a) has an interest; or

(2) The importation occurred prior to August 28, 2003, and was not from a person whose property or interests in property are blocked pursuant to § 537.201(a).

(d) Financing agreements with respect to the importations described in paragraphs (a), (b) and (c) of this section may be performed only according to their terms and may not be extended or renewed.

§ 537.517 Noncommercial, personal remittances.

(a)(1) U.S. depository institutions, U.S. registered brokers or dealers in securities, and U.S. registered money transmitters are authorized to process transfers of funds to or from Burma or for or on behalf of an individual ordinarily resident in Burma in cases in which the transfer involves a noncommercial, personal remittance, provided the following conditions are met:

(i) The transfer is not by, to, or through a person whose property or interests in property are blocked pursuant to § 537.201(a), except as explained in § 537.404 of this part; and

(ii) Total remittances to the territory of Burma in any consecutive 3-month period do not exceed $300 per Burmese household, regardless of the number of individuals comprising the household.

(2) Noncommercial, personal remittances do not include charitable donations to or for the benefit of an entity or funds transfers for use in supporting or operating a business.

NOTE TO PARAGRAPH (a) OF § 537.517: U.S. persons may make charitable donations to nongovernmental organizations in Burma that are authorized to operate pursuant to § 537.523, provided that the donations are made pursuant to § 537.523 and the terms of the authorization.

(b) The transferring institutions identified in paragraph (a) of this section may rely on the originator of a funds transfer with regard to compliance with paragraph (a) of this section, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance with paragraph (a) of this section.

(c) This section does not authorize transactions with respect to property blocked pursuant to § 537.201, except as explained in § 537.404(b) of this part.

§ 537.518 Transactions incident to exportations to Burma.

All transactions otherwise prohibited by §§ 537.201 and 537.202 that are ordinarily incident to an exportation to Burma of goods, technology or services, other than financial services, are authorized, provided the exportation is not to or on behalf of a person whose property or interests in property are blocked pursuant to § 537.201(a). This section does not authorize a financial institution that is a U.S. person to advise or confirm any financing by a person whose property or interests in property are blocked pursuant to § 537.201(a).

§ 537.519 Activities undertaken pursuant to certain pre-May 21, 1997 agreements.

Except as prohibited by § 537.203, U.S. persons are authorized to engage in any activity, or any transaction incident to an activity, undertaken pursuant to an agreement entered into prior to 12:01 a.m., eastern daylight time, on May 21, 1997, or pursuant to the exercise of rights under such an agreement, provided that the parties to the agreement include:

(a) The Government of Burma or a nongovernmental entity in Burma, and

(b) An entity organized under the laws of a foreign state.

NOTE TO § 537.519: The authorization contained in § 537.519 pertains to pre-May 21, 1997 contracts between foreign business entities and either the Government of Burma or a nongovernmental entity in Burma. Pre-May 21, 1997 contracts between U.S. persons and the Government of Burma or a nongovernmental entity in Burma are exempt from all prohibitions contained in this part except those contained in § 537.203. See § 537.210 (exemptions).

§ 537.520 Payments for overflights of Burmese airspace.

Payments to Burma of charges for services rendered by the Government of Burma in connection with the overflight of Burma or emergency landing in Burma of aircraft owned or operated by a U.S. person or registered in the United States are authorized.

§ 537.521 Operation of accounts.

The operation of an account in a U.S. financial institution for an individual ordinarily resident in Burma, other than an individual whose property or interests in property are blocked pursuant to § 537.201(a), is authorized, provided that each transaction processed through the account:

(a) Is of a personal nature and not for use in supporting or operating a business;

(b) Does not involve a transfer directly or indirectly to Burma or for the benefit of individuals ordinarily resident in Burma unless authorized by § 537.517; and

(c) Is not otherwise prohibited by this part.

§ 537.522 Certain transactions related to patents, trademarks and copyrights authorized.

(a) All of the following transactions in connection with patent, trademark, copyright or other intellectual property protection in the United States or Burma, except for those transactions prohibited by § 537.203, are authorized:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright or other form of intellectual property protection;

(2) The receipt of a patent, trademark, copyright or other form of intellectual property protection;

(3) The renewal or maintenance of a patent, trademark, copyright or other form of intellectual property protection; and

(4) The filing and prosecution of opposition or infringement proceedings with respect to a patent, trademark, copyright or other form of intellectual property protection, or the entrance of a defense to any such proceedings.

(b) This section authorizes the payment of fees currently due to the United States Government, or of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States, in connection with the transactions authorized in paragraph (a) of this section. Payment effected pursuant to the terms of this paragraph may not be made from a blocked account.

(c) This section authorizes the payment of fees currently due to the Government of Burma, or of the reasonable and customary fees and charges currently due to attorneys or representatives within Burma, in connection with the transactions authorized in paragraph (a) of this section.

(d) Nothing in this section affects obligations under any other provision of law.

§ 537.523 Authorization of nongovernmental organizations to engage in humanitarian or religious activities.

(a) Specific licenses may be issued on a case-by-case basis authorizing nongovernmental organizations to engage in transactions otherwise prohibited by §§ 537.201 and 537.202 that are necessary for their humanitarian or religious activities in Burma. Applications for specific licenses must include:

(1) The organization's name in English, in the language of origin, and any acronym or other names used to identify the organization;

(2) Address and phone number of the organization's headquarters location;

(3) Identification of field offices and partner offices, including addresses and organizational names used;

(4) Identification of key staff, such as directors and senior officers, at the organization's headquarters and partner offices, including the nationality, citizenship, current country of residence, place and date of birth, and current position of each person identified;

(5) Identification of subcontracting organizations, if any, to the extent known or contemplated at the time of the application;

(6) Existing sources of income, such as official grants, private endowments, commercial activities;

(7) Financial institutions that hold deposits on behalf of or extend lines of credit to the organization (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronym or other names used to identify the individuals or organizations);

(8) Independent accounting firms, if employed in the production of the organization's financial statements (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronym or other names used to identify the individuals or organizations);

(9) A detailed description of the organization's humanitarian, environmental or religious activities and projects in countries or geographic areas subject to economic sanctions pursuant to this chapter V, including, if applicable, a summary of all information provided in grant proposals or funding requests made in connection with the proposed activities;

(10) Most recent official registry documents, annual reports, and annual filings with the pertinent government, as applicable; and

(11) Names and addresses of organizations to which the applicant currently provides or proposes to provide funding, services or material support, to the extent known at the time of the application, as applicable.

(b) This section does not authorize transfers from blocked accounts.

NOTE TO § 537.523: Authorization pursuant to this section does not excuse a U.S. person from compliance with other applicable U.S. laws governing the exportation or reexportation of U.S.-origin goods, software, or technology (including technical data). See, e.g., the Export Administration Regulations administered by the U.S. Department of Commerce (15 CFR parts 730–774).

§ 537.524 Divestiture of U.S. person's investments in Burma.

All transactions, except those prohibited by § 537.203, related to the divestiture or transfer to a foreign person of a U.S. person's share of ownership, including an equity interest, in the economic development of resources located in Burma are authorized. U.S. persons participating in such a transaction valued at more than $10,000 are required, within 10 business days after the transaction takes place, to file a report for statistical purposes with the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Avenue NW.–Annex, Washington, DC 20220.

§ 537.525 Transactions related to U.S. citizens residing in Burma.

To the extent otherwise prohibited, U.S. citizens who reside on a permanent basis in Burma are authorized to pay their personal living expenses and engage in other transactions in Burma ordinarily incident to their routine and necessary personal maintenance.

§ 537.526 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions otherwise prohibited by § 537.201 or § 537.202 that are necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, ''written publications''). This section does not apply if the parties to the transactions described in this paragraph include the State Peace and Development Council of Burma or the Union Solidarity and Development Association of Burma; any successor entity to any of the foregoing entities; or any person, other than personnel of academic and research institutions, acting or purporting to act directly or indirectly on behalf of the foregoing entities with respect to the transactions described in this paragraph. Pursuant to this section, transactions incident to the following activities are authorized, provided they do not involve any importations prohibited by

§ 537.203 that are not authorized by another section of this part 537, and further provided that U.S. persons ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written publication in electronic format, provided that, to the extent a license is required under the Export Administration Regulations, 15 CFR parts 730 through 774 (the ''EAR''), the exportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that are not necessary and ordinarily incident to the publishing and marketing of written publications as described paragraph (a) of this section. For example, this section does not authorize U.S. persons to transfer funds to Burma relating to the following:

(1) The provision or receipt of individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) The creation or undertaking of a marketing campaign for any person with respect to any service or product other than a written publication, or the creation or undertaking of a marketing campaign of any kind for the benefit of the State Peace and Development Council of Burma or the Union Solidarity and Development Association of Burma; or

(3) The operation of a publishing house, sales outlet, or other office in Burma.

NOTE TO PARAGRAPH (b): The importation of information or informational materials, as defined in § 537.308, that are products of Burma is authorized by the general license set forth in § 537.515. The exportation to Burma of information or informational materials, as defined in § 537.308, whether commercial or otherwise, regardless of format or medium of transmission, is exempt from the prohibitions and regulations of this part. See § 537.210(b).

(c) This section does not authorize U.S. persons to engage in transactions constituting the exportation or reexportation of financial services to Burma that relate to the services of publishing houses or translators in Burma unless such activity is primarily for the dissemination of written publications in Burma.

(d) This section does not authorize:

(1) The importation into the United States of any article that is a product of Burma.

NOTE TO PARAGRAPH (d)(1): The importation of information or informational materials, as defined in § 537.308, that are products of Burma is authorized by the general license set forth in § 537.515.

(2) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120

through 130 (the ''ITAR''), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) Transactions constituting the exportation or reexportation of financial services from the United States or by U.S. persons to Burma that relate to the exportation of information subject to licensing requirements under the ITAR or exchanges of information that are subject to regulation by other government agencies.

[72 FR 50049, Aug. 30, 2007]

§ 537.527 Importation into the United States of Burmese-origin animals and specimens.

Specific licenses may be issued on a case-by-case basis authorizing the importation into the United States of animals and specimens of Burmese origin, in sample quantities only, for bona fide scientific research and analysis purposes.

[72 FR 34377, June 22, 2007]

Subpart F—Reports

§ 537.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 537.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 537.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) Adjustments to penalty amounts. (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[70 FR 48241, Aug. 16, 2005, as amended at 71 FR 29252, May 22, 2006; 73 FR 32652, June 10, 2008]

§ 537.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 537.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed 60 days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within the Director's discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 537.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at the Director's discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be

postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in typewritten form and signed by the respondent or a representative thereof. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to Respond.* Where OFAC receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control have been codified in the Appendix to the Reporting, Procedures and Penalties Regulations, 31 CFR part 501.

(g) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations

contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 537.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 537.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

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§ 537.801 Procedures.

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§ 537.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13047 of May 20, 1997 (62 FR 28299, May 22, 1997) and Executive Order 13310 of July 28, 2003 (68 FR 44853, July 30, 2003), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 537.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to record keeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 538—SUDANESE SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); 22 U.S.C. 7201–7211; Pub. L. 109–344, 120 Stat. 1869; Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13412, 71 FR 61369, 3 CFR, 2006 Comp., p. 244.

SOURCE: 63 FR 35810, July 1, 1998, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 538.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 538.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no property or interests in property of the Government of Sudan, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, or otherwise dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of Sudan, and held within the possession or control of a U.S. person is prohibited, irrespective of the

fact that at any time (either prior to, on, or subsequent to the effective date) the registered or inscribed owner thereof may have, or appears to have, assigned, transferred, or otherwise disposed of any such security.

(c) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

§ 538.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date, which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property or interest in property blocked pursuant to § 538.201 is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property or interest in property blocked pursuant to § 538.201, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is

null and void with respect to any property or interest in property blocked pursuant to § 538.201.

§ 538.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 538.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) For purposes of this section, a rate is *commercially reasonable* if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 538.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 538.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates which are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 538.201. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner which provides immediate financial or economic benefit or access to the Government of Sudan or its entities, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 538.204 Prohibited importation of goods or services from Sudan.

Except as otherwise authorized, the importation into the United States, directly or indirectly, of any goods or services of Sudanese origin, other than information or informational materials, is prohibited.

§ 538.205 Prohibited exportation and reexportation of goods, technology, or services to Sudan.

Except as otherwise authorized, the exportation or reexportation, directly or indirectly, to Sudan of any goods, technology (including technical data, software, or other information) or services from the United States or by a United States person, wherever located, or requiring the issuance of a license by a Federal agency, is prohibited.

[66 FR 36688, July 12, 2001]

§ 538.206 Prohibited facilitation.

Except as otherwise authorized, the facilitation by a United States person, including but not limited to brokering activities, of the exportation or reexportation of goods, technology, or services from Sudan to any destination, or to Sudan from any location, is prohibited.

§ 538.207 Prohibited performance of contracts.

Except as otherwise authorized, the performance by any United States person of any contract, including a financing contract, in support of an industrial, commercial, public utility, or governmental project in Sudan is prohibited.

§ 538.208 Prohibited grant or extension of credits or loans to the Government of Sudan.

Except as otherwise authorized, the grant or extension of credits or loans by any United States person to the Government of Sudan is prohibited.

§ 538.209 Prohibited transportation-related transactions involving Sudan.

Except as otherwise authorized, the following are prohibited:

(a) Any transaction by a U.S. person relating to transportation of cargo to or from Sudan;

(b) The provision of transportation of cargo to or from the United States by any Sudanese person or any vessel or aircraft of Sudanese registration; or

(c) The sale in the United States by any person holding authority under 49 U.S.C. subtitle VII of any transportation of cargo by air that includes any stop in Sudan.

§ 538.210 Prohibited transactions relating to petroleum and petrochemical industries.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to October 13, 2006, all transactions by United States persons relating to the petroleum or petrochemical industries in Sudan, including, but not limited to, oilfield services and oil or gas pipelines, are prohibited.

(b) Except as otherwise authorized, the facilitation by a United States person, including but not limited to brokering activities, of any transaction relating to the petroleum or petrochemical industries in Sudan is prohibited.

[72 FR 61515, Oct. 31, 2007]

§ 538.211 Evasions; attempts; conspiracies.

Any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

[63 FR 35810, July 1, 1998. Redesignated at 72 FR 61515, Oct. 31, 2007]

§ 538.212 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Humanitarian donations.* The prohibitions of this part do not apply to donations by United States persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.

(c) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials as defined in § 538.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, without limitation, payment of advances for informational materials not yet created and completed, provision of services to market, produce or co-produce, create or assist in the creation of information and informational materials, and payment of royalties to the Government of Sudan or a person in Sudan with respect to income received for enhancements or alterations made by U.S. persons to information or informational

materials imported from the Government of Sudan or a person in Sudan.

(3) This section does not authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software for use in the transmission of any data. The exportation of such items to the Government of Sudan or to Sudan is prohibited, as provided in §§ 538.201 and 538.205.

(d) *Travel*. The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including non-scheduled air, sea, or land voyages.

(e) *Official business*. The prohibitions contained in this part do not apply to transactions for the conduct of the official business of the Federal Government or the United Nations by employees thereof.

(f) *Journalistic activity*. The prohibitions contained in this part do not apply to transactions in Sudan for journalistic activity by persons regularly employed in such capacity by a news-gathering organization.

(g)(1) *Specified Areas of Sudan*. Except for the provisions of §§ 538.201 through 538.203, 538.210, and 538.211, and except as provided in paragraph (g)(2) of this section, the prohibitions contained in this part do not apply to activities or related transactions with respect to the Specified Areas of Sudan.

(2) The exemption in paragraph (g)(1) of this section does not apply to the exportation or reexportation of agricultural commodities (including bulk agricultural commodities listed in appendix A to this part 538), medicine, and medical devices.

NOTE TO § 538.212(g)(2): See § 538.523(a)(2) for a general license authorizing the exportation and reexportation of agricultural commodities, medicine, and medical devices to the Specified Areas of Sudan, and the conduct of related transactions.

[63 FR 35810, July 1, 1998, as amended at 66 FR 36688, July 12, 2001. Redesignated and amended at 72 FR 61515, Oct. 31, 2007; 74 FR 46363, Sept. 9, 2009]

Subpart C—General Definitions

§ 538.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 538.201 held in the name of the Government of Sudan or in which the Government of Sudan has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 538.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EST, November 4, 1997.

§ 538.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 538.304 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 538.305 Government of Sudan.

(a) The term *Government of Sudan* includes:

(1) The state and the Government of Sudan, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Sudan;

(2) Any entity owned or controlled by the foregoing;

(3) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and

(4) Any other person determined by the Director of the Office of Foreign Assets Control to be included within paragraphs (a)(1) through (a)(3) of this section.

(b) Effective October 13, 2006, the term *Government of Sudan*, as defined in paragraph (a) of this section, does not include the regional government of Southern Sudan.

NOTE TO § 538.305: Please refer to the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') for a non-exhaustive listing of persons determined to fall within this definition, whose property and interests in property therefore are blocked pursuant to this part. The SDN List entries for such persons include the identifier ''[SUDAN].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this part.

[63 FR 35810, July 1, 1998, as amended at 72 FR 61516, Oct. 31, 2007; 76 FR 38536, June 30, 2011]

§ 538.306 Information and informational materials.

(a)(1) For purposes of this part, the term *information and informational materials* means publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds, and other information and informational materials.

(2) To be considered informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information and informational materials* with respect to U.S. exports does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (the ''EAA''), or section 6 of the EAA to the extent that such controls promote nonproliferation or antiterrorism policies of the United States.

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 538.307 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., '' an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 538.308 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 538.309 Person.

The term *person* means an individual or entity.

§ 538.310 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 538.311 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 538.312 Sudanese origin.

The term *goods or services of Sudanese origin* includes:

(a) Goods produced, manufactured, grown, extracted, or processed within Sudan;

(b) Goods which have entered into Sudanese commerce;

(c) Services performed in Sudan or by a person ordinarily resident in Sudan who is acting as an agent, employee, or contractor of the Government of Sudan or of a business entity located in Sudan. Services of Sudanese origin are not imported into the United States when such services are provided in the United States by a Sudanese national employed or resident in the United States.

(d) The term *services of Sudanese origin* does not include:

(1) Diplomatic and consular services performed by or on behalf of the Government of Sudan;

(2) Diplomatic and consular services performed by or on behalf of the Government of the United States.

§ 538.313 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 538.314 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 538.315 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 538.316 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 538.317 U.S. depository institution.

The term *U.S. depository institution* means any entity (including its foreign branches) organized under the laws of the United States or of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies and United States bank holding companies) and is subject to regulation by federal or state banking authorities.

[70 FR 34062, June 13, 2005]

§ 538.318 U.S. registered broker or dealer in securities.

The term *U.S. registered broker or dealer in securities* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that:

(a) Is a ''broker'' or ''dealer'' in securities within the meanings set forth in the Securities Exchange Act of 1934;

(b) Holds or clears customer accounts; and

(c) Is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

[70 FR 34062, June 13, 2005]

§ 538.319 U.S. registered money transmitter.

The term *U.S. registered money transmitter* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that is a money transmitter, as defined in 31 CFR 103.11(uu)(5), that is registered pursuant to 31 CFR 103.41.

[70 FR 34062, June 13, 2005]

§ 538.320 Specified Areas of Sudan.

(a) The term *Specified Areas of Sudan* means Southern Sudan, Southern Kordofan/Nuba Mountains State, Blue Nile State, Abyei, Darfur, and marginalized areas in and around Khartoum.

(b) The term *marginalized areas in and around Khartoum* means the following official camps for internally displaced persons: Mayo, El Salaam, Wad El Bashir, and Soba.

[72 FR 61516, Oct. 31, 2007]

Subpart D—Interpretations

§ 538.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 538.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 538.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of Sudan, such property shall no longer be deemed to be property in which the Government of Sudan has or has had an interest unless there exists in the property another interest of the Government of Sudan, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization

issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of Sudan, such property shall be deemed to be property in which there exists an interest of the Government of Sudan.

§ 538.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 538.201 if effected after the effective date.

§ 538.405 Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) A transaction by an unlicensed Sudanese governmental entity or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license;

(b) Provision of any transportation services to or from Sudan not explicitly authorized in or pursuant to this part other than loading, transporting, and discharging licensed or exempt cargo there.

(c) Distribution or leasing in Sudan of any containers or similar goods owned or controlled by United States persons after the performance of transportation services to Sudan; and

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine, or medical equipment to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing. See § 538.525.

[64 FR 41786, Aug. 2, 1999, as amended at 66 FR 36688, July 12, 2001; 74 FR 46363, Sept. 9, 2009]

§ 538.406 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on the exportation of services contained in § 538.205 applies to services performed on behalf of the Government of Sudan, or where the benefit of such services is otherwise received in Sudan, when such services are performed:

(1) In the United States;

(2) By a U.S. person, wherever located;

(3) By an entity located in the United States, including its overseas branches; or

(4) Outside the United States by an individual U.S. person ordinarily resident in the United States.

(b) The benefit of services performed anywhere in the world on behalf of the Government of Sudan, including services performed for a controlled entity or agent of the Government of Sudan, is presumed to be received in Sudan.

(c) The prohibitions contained in §§ 538.201 and 538.207 apply to services performed by U.S. persons, wherever located:

(1) On behalf of the Government of Sudan;

(2) With respect to property interests of the Government of Sudan; or

(3) In support of an industrial, commercial, public utility or governmental project in Sudan.

(d) *Example:* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with the Government of Sudan. See § 538.505 on licensing policy with regard to the provision of certain legal services.

§ 538.407 Facilitation by a United States person.

(a) The prohibition contained in § 538.206 against facilitation by a United States person of the exportation or reexportation of goods, technology, or services between Sudan and any destination (including the United States) bars any unlicensed action by a U.S. person that assists or supports trading activity with Sudan by any person. Facilitation of a trade or financial transaction that could be engaged in directly by a U.S. person or from the United States consistent with the prohibitions, general licenses and exemptions contained in this part is not prohibited. Activity of a purely clerical or reporting nature that does not further

trade or financial transactions with Sudan or the Government of Sudan is not considered prohibited facilitation. For example, reporting on the results of a subsidiary's trade with Sudan is not prohibited, while financing or insuring that trade or warranting the quality of goods sold by a subsidiary to the Government of Sudan constitutes prohibited facilitation.

(b) To avoid potential liability for U.S. persons under this part, a U.S. parent corporation must ensure that its foreign subsidiaries act independently of any U.S. person with respect to all transactions and activities relating to the exportation or reexportation of goods, technology, or services between Sudan and any other location including but not limited to business and legal planning; decision making; designing, ordering or transporting goods; and financial, insurance, and other risks. See § 538.505 with respect to exports of, inter alia, certain legal services benefitting Sudan.

(c) No U.S. person may change its policies or operating procedures, or those of a foreign affiliate or subsidiary, in order to enable a foreign entity owned or controlled by U.S. persons to enter into a transaction that could not be entered into directly by a U.S. person or from the United States pursuant to this part.

(d) No U.S. person may refer to a foreign person purchase orders, requests for bids, or similar business opportunities involving Sudan or the Government of Sudan to which the United States person could not directly respond as a result of the prohibitions contained in this part.

§ 538.408 Offshore transactions.

(a) The prohibitions contained in §§ 538.201 and 538.206 apply to transactions by any U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has reason to know, the Government of Sudan has or has had an interest since the effective date, or with respect to goods, technology or services which the U.S. person knows, or has reason to know, are of Sudanese origin or owned or controlled by the Government of Sudan.

(b) Prohibited transactions include, but are not limited to, importation into or exportation from locations outside the United States of, or purchasing, selling, financing, swapping, insuring, transporting, lifting, storing, incorporating, transforming, brokering, or otherwise dealing in, within such locations, goods, technology or services of Sudanese origin.

(c) *Examples*. (1) A U.S. person may not, within the United States or abroad, purchase, sell, finance, insure, transport, act as a broker for the sale or transport of, or otherwise deal in, Sudanese crude oil or sugar refined in Sudan.

(2) A U.S. person may not, within the United States or abroad, conduct transactions of any nature whatsoever with an entity that the U.S. person knows or has reason to know is the Government of Sudan, including a controlled entity or agent of that Government, or which benefits or supports the business of an entity located in Sudan, unless the entity is licensed by the Office of Foreign Assets Control to conduct such transactions with U.S. persons or the transaction is generally licensed in, or exempted from the prohibitions of, this part.

§ 538.409 Transshipments through the United States prohibited.

(a) The prohibitions in § 538.205 apply to the importation into the United States, for transshipment or transit, of goods which are intended or destined for Sudan, or an entity operated from Sudan.

(b) The prohibitions in § 538.204 apply to the importation into the United States, for transshipment or transit, of goods of Sudanese origin which are intended or destined for third countries.

(c) Goods in which the Government of Sudan has an interest which are imported into or transshipped through the United States are blocked pursuant to § 538.201.

§ 538.410 Imports of Sudanese goods from third countries; transshipments.

(a) Importation into the United States from third countries of goods

containing raw materials or components of Sudanese origin is not prohibited if those raw materials or components have been incorporated into manufactured products or otherwise substantially transformed in a third country.

(b) Importation into the United States of goods of Sudanese origin that have been transshipped through a third country without being incorporated into manufactured products or otherwise substantially transformed in a third country are prohibited.

§ 538.411 Exports to third countries; transshipments.

Exportation of goods or technology (including technical data, software, information not exempted from the prohibition of this part pursuant to § 538.211, or technical assistance) from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods or technology are intended for transshipment to Sudan (including passage through, or storage in, intermediate destinations). The exportation of goods or technology intended specifically for incorporation or substantial transformation into a third-country product is also prohibited if the particular product is to be used in Sudan, is being specifically manufactured to fill a Sudanese order, or if the manufacturer's sales of the particular product are predominantly to Sudan.

§ 538.414 Loans or extensions of credit.

(a) The prohibition in § 538.205 applies to loans or extensions of credit to a person in Sudan, including overdraft protection on checking accounts, and the unlicensed renewal or rescheduling of credits or loans in existence as of the effective date, whether by affirmative action or operation of law.

(b) The prohibition in § 538.205 applies to financial services including loans or credits extended in any currency.

§ 538.415 Payments involving Sudan.

Before a United States financial institution initiates a payment subject to the prohibitions contained in this part on behalf of any customer, or credits a transfer subject to such prohibitions to the account on its books of the ultimate beneficiary, the U.S. financial institution must determine that the transfer is not prohibited by this part.

§ 538.416 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, technology or services exported prior to the effective date, except as authorized pursuant to this part.

§ 538.417 Transshipments through Sudan.

(a) The exportation or reexportation of goods, technology, or services to the Specified Areas of Sudan is exempt under § 538.212(g) only if such goods, technology, or services do not transit or transship through any area of Sudan other than the Specified Areas of Sudan.

(b) The importation into the United States of goods or services from, or originating in, the Specified Areas of Sudan is exempt under § 538.212(g) only if such goods or services do not transit or transship through any area of Sudan other than the Specified Areas of Sudan.

NOTE TO § 538.417. See § 538.532, which authorizes humanitarian transshipments to or from Southern Sudan and Darfur.

[72 FR 61516, Oct. 31, 2007]

§ 538.418 Financial transactions in Sudan.

(a) Any financial transaction with a depository institution located in an area of Sudan other than the Specified Areas of Sudan, e.g., Khartoum, remains prohibited.

(b) Financial transactions are no longer prohibited by this part if:

(1) The underlying activity is not prohibited by this part;

(2) The financial transaction involves a third-country depository institution, or a Sudanese depository institution not owned or controlled by the Government of Sudan, that is located in the Specified Areas of Sudan; and

(3) The financial transaction is not routed through a depository institution that is located in an area of Sudan

other than the Specified Areas of Sudan or that is owned or controlled by the Government of Sudan, wherever located.

(c) *Example*. A U.S. bank is instructed to transfer funds to the Abyei branch of a Sudanese bank that is not owned or controlled by the Government of Sudan. In order for the transfer to take place, the U.S. bank is required to route the funds through the Sudanese bank's headquarters, which is located in Khartoum. Due to the routing of the financial transaction through Khartoum, this transaction is prohibited and requires authorization from the Office of Foreign Assets Control. However, if the U.S. bank is able to bypass the Khartoum headquarters and transfer the funds directly to the Abyei branch of the Sudanese bank, then the transaction would not be prohibited.

[72 FR 61516, Oct. 31, 2007]

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 538.500 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53658, Sept. 11, 2003]

§ 538.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 538.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 538.503 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which the Government of Sudan has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

NOTE TO § 538.503: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 538.203 concerning the obligation to

hold blocked funds in interest-bearing accounts.

§ 538.504 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 538.505 Provision of certain legal services to the Government of Sudan, persons in Sudan, or benefitting Sudan.

(a) The provision to the Government of Sudan, to a person in Sudan, or in circumstances in which the benefit is otherwise received in Sudan, of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipts of payment therefor must be specifically licensed. The provision of any other legal services as interpreted in § 538.406 requires the issuance of a specific license.

(b) Specific licenses may be issued, on a case-by-case basis, authorizing receipt, from unblocked sources, of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to the Government of Sudan or to a person in Sudan:

(1) Provision of legal advice and counseling to the Government of Sudan, to a person in Sudan, or in circumstances in which the benefit is otherwise received in Sudan, on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of this part;

(2) Representation of the Government of Sudan or a person in Sudan when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of the Government of Sudan, or of a person in Sudan;

(4) Representation of the Government of Sudan or a person in Sudan before any federal agency with respect to the imposition, administration, or enforcement of U.S. sanctions against Sudan; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) Enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment or other judicial process purporting to transfer or otherwise alter or affect a property interest of the Government of Sudan is prohibited unless specifically licensed in accordance with § 538.202(e).

§ 538.506 30–day delayed effective date for pre-November 4, 1997 trade contracts involving Sudan.

(a) *Pre-existing trade contracts.* Trade transactions required under a contract entered into prior to November 4, 1997 (a ''pre-existing trade contract''), otherwise prohibited by this part, including the importation of goods or services of Sudanese origin or the exportation of goods, services, or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997, are authorized without specific licensing by the Office of Foreign Assets Control as follows:

(1) Exports or reexports are authorized until 12:01 a.m. EST, December 4, 1997, and non-financing activity by U.S. persons incidental to the performance of the pre-existing trade contract (such as the provision of transportation or insurance) is authorized through 12:01 a.m. EST, February 2, 1998, if the pre-existing trade contract is for:

(i) The exportation of goods, services, or technology from the United States or a third country that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997; or

(ii) The reexportation of goods or technology that was authorized under applicable Federal regulations in force immediately prior to November 4, 1997.

(2) If the pre-existing trade contract is for the importation of goods or services of Sudanese origin or other trade transactions relating to goods or services of Sudanese origin or owned or controlled by the Government of Sudan, importations under the pre-existing trade contract are authorized until 12:01 a.m. EST, December 4, 1997.

(3) For purposes of this section, goods are considered to be exported upon final loading aboard the exporting conveyance in the country of export. Goods are considered to be imported upon arrival in the jurisdiction of the country of importation.

(b)(1) *Financing for pre-existing trade contracts.* In general, no financing services prohibited by this part may be performed after 12:01 a.m. EST, November 4, 1997. However, letters of credit and other financing agreements with respect to the trade transactions authorized in paragraph (a) of this section may be performed according to their terms, and may be extended or renewed, except that:

(i) Any payment required to be made to the Government of Sudan or any person blocked pursuant to this part or otherwise, including payments authorized with respect to trade transactions described in paragraph (a) of this section, must be made into a blocked account in the United States; and

(ii) No payment may be made from a blocked account unless authorized by a specific license issued by the Office of Foreign Assets Controls.

(2) Specific licenses may be issued by the Office of Foreign Asset Controls on a case-by-case basis to permit a U.S. bank to debit a blocked account of the Government of Sudan for funds held as collateral under an irrevocable letter of credit issued or confirmed by it, or a letter of credit reimbursement confirmed by it, for goods, services or technology exported, or goods or technology reexported, prior to 12:01 a.m. EST, December 4, 1997, directly or indirectly to Sudan, or to third countries for an entity operated from Sudan, or for the benefit of the Government of Sudan. The application for a license must:

(i) Present evidence satisfactory to the Office of Foreign Asset Controls that the exportation or reexportation occurred prior to 12:01 a.m. EST, December 4, 1997; and

(ii) Include an explanation of the facts and circumstances surrounding the entry and execution of the export or reexport transaction, including the names and addresses of all Sudanese participants in the transaction and all Sudanese persons having an ownership interest in the beneficiary of the letter of credit.

(c) *Blocked Government of Sudan accounts.* Nothing in this section permits debits to a blocked account of the Government of Sudan absent the issuance of a specific license by Office of Foreign Asset Controls authorizing such a debit. The operation of an account of the Government of Sudan in a financial institution does not constitute a trade transaction for purposes of this section.

(d) *Existence of contract.* The existence of a contract will be determined with reference to the principles contained in Article 2 of the Uniform Commercial Code.

(e) *Reporting requirement.* Although a specific license from Office of Foreign Asset Controls is not required for any transaction authorized in paragraph (a) of this section, any U.S. person engaging in a transaction described in paragraph (a) of this section is required to report such transaction immediately to the Office of Foreign Asset Controls and provide a description of the underlying trade contract. Such reports should be directed to the Office of Foreign Assets Control, Attn: Compliance Programs Division/Sudan Contracts, 1500 Pennsylvania Avenue, NW., Annex–2nd Floor, Washington, DC 20220. Such reports may be made by facsimile transmission to 202/622–1657.

(f) *Licensing and reporting provisions.* For provisions relating to applications to the Office of Foreign Asset Controls

for specific licenses and reporting requirements, see §§ 501.606 and 501.808 of this chapter.

§ 538.507 Reexports by non-U.S. persons.

(a) *Goods and technology subject to export license application requirements under other United States regulations.* The reexportation to Sudan or the Government of Sudan by a non-U.S. person of any goods or technology exported from the United States, the exportation of which to Sudan is subject to export or reexport license application requirements, is authorized under this section provided that the goods or technology:

(1) Have been incorporated into another product outside the United States and constitute 10 percent or less by value of that product exported from a third country; or

(2) Have been substantially transformed outside the United States.

NOTE TO PARAGRAPH (a) OF § 538.507: Notwithstanding the authorization set forth in paragraph (a), a non-U.S. person's reexportation of goods, technology or software of U.S. origin that are subject to the Export Administration Regulations (15 CFR parts 730 through 774) may require specific authorization from the Department of Commerce, Bureau of Industry and Security.

(b) *Goods and technology not subject to export license application requirements under other United States regulations.* The reexportation to Sudan or the Government of Sudan by a non-U.S. person of any goods or technology of U.S. origin, the exportation of which to Sudan is not subject to any export license application requirements under any other United States regulations, is authorized under this section.

NOTE TO PARAGRAPH (b) OF § 538.507: However, the reexportation by non-U.S. persons of U.S.-origin goods, technology or software classified as EAR99 under the Export Administration Regulations (15 CFR parts 730 through 774) may require specific authorization from the Department of Commerce, Bureau of Industry and Security. See, for example, the end-use and end-user restrictions set forth in 15 CFR part 744.

[70 FR 34062, June 13, 2005]

§ 538.508 Certain payments by the Government of Sudan of obligations to persons within the United States authorized.

Specific licenses may be issued on a case-by-case basis to permit the transfer of funds after the effective date by, through, or to any U.S. financial institution or other U.S. person not blocked pursuant to this chapter, from a nonblocked account outside of the United States, solely for the purpose of payment of obligations of the Government of Sudan to persons or accounts within the United States, provided that the obligation arose prior to the effective date, and the payment requires no debit to a blocked account.

§ 538.509 Certain services relating to participation in various events authorized.

The importation of Sudanese-origin services into the United States is authorized where such services are performed in the United States by a Sudanese national who enters the United States on a visa issued by the State Department for the purpose of participating in a public conference, performance, exhibition or similar event, and such services are consistent with that purpose.

§ 538.510 Importation and exportation of certain gifts authorized.

The importation into the United States of Sudanese-origin goods, and the exportation from the United States of goods, is authorized for goods sent as gifts to persons provided that the value of the gift is not more than $100; the goods are of a type and in quantities normally given as gifts between individuals; and the goods are not controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), or nuclear proliferation (NP)(see Commerce Control List, 15 CFR part 774 of the Export Administration Regulations).

§ 538.511 Accompanied baggage authorized.

(a) Persons entering the United States directly or indirectly from Sudan are authorized to import into

the United States Sudanese-origin accompanied baggage normally incident to travel.

(b) Persons leaving the United States for Sudan are authorized to export from the United States accompanied baggage normally incident to travel.

(c) For purposes of this section, the term *accompanied baggage normally incident to travel* includes only baggage that:

(1) Accompanies the traveler on the same aircraft, train, or vehicle;

(2) Includes only articles that are necessary for personal use incident to travel, are not intended for any other person or for sale, and are not otherwise prohibited from importation or exportation under applicable United States laws.

§ 538.512 Transactions related to telecommunications authorized.

All transactions with respect to the receipt and transmission of telecommunications involving Sudan are authorized. This section does not authorize the provision to the Government of Sudan or a person in Sudan of telecommunications equipment or technology.

§ 538.513 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between the United States and Sudan are authorized, provided that mail is limited to personal communications not involving a transfer of anything of value.

§ 538.514 Certain transactions related to patents, trademarks and copyrights authorized.

(a) All of the following transactions in connection with patent, trademark, copyright or other intellectual property protection in the United States or Sudan are authorized:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright or other form of intellectual property protection;

(2) The receipt of a patent, trademark, copyright or other form of intellectual property protection;

(3) The renewal or maintenance of a patent, trademark, copyright or other form of intellectual property protection; and

(4) The filing and prosecution of opposition or infringement proceedings with respect to a patent, trademark, copyright or other form of intellectual property protection, or the entrance of a defense to any such proceedings.

(b) This section authorizes the payment of fees currently due to the United States Government, or of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States, in connection with the transactions authorized in paragraph (a) of this section. Payment effected pursuant to the terms of this paragraph may not be made from a blocked account.

(c) This section authorizes the payment of fees currently due to the Government of Sudan, or of the reasonable and customary fees and charges currently due to attorneys or representatives within Sudan, in connection with the transactions authorized in paragraph (a) of this section.

(d) Nothing in this section affects obligations under any other provision of law.

§ 538.515 Sudanese diplomatic missions in the United States.

(a) The importation of goods or services into the United States by, and the provision of goods or services in the United States to, the diplomatic missions of the Government of Sudan to the United States and the United Nations are authorized, provided that:

(1) The goods or services are for the conduct of the official business of the missions, or for personal use of the employees of the missions, and are not for resale;

(2) The transaction does not involve the purchase, sale, financing, or refinancing of real property;

(3) The transaction is not otherwise prohibited by law; and

(4) The transaction is conducted through an account at a U.S. financial institution specifically licensed by OFAC.

NOTE TO PARAGRAPH (a)(4) OF § 538.515: U.S. financial institutions are required to obtain specific licenses to operate accounts for, or

extend credit to, the diplomatic missions of the Government of Sudan to the United States and the United Nations.

(b) The importation of goods or services into the United States by, and the provision of goods or services in the United States to, the employees of the diplomatic missions of the Government of Sudan to the United States and the United Nations are authorized, provided that:

(1) The goods or services are for personal use of the employees of the missions, and are not for resale; and

(2) The transaction is not otherwise prohibited by law.

(c) The importation of goods or services into the United States by the regional Government of Southern Sudan and its employees that involves the transit or transshipment of goods from the Specified Areas of Sudan through areas of Sudan other than the Specified Areas of Sudan is authorized, provided that:

(1) The goods or services are for the conduct of the business of the regional Government, or for personal use of the employees of the regional Government, and are not for resale; and

(2) The transaction is not otherwise prohibited by law.

NOTE TO PARAGRAPH (c) OF § 538.515: The authorization contained in paragraph (c) of this section permits the regional Government of Southern Sudan and its employees to import into the United States goods or services that have transited or transshipped through areas of Sudan other than the Specified Areas of Sudan without the need to obtain a specific license under § 538.417. The importation of goods and services into the United States by the regional Government of Southern Sudan not involving transit or transshipment through areas of Sudan other than the Specified Areas of Sudan already is exempt pursuant to §§ 538.212(g) and 538.305(b) and, therefore, requires no authorization. Similarly, the provision of goods and services in the United States to the regional Government of Southern Sudan and its employees already is exempt pursuant to §§ 538.212(g) and 538.305(b) and also requires no authorization.

[74 FR 27434, June 10, 2009]

§ 538.516 Diplomatic pouches.

The following transactions are authorized:

(a) The importation into the United States from Sudan, or the exportation from the United States to Sudan, of diplomatic pouches and their contents; and

(b) The exportation or reexportation, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods or technology to a third-country government, or to its contractors or agents, for shipment to Sudan via a diplomatic pouch. To the extent necessary, this section also authorizes the shipment of such goods or technology by the third-country government to Sudan via a diplomatic pouch.

NOTE TO PARAGRAPH (b) OF § 538.516: The exportation or reexportation of certain U.S.-origin goods or technology to a third-country government, or to its contractors or agents, may require authorization by the U.S. Department of Commerce under the Export Administration Regulations (15 CFR parts 730 et seq.).

[72 FR 15832, Apr. 3, 2007]

§ 538.517 Allowable payments for overflights of Sudanese airspace.

Payments to Sudan of charges for services rendered by the Government of Sudan in connection with the overflight of Sudan or emergency landing in Sudan of aircraft owned by a United States person or registered in the United States are authorized.

§ 538.518 Household goods and personal effects.

(a) The exportation from the United States to Sudan of household and personal effects, including baggage and articles for family use, of persons departing the United States to relocate in Sudan is authorized provided the articles included in such effects have been actually used by such persons or by family members accompanying them, are not intended for any other person or for sale, and are not otherwise prohibited from exportation.

(b) The importation of Sudanese-origin household and personal effects, including baggage and articles for family use, of persons arriving in the United States is authorized; to qualify, articles included in such effects must have been actually used abroad by such persons or by other family members arriving from the same foreign household,

must not be intended for any other person or for sale, and must not be otherwise prohibited from importation.

§ 538.519 Aircraft and maritime safety.

Specific licenses may be issued on a case-by-case basis for the exportation and reexportation of goods, services, and technology to insure the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft, and to ensure the safety of ocean-going maritime traffic in international waters.

§ 538.520 Extensions or renewals of loans and credits.

(a) Specific licenses may be issued on a case-by-case basis for rescheduling loans or otherwise extending the maturities of existing loans, and for charging fees or interest at commercially reasonable rates in connection therewith, provided that no new funds or credits are thereby transferred or extended to Sudan or the Government of Sudan.

(b) Specific licenses may be issued on a case-by-case basis, at the request of the account party, for the extension or renewal of a letter of credit or a standby letter of credit issued or confirmed by a U.S. financial institution.

§ 538.521 Registration of nongovernmental organizations for humanitarian or religious activities.

(a) Registration numbers may be issued on a case-by-case basis for the registration of nongovernmental organizations involved in humanitarian or religious activities in Sudan, authorizing transactions by such organizations otherwise prohibited by this part, including the exportation of services, goods, software, or technology to Sudan and the transfer of funds to and from Sudan for the purpose of relieving human suffering. Applicants for registration numbers must comply with the requirements of § 501.801(c), 31 CFR chapter V.

(b) This section does not authorize transfers from blocked accounts.

NOTE TO § 538.521: Registration does not excuse a U.S. person from compliance with other applicable U.S. laws governing the exportation or reexportation of U.S.-origin goods, software, or technology (including technical data). See, e.g., the Export Administration Regulations administered by the U.S. Department of Commerce (15 CFR parts 730–774).

[66 FR 2728, Jan. 11, 2001]

§ 538.522 Transactions related to U.S. citizens residing in Sudan.

U.S. persons are authorized to engage in transactions in Sudan ordinarily incident to the routine and necessary maintenance and other personal living expenses of U.S. citizens who reside on a permanent basis in Sudan.

§ 538.523 Commercial sales, exportation, and reexportation of agricultural commodities, medicine, and medical devices.

(a)(1) *One-year specific license requirement.* The exportation or reexportation of agricultural commodities (including bulk agricultural commodities listed in appendix A to this part 538), medicine, or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, shall only be made pursuant to a one-year specific license issued by the U.S. Department of the Treasury, Office of Foreign Assets Control, for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract. No specific license will be granted for the exportation or reexportation of agricultural commodities, medicine, or medical equipment to any entity or individual in Sudan promoting international terrorism, to any narcotics trafficking entity designated pursuant to Executive Order 12978 of October 21, 1995 (60 FR 54579, October 24, 1995) or the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908), or to any foreign organization, group, or persons subject to any restriction for their involvement in weapons of mass destruction or missile proliferation. Executory contracts entered into pursuant to paragraph (b)(2) of this section prior to the issuance of the one-year specific license described in this paragraph shall be deemed to have been signed on the

date of issuance of that one-year specific license (and, therefore, the exporter is authorized to make shipments under that contract within the 12-month period beginning on the date of issuance of the one-year specific license).

(2) *General license for the Specified Areas of Sudan*. The exportation or reexportation of agricultural commodities (including bulk agricultural commodities listed in appendix A to this part 538), medicine, and medical devices to the Specified Areas of Sudan and the conduct of related transactions, including, but not limited to, the making of shipping and cargo inspection arrangements, the obtaining of insurance, the arrangement of financing and payment, the entry into executory contracts, and the provision of brokerage services for such sales and exports or reexports, are hereby authorized, provided that such activities or transactions do not involve any property or interests in property of the Government of Sudan and do not relate to the petroleum or petrochemical industries in Sudan, and also provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport.

NOTE 1 TO § 538.523(a)(2): Consistent with section 906(a)(1) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (22 U.S.C. 7205), each year by the anniversary of its effective date of September 9, 2009, the Office of Foreign Assets Control will determine whether to revoke this general license. Unless revoked, the general license will remain in effect.

NOTE 2 TO § 538.523(a)(2): See §§ 538.417 and 538.418 for additional requirements with respect to transshipments through, and financial transactions in, Sudan.

(b) *General license for arrangement of exportation or reexportation of covered products*. (1) With respect to sales pursuant to § 538.523(a)(1), the making of shipping arrangements, cargo inspection, obtaining of insurance, and arrangement of financing (consistent with § 538.525) for the exportation or reexportation of agricultural commodities, medicine, or medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, are authorized.

(2) If desired, entry into executory contracts (including executory pro forma invoices, agreements in principle, or executory offers capable of acceptance such as bids in response to public tenders) for the exportation or reexportation of agricultural commodities, medicine, and medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, is authorized, provided that performance of an executory contract is expressly made contingent upon the prior issuance of the one-year specific license described in paragraph (a)(1) of this section.

(c) *Instructions for obtaining one-year specific licenses*. In order to obtain the one-year specific license described in paragraph (a)(1) of this section, the exporter must provide to the Office of Foreign Assets Control:

(1) The applicant's full legal name (if the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business).

(2) The applicant's mailing and street address (so that OFAC may reach a responsible point of contact, the applicant should also include the name of the individual(s) responsible for the application and related commercial transactions along with their telephone and fax numbers and, if available, e-mail addresses).

(3) The names, mailing addresses, and if available, fax and telephone numbers of all parties with an interest in the transaction. If the goods are being exported or reexported to a purchasing agent in Sudan, the exporter must identify the agent's principals at the wholesale level for whom the purchase is being made. If the goods are being exported or reexported to an individual, the exporter must identify any organizations or entities with which the individual is affiliated that have an interest in the transaction.

(4) A description of all items to be exported or reexported pursuant to the requested one-year license, including a statement that the item is classified as

EAR 99, and, if necessary, documentation sufficient to verify that the items to be exported or reexported are classified as EAR 99 and do not fall within any of the limitations contained in paragraph (d) of this section.

(5) An Official Commodity Classification of EAR 99 issued by the Department of Commerce, Bureau of Industry and Security (''BIS''), certifying that the product is EAR 99, is required to be submitted to OFAC with the request for a license authorizing the exportation or reexportation of all fertilizers, live horses, western red cedar, and medical devices other than basic medical supplies, such as syringes, bandages, gauze and similar items, that are specifically listed on BIS's Web site, *http://www.bis.doc.gov/policiesandregulations/tradesanctionsreformexportenhancementact.html*. Medical supplies that are specifically listed on BIS's Web site may not require an Official Commodity Classification of EAR 99 from BIS. BIS will also provide a list on its Web site of medicines that are ineligible for a one-year license under these procedures. Exporters should seek an Official Commodity Classification of EAR 99 from BIS for medicines and submit a copy to OFAC. See 15 CFR 745.3 for instructions for obtaining Official Commodity Classification of EAR 99 from BIS.

(d) *Limitations*. (1) Nothing in this section or in any license issued pursuant to paragraph (a) of this section relieves the exporter from compliance with the export license application requirements of another Federal agency.

(2) Nothing in this section or in any license issued pursuant to paragraph (a) of this section authorizes the exportation or reexportation of any agricultural commodity, medicine, or medical device controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 *et seq.*); or used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

(3) Nothing in this section or in any license issued pursuant to paragraph (a) of this section affects prohibitions on the sale or supply of U.S. technology or software used to manufacture agricultural commodities, medicine, or medical devices, such as technology to design or produce biotechnological items or medical devices.

(4) Nothing in this section or in any license issued pursuant to paragraph (a) of this section affects U.S. nonproliferation export controls, including end-user and end-use controls maintained under the Enhanced Proliferation Control Initiative.

(5) This section does not apply to any transaction or dealing involving property blocked pursuant to this chapter or to any other activity prohibited by this chapter that is not otherwise authorized in this part.

(e) *Covered items*. For the purposes of this part, agricultural commodities, medicine, and medical devices are defined below.

(1) *Agricultural commodities*. For the purposes of this section, agricultural commodities are:

(i) Products that are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1, and that fall within the term ''agricultural commodity'' as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(ii) Products not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1, that are intended for ultimate use in Sudan as:

(A) Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds);

(B) Seeds for food crops;

(C) Fertilizers or organic fertilizers; or

(D) Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.

(2) *Medicine*. For the purposes of this section, the term medicine has the same meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on

the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(3) *Medical device.* For the purposes of this section, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

[74 FR 61032, Nov. 23, 2009]

§ 538.524 [Reserved]

§ 538.525 Payment for and financing of commercial sales of agricultural commodities, medicine, and medical equipment.

(a) *General license for payment terms.* The following payment terms for sales, pursuant to § 538.523(a)(1), of agricultural commodities and products, medicine, and medical equipment to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas, or to persons in third countries purchasing specifically for resale to the foregoing are authorized:

(1) Payment of cash in advance;

(2) Sales on open account, provided that the account receivable may not be transferred by the person extending the credit; or

(3) Financing by third-country financial institutions that are neither United States persons nor Government of Sudan entities. Such financing may be confirmed or advised by U.S. financial institutions.

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case-by-case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to § 538.523(a)(1). See § 501.801(b) of this chapter for specific licensing procedures.

(c) *No debits to blocked accounts.* Nothing in this section authorizes payment terms or trade financing involving a debit to an account of the Government of Sudan blocked pursuant to this part.

(d) *Transfers through the U.S. financial system.* Before a United States financial institution initiates a payment on behalf of any customer, or credits a transfer to the account on its books of the ultimate beneficiary, the United States financial institution must determine that the underlying transaction is not prohibited by this part. Any payment relating to a transaction authorized in or pursuant to § 538.523 or § 538.526 that is routed through the U.S. financial system must reference the relevant Office of Foreign Assets Control license authorizing the payment to avoid the blocking or rejection of the transfer.

(e) Notwithstanding any other provision of this part, no commercial exportation to Sudan may be made with United States Government assistance, including United States foreign assistance, United States export assistance, and any United States credit or guarantees absent a Presidential waiver.

[74 FR 61033, Nov. 23, 2009]

§ 538.526 Brokering sales of agricultural commodities, medicine, and medical devices.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to provide brokerage services on behalf of U.S. persons for the sale and exportation or reexportation by United States persons of agricultural commodities, medicine, and medical devices to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of Sudan, or to persons in third countries purchasing specifically for resale to the foregoing, provided that the sale and exportation or reexportation is authorized by a one-year specific license issued pursuant to § 538.523(a)(1).

(b) *Specific licensing for brokering sales by non-U.S. persons of bulk agricultural commodities.* Specific licenses may be issued on a case-by-case basis to permit United States persons to provide brokerage services on behalf of non-United States, non-Sudanese persons for the sale and exportation or reexportation of bulk agricultural commodities to the Government of Sudan, to any individual or entity in an area of Sudan other than the Specified Areas of

Sudan, or to persons in third countries purchasing specifically for resale to the foregoing. Specific licenses issued pursuant to this section will authorize the brokering only of sales that:

(1) Are limited to the bulk agricultural commodities listed in appendix A to this part 538;

(2) Are to purchasers permitted pursuant to § 538.523(a)(1); and

NOTE TO PARAGRAPH (b)(2) OF § 538.526: Requests for specific licenses to provide brokerage services under this paragraph must include all of the information described in § 538.523(c).

(3) Make any performance involving the exportation or reexportation of any goods, technology or services (including technical data, software, or information) that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, items classified EAR 99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Industry and Security. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9.)

(c) *No debit to blocked accounts.* Payment for any brokerage fee earned pursuant to this section may not involve a debit to an account blocked pursuant to this part.

(d) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

[74 FR 61033, Nov. 23, 2009]

§ 538.527 Operation of accounts.

The operation of an account in a U.S. financial institution for an individual ordinarily resident in Sudan who is not included within the term ''Government of Sudan,'' as defined in § 538.305, is authorized, provided that transactions processed through the account:

(a) Are of a personal nature and not for use in supporting or operating a business;

(b) Do not involve transfers directly or indirectly to Sudan or for the benefit of individuals ordinarily resident in Sudan unless authorized by § 538.528; and

(c) Are not otherwise prohibited by this part.

[70 FR 34062, June 13, 2005]

§ 538.528 Noncommercial, personal remittances.

(a) U.S. depository institutions, U.S. registered brokers or dealers in securities, and U.S. registered money transmitters are authorized to process transfers of funds to or from Sudan or for or on behalf of an individual ordinarily resident in Sudan who is not included within the term ''Government of Sudan,'' as defined in § 538.305, in cases in which the transfer involves a noncommercial, personal remittance, provided the transfer is not by, to, or through a person who is included within the term ''Government of Sudan,'' as defined in § 538.305. Noncommercial, personal remittances do not include charitable donations to or for the benefit of an entity or funds transfers for use in supporting or operating a business.

NOTE TO PARAGRAPH (a) OF § 538.528: The institutions identified in paragraph (a) may transfer charitable donations made by U.S. persons to nongovernmental organizations in Sudan registered pursuant to § 538.521, provided that the transfer is made pursuant to § 538.521 and the terms of the registration.

(b) The transferring institutions identified in paragraph (a) of this section may rely on the originator of a funds transfer with regard to compliance with paragraph (a), provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance with paragraph (a).

(c) This section does not authorize transactions with respect to property blocked pursuant to § 538.201.

[70 FR 34062, June 13, 2005]

§ 538.529 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions necessary and

ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, ''written publications''). This section does not apply if the parties to the transactions described in this paragraph include the Government of Sudan. For the purposes of this section, the term ''Government of Sudan'' includes the state and the Government of Sudan, as well as any political subdivision, agency, or instrumentality thereof, including the Central Bank of Sudan, and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term ''Government of Sudan'' does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are authorized, provided that U.S. persons ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written publication in electronic format, provided that the software is classified as ''EAR 99'' under the Export Administration Regulations, 15 CFR parts 730–774 (the ''EAR''), or is not subject to the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described in paragraph (a) of this section. For example, this section does not authorize U.S. persons:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Sudan;

(3) To engage in the exportation or importation of goods to or from Sudan other than the exportation of embedded software described in paragraph (a)(3)(ii) of this section; or

(4) To operate a publishing house, sales outlet, or other office in Sudan.

NOTE TO PARAGRAPH (b): The importation from Sudan and the exportation to Sudan of information or informational materials, as defined in § 538.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part. See § 538.211(c).

(c) This section does not authorize U.S. persons to engage the services of publishing houses or translators in Sudan unless such activity is primarily for the dissemination of written publications in Sudan.

(d) This section does not authorize:

(1) The exportation from or importation into the United States of services for the development, production, or design of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (the ''ITAR''), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) The exportation of information subject to licensing requirements under the ITAR or exchanges of information that are subject to regulation by other government agencies.

[72 FR 50050, Aug. 30, 2007]

§ 538.530 Licenses and registrations issued pursuant to Executive Order 13067 or this part authorized pursuant to Executive Order 13412.

(a) All general licenses issued pursuant to Executive Order 13067 are authorized pursuant to Executive Order 13412 and remain in effect.

(b) All specific licenses and all nongovernmental organization registrations issued pursuant to Executive Order 13067 or this part prior to October 13, 2006, are authorized pursuant to Executive Order 13412 and remain in effect until the expiration date specified in the license or registration or, if no expiration date is specified, June 30, 2008.

[72 FR 61516, Oct. 31, 2007]

§ 538.531 Official activities of the United States Government and international organizations.

(a) Subject to the conditions of paragraphs (b), (c), and (d) of this section, the following transactions are authorized:

(1) All transactions and activities otherwise prohibited by this part that are for the conduct of the official business of the United States Government or the United Nations by contractors or grantees thereof; and

(2) All transactions and activities otherwise prohibited by this part that are for the conduct of the official business of the United Nations specialized agencies, programmes, and funds by employees, contractors, or grantees thereof.

(b) Contractors or grantees conducting transactions authorized pursuant to paragraph (a) of this section must provide a copy of their contract or grant with the United States Government or the United Nations, or its specialized agencies, programmes, and funds, to any U.S. person before the U.S. person engages in or facilitates any transaction or activity prohibited by this part. If the contract or grant contains any sensitive or proprietary information, such information may be redacted or removed from the copy given to the U.S. person, provided that the information is not necessary to demonstrate that the transaction is authorized pursuant to paragraph (a) of this section.

(c) Any U.S. person engaging in or facilitating transactions authorized pursuant to this section shall keep a full and accurate record of each such transaction, including a copy of the contract or grant, and such record shall be available for examination for at least five (5) years after the date of the transaction.

(d) No payment pursuant to this section may involve a debit to an account blocked pursuant to this part.

NOTE 1 TO § 538.531. This license does not relieve any persons participating in transactions authorized hereunder from compliance with any other U.S. legal requirements

applicable to the transactions authorized pursuant to paragraph (a) of this section. See, e.g., the Export Administration Regulations (15 CFR parts 730 et seq.).

NOTE 2 TO § 538.531. Paragraph (e) of § 538.212 exempts transactions for the conduct of the official business of the Federal Government or the United Nations by employees thereof from the prohibitions contained in this part.

[72 FR 61516, Oct. 31, 2007]

§ 538.532 Humanitarian transshipments to or from Southern Sudan and Darfur authorized.

The transit or transshipment to or from Southern Sudan and Darfur of goods, technology, or services intended for humanitarian purposes, through any area of Sudan not exempted by paragraph (g)(1) of § 538.212, is authorized.

[72 FR 61517, Oct. 31, 2007]

§ 538.533 Exportation of certain services and software incident to Internet-based communications.

(a) To the extent that such transactions are not exempt from the prohibitions of this part and subject to the restrictions set forth in paragraph (b) of this section, the following transactions are authorized:

(1) The exportation from the United States or by U.S. persons, wherever located, to persons in Sudan of services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such services are publicly available at no cost to the user.

(2) The exportation from the United States or by U.S. persons, wherever located, to persons in Sudan of software necessary to enable the services described in paragraph (a)(1) of this section, provided that such software is classified as ''EAR99'' under the Export Administration Regulations, 15 CFR parts 730 through 774 (the ''EAR''), is not subject to the EAR, or is classified by the U.S. Department of Commerce (''Commerce'') as mass market software under export control classification number (''ECCN'') 5D992 of the EAR, and provided further that such software is publicly available at no cost to the user.

(b) This section does not authorize:

(1) The direct or indirect exportation of services or software with knowledge or reason to know that such services or software are intended for the Government of Sudan.

(2) The direct or indirect exportation of any goods or technology listed on the Commerce Control List in the EAR, 15 CFR part 774, supplement No. 1 (''CCL''), except for software necessary to enable the services described in paragraph (a)(1) of this section that is classified by Commerce as mass market software under ECCN 5D992 of the EAR.

(3) The direct or indirect exportation of Internet connectivity services or telecommunications transmission facilities (such as satellite links or dedicated lines).

(4) The direct or indirect exportation of web-hosting services that are for purposes other than personal communications (e.g., web-hosting services for commercial endeavors) or of domain name registration services.

(c) Specific licenses may be issued on a case-by-case basis for the exportation of other services and software incident to the sharing of information over the Internet, provided the software is classified as ''EAR99,'' not subject to the EAR, or classified by Commerce as mass market software under ECCN 5D992 of the EAR.

(d) Nothing in this section or in any license issued pursuant to paragraph (c) of this section relieves the exporter from compliance with the export license application requirements of another Federal agency.

[75 FR 10999, Mar. 10, 2010]

Subpart F—Reports

§ 538.601 Records and reports.

For additional provisions relating to records and reports, see subpart C of part 501 of this chapter.

Subpart G—Penalties

§ 538.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'')(50

U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 538.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[63 FR 35810, July 1, 1998, as amended at 70 FR 34063, June 13, 2005; 71 FR 29253, May 22, 2006; 73 FR 32652, June 10, 2008]

§ 538.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 538.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within the Director's discretion, the Office of Foreign Assets Control will agree to withhold

issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations with respect to the potential civil monetary penalty claim.

[70 FR 34063, June 13, 2005]

§ 538.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at the Director's discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in typewritten form and signed by the respondent or a representative thereof. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice and must identify the Office of Foreign Assets Control identification number listed on the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to respond.* Where OFAC receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control's Civil Penalties Division as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (g) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect, unless additional time is granted by the Office of Foreign Assets Control.

(f) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control have been codified in the Appendix to 31 CFR part 501, the Reporting, Procedures and Penalties Regulations.

(g) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

[70 FR 34063, June 13, 2005]

§ 538.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that agency action in federal district court.

[70 FR 34064, June 13, 2005]

§ 538.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 538.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[63 FR 35810, July 1, 1998, as amended at 68 FR 53658, Sept. 11, 2003]

§ 538.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 13067 (3 CFR, 1997 Comp., p. 230), and any further Executive orders relating to the national emergency declared with respect to Sudan in Executive Order 13067, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 538.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 538.506 and 538.521 have been approved by the Office of Management and Budget (''OMB'') and assigned control number 1505–0169. For approval by OMB under the Paperwork Reduction Act of other information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 538—BULK AGRICULTURAL COMMODITIES

Notes:

1. Appendix A sets forth those agricultural commodities eligible for the bulk agricultural commodity sales licensing procedures in § 538.524.

2. Commodities are identified by their classification numbers in the Harmonized Tariff Schedule of the United States (see 19 U.S.C. 1202) (''HTS'').

HTS Number	Commodity
1001.10	Durum Wheat
1001.90	Other Wheat and Meslin, including seed, Red Spring Wheat, White Winter Wheat, ''Canadian'' Western Red Winter Wheat, Soft White Spring Wheat, and Wheat not elsewhere specified
1101.00	Wheat or Meslin Flour
1006.10	Rice in the husk (paddy or rough)
1006.20	Husked (brown) Rice
1006.30	Semi-milled or wholly milled Rice, whether or not polished or glazed
1006.40	Broken Rice
1102.30	Rice Flour
1103.14	Rice Groats, Meal and Pellets
1002.00	Rye
1003.00	Barley
1004.00	Oats
1007.00	Grain Sorghum
1005.00	Corn (Maize)
0713.31	Dried Beans including *Vigna mungo (L.), Hepper,* and *Vigna radiata (L.) Wilczek*
0713.32	Small red (adzuki) beans
0713.33	Kidney beans, including white pea beans
0713.39	Beans, other
0713.50	Broad beans and horse beans
0713.10	Dried Peas (*Pisum sativum*)
0713.20	Chickpeas (garbanzos)
0713.40	Lentils
0713.90	Dried leguminous vegetables, shelled, not elsewhere specified
1201.00	Soybeans, whether or not broken
2304.00	Soybean cake, meal and pellets
1507.10	Soybean oil, crude
1507.90	Soybean oil, other
1514.10	Rapeseed, colza and mustard oil, crude
1514.90	Rapeseed, colza and mustard oil, other
1515.21	Corn (Maize) oil, crude
1515.29	Corn (Maize) oil, other
1512.21	Cottonseed oil, crude
1512.29	Cottonseed oil, other
1517.90	Cottonseed oil, hydrogenated
1508.10	Peanut (ground-nut) oil, crude
1508.90	Peanut (ground-nut) oil, other
1515.50	Sesame oil
1512.11	Sunflower-seed oil, crude
1512.19	Sunflower-seed oil, other
1212.91	Sugar Beets, fresh, chilled, frozen or dried
1212.92	Sugar Cane, fresh, chilled, frozen or dried
1701.11	Cane Sugar, raw, solid form
1701.12	Beet Sugar, raw, solid form
1701.91	Cane or Beet Sugar, solid form, containing added coloring or flavoring
1701.99	Cane or Beet Sugar, other, not elsewhere specified

[65 FR 41789, Aug. 2, 1999]

PART 539—WEAPONS OF MASS DESTRUCTION TRADE CONTROL REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
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Subpart B—Prohibitions

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Subpart I—Paperwork Reduction Act

539.901 Paperwork Reduction Act notice.
APPENDIX I TO PART 539—DESIGNATED FOREIGN PERSONS

AUTHORITY: 3 U.S.C. 301; 22 U.S.C. 2751–2799aa–2; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200.

SOURCE: 64 FR 8716, Feb. 23, 1999, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§539.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the provisions of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 539.201 Prohibited importation of goods, technology, or services.

Except as otherwise authorized, the importation into the United States, on or after the effective date, directly or indirectly, of any goods, technology, or services produced or provided by a designated foreign person, other than information or informational materials, is prohibited.

§ 539.202 Prohibition on import-related transactions.

Except as otherwise authorized, no United States person may finance, act as broker for, transfer, transport, or otherwise participate in the importation into the United States on or after the effective date of any goods, technology, or services produced or provided by a designated foreign person, other than information or informational materials.

§ 539.203 Evasions; attempts; conspiracies.

Any transaction by any United States person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 539.204 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The prohibitions contained in this part do not apply to the importation from any country, or to the exportation to any country, whether commercial or otherwise, regardless of format or medium of transmission, of any information or informational materials as defined in § 539.308, or any transaction directly incident to such importation or exportation.

(2) Paragraph (b)(1) of this section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transaction, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services. Examples of prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for mass-market magazines and other periodical publications that are widely-circulated); importation into the United States of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and payment of royalties to a designated foreign person with respect to income received for enhancements or alterations made by U.S. persons to informational or informational materials imported from a designated foreign person.

(3) Paragraph (b)(1) of this section does not exempt from regulation or authorize the importation into the United States of or transactions incident to the importation into the United States or leasing of telecommunications transmission facilities (such as satellite links or dedicated lines) for use in the transmission of any data.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 539.301 Designated foreign person.

The term *designated foreign person* means any person determined by the Secretary of State pursuant to section 4(a) of Executive Order 12938 of November 14, 1994 (59 FR 59099, 3 CFR, 1994 Comp., p. 950), as amended by section

1(a) of Executive Order 13094 of July 28, 1998 (63 FR 40803, July 30, 1998), to be subject to import measures. Designated foreign persons are any persons listed in appendix I to this part and any entities owned or controlled by any person listed in appendix I to this part unless otherwise indicated in appendix I to this part.

§ 539.302 Effective date.

The term *effective date* means the ''effective date'' specified in the relevant FEDERAL REGISTER notice issued by the Department of State identifying a designated foreign person. This date is listed after the name of each designated foreign person in appendix I to this part.

§ 539.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 539.304 Entity owned or controlled by a person listed in appendix I to this part.

The term *entity owned or controlled by a person listed in appendix I to this part* includes any subsidiaries and branches, wherever located, of entities listed in appendix I to this part, any successors to such entities, and any persons acting or purporting to act for or on behalf of any of the foregoing.

§ 539.305 General license.

The term *general license* means any license the terms of which are set forth in this part.

§ 539.306 Goods, technology, or services produced or provided by a designated foreign person.

With respect to the prohibitions in §§ 539.201 and 539.202, the term *goods, technology, or services produced or provided by a designated foreign person* includes but is not limited to the following:

(a) Goods grown, manufactured, extracted, or processed by a designated foreign person;

(b) Technology developed, owned, licensed, or otherwise controlled by a designated foreign person;

(c) Services performed by or on behalf of a designated foreign person, or by a third party under contract, directly or indirectly, to a designated foreign person, regardless of location.

§ 539.307 Importation into the United States.

The term *importation into the United States* means:

(a) With respect to goods or technology, the bringing of any goods or technology into the United States, except that in the case of goods or technology being transported by vessel, *importation into the United States* means the bringing of any goods or technology into the United States with the intent to unlade. See also § 539.404.

(b) With respect to services, the receipt in the United States of services or of the benefit of services wherever such services may be performed. The benefit of services is received in the United States if the services are:

(1) Performed on behalf of or for the benefit of a person located in the United States;

(2) Received by a person located in the United States;

(3) Received by a person located outside the United States on behalf of or for the benefit of an entity organized in the United States; or

(4) Received by an individual temporarily located outside the United States for the purpose of obtaining such services for use in the United States.

(c) The following example illustrates the provisions of paragraph (b) of this section:

Example: An employee of an entity organized in the United States may not, without specific authorization from the Office of Foreign Assets Control, receive from a designated foreign person consulting services for use in the United States.

§ 539.308 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(b) To be considered information or informational materials, artworks

must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

§ 539.309 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 539.310 Person.

The term *person* means an individual or entity.

§ 539.311 Specific license.

The term *specific license* means any license not set forth in this part but issued pursuant to this part.

§ 539.312 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 539.313 United States person; U.S. person.

The term *United States person or U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 539.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 539.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 539.403 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect to the licensed transaction is also authorized by the license. Except as specifically authorized by the terms of the license, prohibited transactions involving designated foreign persons not named in the license are not considered incidental to a licensed transaction and therefore remain prohibited.

§ 539.404 Transshipments through the United States prohibited.

(a) The prohibitions in §§ 539.201 and 539.202 apply to the importation into the United States, for transshipment or transit, of goods, technology, or services produced or provided by a designated foreign person that are intended or destined for third countries.

(b) In the case of goods or technology transported by vessel, the prohibitions in §§ 539.201 and 539.202 apply to the unlading in the United States and the intent to unlade in the United States of goods or technology produced or provided by a designated foreign person that is intended or destined for third countries.

§ 539.405 Importation of goods or technology from third countries.

Importation into the United States from third countries of goods or technology is prohibited if undertaken with knowledge or reason to know that those goods contain raw materials or components produced or provided by a designated foreign person or technology produced or provided by a designated foreign person.

§ 539.406 Importation into and release from a bonded warehouse or foreign trade zone.

The prohibitions in §§ 539.201 and 539.202 apply to importation into a

bonded warehouse or a foreign trade zone of the United States.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 539.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[64 FR 8716, Feb. 23, 1999, as amended at 68 FR 53658, Sept. 11, 2003]

§ 539.502 Effect of license.

(a) No license contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control pursuant to this part, authorizes or validates any transaction effected prior to the issuance of the license, unless the prior transaction is specifically authorized in such license.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited by this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part authorizes any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited by this part has the effect of removing from the transaction a prohibition or prohibitions contained in this part, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest that would not otherwise exist under ordinary principles of law in or with respect to any property.

§ 539.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 539.504 Departments and agencies of the United States Government.

(a) Departments and agencies of the United States Government may by written authorization signed by the head of the Department or Agency or his designee provide for:

(1) Procurement contracts necessary to meet U.S. operational military requirements or requirements under defense production agreements; intelligence requirements; sole source suppliers, spare parts, components, routine servicing and maintenance of products for the United States Government; and medical and humanitarian items; and

(2) Performance pursuant to contracts in force as of 12:01 a.m. EDT, July 29, 1998, under appropriate circumstances.

(b) Such written authorization shall:

(1) Include details about the goods, technology, and services which have been approved for importation; the rationale for such approval; and 24-hour-a-day contact information for the approving official or designee for use by the U.S. Customs Service should questions arise about an approved import;

(2) Be in the form of license, regulation, order, directive, or exception;

(3) Include information about the results of prior written consultation with the Under Secretary of State for Arms Control and International Security Affairs (through the Office of Chemical, Biological and Missile Nonproliferation and the Office of the Assistant Legal Adviser for Political-Military Affairs); and

(4) Be provided to U.S. Customs Service officials upon the importation of

any goods or technology covered by an authorization described in paragraph (a) of this section in a form which clearly establishes that the imported goods or technology is covered by the authorization.

Subpart F—Reports

§ 539.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 539.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 539.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[64 FR 8716, Feb. 23, 1999, as amended at 71 FR 29253, May 22, 2006; 73 FR 32653, June 10, 2008]

§ 539.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. This prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within 30 days of the date

of mailing of the notice as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

§ 539.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to make a written response to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of response.* The written response need not be in any particular form, but must contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice issued pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30–day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 539.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to a prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any response to a prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition of the monetary penalty to the respondent.

(1) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice.

(2) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

§ 539.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 539.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions;

rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[64 FR 8716, Feb. 23, 1999, as amended at 68 FR 53658, Sept. 11, 2003]

§ 539.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 12938 of November 14, 1994 (59 FR 59099, 3 CFR, 1994 Comp., p. 950), as amended by Executive Order 13094 of July 28, 1998 (63 FR 40803, July 30, 1998), and any further Executive orders relating to the national emergency declared in Executive Order 12938 may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 539.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX I TO PART 539—DESIGNATED FOREIGN PERSONS

The following foreign persons have been determined by the Secretary of State to have materially contributed or attempted to contribute materially to the efforts of a foreign country, project, or entity of proliferation concern to use, acquire, design, develop, produce, or stockpile weapons of mass destruction or missiles capable of delivering such weapons, for purposes of section 4(a) of Executive Order 12938, as amended by section 1(a) of Executive Order 13094, and to be subject to import measures authorized in Executive Orders 12938 and 13094. They, and any entities owned or controlled by them, unless indicated otherwise, are designated foreign persons for purposes of this part. The applicable effective date and citation to the FEDERAL REGISTER for each such person is given in brackets after that person's name and identifying information:

1. Baltic State Technical University, including at 1/21, 1–ya Krasnoarmeiskaya Ul., 198005 St. Petersburg, Russia [July 30, 1998; 63 FR 42089, August 6, 1998].
2. Europalace 2000, including at Moscow, Russia [July 30, 1998; 63 FR 42089, August 6, 1998].
3. Glavkosmos, including at 9 Krasnoproletarskaya St., 103030 Moscow, Russia [July 30, 1998; 63 FR 42089, August 6, 1998].
4. Grafit, also known as (''aka'') State Scientific Research Institute of Graphite or NIIGRAFIT, including at 2 Ulitsa Elektrodnaya, 111524 Moscow, Russia [July 30, 1998; 63 FR 42089, August 6, 1998].
5. MOSO Company, including at Moscow, Russia [July 30, 1998; 63 FR 42089, August 6, 1998].
6. D. Mendeleyev University of Chemical Technology of Russia, including at 9 Miusskaya Sq., Moscow 125047, Russia [January 8, 1999; 64 FR 2935, January 19, 1999].
7. Moscow Aviation Institute (MAI), including at 4 Volokolamskoye Shosse, Moscow 125871, Russia [January 8, 1999; 64 FR 2935, January 19, 1999].
8. The Scientific Research and Design Institute of Power Technology, aka NIKIET, Research and Development Institute of Power Engineering [RDIPE], and ENTEK, including at 101000, P.O. Box 788, Moscow, Russia.

[64 FR 8716, Feb. 23, 1999, as amended at 66 FR 57381, Nov. 15, 2001]

PART 540—HIGHLY ENRICHED URANIUM (HEU) AGREEMENT ASSETS CONTROL REGULATIONS

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Subpart I—Paperwork Reduction Act

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13159, 65 FR 39279, 3 CFR, 2000 Comp., p. 277.

SOURCE: 66 FR 38555, July 25, 2001, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 540.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) Nothing contained in these regulations shall relieve a person from any requirement to obtain a license or other authorization from any department or agency of the United States Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency, and no license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 540.201 Prohibited transactions involving blocked property.

(a) Except as otherwise authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, the property or property interests of the Government of the Russian Federation

that are directly related to the implementation of the Highly Enriched Uranium (HEU) Agreements, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any blocked property or interest in blocked property covered by this part.

§ 540.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date (see § 540.302) that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 540.201(a) is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 540.201, unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) The Director of the Office of Foreign Assets Control may, in his discretion, retroactively license a transfer of property that is null and void or unenforceable by virtue of the provisions of this section so that such a transfer shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license or other direction, or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 540.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

§ 540.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations subject to § 540.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section the term blocked interest-bearing account means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or U.S. Treasury Bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 540.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) or this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 540.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates which are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 540.201. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Except as otherwise licensed, authorized or directed by OFAC, funds subject to this section may not be invested, used for collateral or reinvested in a manner which provides immediate financial or economic benefit or access to the Government of the Russian Federation or its entities, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 540.301 Blocked account; blocked property.

The terms blocked account and blocked property shall mean any account or property subject to the prohibition in § 540.201 and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 540.302 Effective date.

The term effective date refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m., Eastern Daylight Time, June 22, 2000.

§ 540.303 Entity.

The term entity means a partnership, association, trust, joint venture, corporation, or other organization.

§ 540.304 Government of the Russian Federation.

(a) The term Government of the Russian Federation means the Government of the Russian Federation, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf

of, the Government of the Russian Federation.

(b) Any person or entity to the extent such person or entity is or has been, or to the extent that there is reasonable cause to believe that such person or entity is, or has been, since the effective date (see § 540.302), acting or purporting to act directly or indirectly for or on behalf of any of the foregoing.

§ 540.305 HEU Agreements.

The term HEU Agreements means the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993; the Initial Implementing Contract, Contract Number DE-AC01-93NE50067, dated January 14, 1994; and all current and future amendments thereto; as well as the related current and future implementing agreements, memoranda of understanding, protocols, and contracts, including all current and future amendments thereto, to include without limitation the following:

(a) Memorandum of Agreement Between the United States, Acting By and Through the United States Department of State, and the United States Department of Energy and the United States Enrichment Corporation (USEC), for USEC to Serve as the United States Government's Executive Agent under the Agreement Between the United States and the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated April 18, 1997;

(b) Agreement Between the United States Department of Energy and the Ministry of the Russian Federation for Atomic Energy Concerning the Transfer of Source Material to the Russian Federation signed at Washington on March 24, 1999, with Implementing Agreement and Administrative Arrangement, dated March 24, 1999, and related letter agreements; and

(c) UF6 Feed Component Implementing Contract Among Cameco Europe S.A. and Compagnie Général des Matières Nucléaires and Nukem, Inc. and Nukem Nuklear Gmbh and OAO Techsnabexport, and Tenex Contract # 08843672/90100–02D, dated March 24, 1999.

§ 540.306 Highly Enriched Uranium (HEU).

The term highly enriched uranium or HEU means uranium enriched to twenty (20) percent or greater in the isotope U235.

§ 540.307 Licenses; general and specific.

(a) Except as otherwise specified, the term license means any license or authorization contained in or issued pursuant to this part.

(b) The term general license means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term specific license means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 540.307. See § 501.801 of this chapter on licensing procedures.

§ 540.308 Low Enriched Uranium (LEU).

The term low enriched uranium or LEU means uranium enriched to less than twenty (20) percent in the isotope U235.

§ 540.309 Natural uranium.

The term natural uranium means uranium found in nature, with an average concentration of 0.711 percent by weight of the isotope U235.

§ 540.310 Person.

The term person means an individual or entity.

§ 540.311 Property; property interest.

The terms property and property interest include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any

rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks, copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of whatever nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interests therein, present, future, or contingent.

§ 540.312 Transfer.

The term transfer means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 540.313 United States.

The term United States means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 540.314 United States person; U.S. person.

The term United States person or U.S. person means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States or any jurisdiction within the United States, including foreign branches, or any person in the United States.

§ 540.315 Uranium-235 (U235).

The term uranium-235 or U235 means the fissile isotope found in natural uranium.

§ 540.316 Uranium enrichment.

The term uranium enrichment means the process of increasing the concentration of the isotope U235 relative to that of the isotope U238.

§ 540.317 Uranium feed; natural uranium feed.

The term uranium feed or natural uranium feed means natural uranium in the form of UF6 suitable for uranium enrichment.

§ 540.318 Uranium Hexafluoride (UF6).

The term uranium hexafluoride or UF6 means a compound of uranium and fluorine.

§ 540.319 U.S. financial institution.

The term U.S. financial institution means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges,

clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 540.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 540.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 540.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of the Russian Federation, such property shall no longer be deemed to be property in which the Government of the Russian Federation has or has had an interest unless there exists in the property another interest of the Government of the Russian Federation, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of the Russian Federation, such property shall be deemed to be property in which there exists an interest of the Government of the Russian Federation.

§ 540.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 540.201 if effected after the effective date (see § 540.302).

§ 540.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except for any attachment, judgment, decree, lien, execution, garnishment, or other judicial process which has the effect of encumbering the property or interest in property of the Government of the Russian Federation directly related to the implementation of the HEU agreements, or any transaction involving a debit to a blocked account or transfer of blocked property not explicitly authorized within the terms of a license.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 540.500 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53658, Sept. 11, 2003]

§ 540.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any

transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or licenses specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 540.502 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 540.503 Payments and transfers to blocked accounts in U.S. financial institutions.

Except as otherwise authorized, licensed or directed by the Office of Foreign Assets Control, any payment of funds or transfer of credit in which the Government of the Russian Federation has any interest that is directly related to the implementation of the HEU Agreements and that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name. U.S. financial institutions are authorized to engage in routine currency exchange transfers involving funds directly associated with the implementation of the HEU agreements that flow through correspondence accounts in U.S. financial institutions.

NOTE TO § 540.503. Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 501.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 540.504 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held by that financial institution in payment or reimbursement for normal service charges owed to it by the owner of the blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

Subpart F—Reports

§ 540.601 Records and reports.

For additional provisions relating to required records and reports, see part 501, subpart C, of this chapter.

Subpart G—Penalties

§ 540.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 540.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[66 FR 38555, July 25, 2001, as amended at 71 FR 29253, May 22, 2006; 73 FR 32653, June 10, 2008]

§ 540.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within the applicable 30 day period set forth in § 540.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under

terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 540.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30 day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in writing and may be handwritten or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original must also be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response should also set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Default.* If the respondent elects not to submit a written response within the time limit set forth in paragraph (a) of this section, the Office of Foreign Assets Control will conclude that the respondent has decided not to respond to the prepenalty notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the prepenalty notice.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the

prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Representation*. A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 540.704 Penalty imposition or withdrawal.

(a) *No violation*. If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and the cancellation of the proposed monetary penalty.

(b) *Violation*. (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in a federal district court.

§ 540.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 540.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see subpart E of part 501 of this chapter.

[66 FR 38555, July 25, 2001, as ameded at 68 FR 53658, Sept. 11, 2003]

§ 540.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13159 of June 21, 2000 (65 FR 39279, June 26, 2000) and any further executive orders relating to the national emergency declared in Executive Order 13159 may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 540.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 541—ZIMBABWE SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13288, 68 FR 11457, 3 CFR, 2003 Comp., p. 186.

SOURCE: 69 FR 45248, July 29, 2004, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 541.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the record keeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 541.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, property or interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13288 of March 6, 2003 (68 FR 11457, March 10, 2003); and

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any person listed in the Annex to Executive Order 13288.

NOTE 1 TO PARAGRAPH (a) OF § 541.201: The names of persons whose property and interests in property are blocked pursuant to paragraph (a) of this section are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[ZIMBABWE].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter.

NOTE 2 TO PARAGRAPH (a) OF § 541.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–ZIMBABWE].''

NOTE 3 TO PARAGRAPH (a) OF § 541.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property or interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or

agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[69 FR 45248, July 29, 2004, as amended at 76 FR 38537, June 30, 2011]

§ 541.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 541.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 541.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 541.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Except to the extent otherwise provided by law or unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is

null and void with respect to any property in which on or since the effective date there existed an interest of a person whose property or interests in property are blocked pursuant to § 541.201(a).

§ 541.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 541.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 541.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 541.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 541.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property or interests in property are blocked pursuant to § 541.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use of blocked funds or other assets as collateral.

§ 541.204 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 541.205 Expenses of maintaining blocked property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 eastern standard time, March 7, 2003,

all expenses incident to the maintenance of physical property blocked pursuant to § 541.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 541.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 541.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials, as defined in § 541.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property or interests in property are blocked pursuant to § 541.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt from regulation or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to § 541.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country, including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel, including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 541.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 541.201 held in the name of a person whose property or interests in property are blocked pursuant to § 541.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 541.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property or interests in property are blocked pursuant to § 541.201(a)(1), 12:01 eastern standard time, March 7, 2003;

(b) With respect to a person whose property or interests in property are blocked pursuant to § 541.201(a)(2), the earlier of the date on which either actual notice or constructive notice is received of such person's designation by the Secretary of the Treasury.

§ 541.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 541.304 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a) OF § 541.304: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 541.305 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 541.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 541.306: See § 501.801 of this chapter on licensing procedures.

§ 541.307 Person.

The term *person* means an individual or entity.

§ 541.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 541.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or

alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 541.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 541.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 541.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 541.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 541.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 541.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 541.201(a), unless

there exists in the property another interest that is blocked pursuant to § 541.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 541.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 541.404 Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An incidental transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 541.201(a); or

(b) An incidental transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 541.405 Provision of services.

(a) Except as provided in § 541.206, the prohibitions on transactions involving blocked property contained in § 541.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property or interests in property are blocked pursuant to § 541.201(a); or

(2) With respect to property interests subject to § 541.201.

(b) *Example:* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property or interests in property are blocked pursuant to § 541.201(a).

NOTE TO § 541.405: See §§ 541.507 and 541.508 on licensing policy with regard to the provision of, respectively, certain legal or medical services.

§ 541.406 Offshore transactions.

The prohibitions in § 541.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property that the U.S. person knows, or has reason to know, is held in the name of a person whose property or interests in property are blocked pursuant to § 541.201(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are blocked pursuant to § 541.201(a) has or has had an interest since the effective date.

§ 541.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 541.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized pursuant to this part.

§ 541.408 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 541.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property or interests in property are blocked pursuant to § 541.201(a).

§ 541.409 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 541.201 if effected after the effective date.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 541.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart D, of

this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 541.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 541.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 541.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to § 541.201(a) has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

NOTE TO § 541.504: Refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 541.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 541.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 541.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 541.203, U.S. financial institutions are

authorized to invest and reinvest assets blocked pursuant to § 541.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property or interests in property are blocked pursuant to § 541.201(a).

§ 541.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property or interests in property are blocked pursuant to § 541.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 541.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 541.201(a) is prohibited except to the extent otherwise provided by law or unless specifically licensed in accordance with § 541.202(e).

§ 541.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 541.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 541.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 541.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 541.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[69 FR 45248, July 29, 2004, as amended at 71 FR 29253, May 22, 2006; 73 FR 32653, June 10, 2008]

§ 541.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30 day period set forth in § 541.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 541.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable

30-day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in typewritten form and signed by the respondent or a representative thereof. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to respond.* Where OFAC receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written

position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 541.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 541.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 541.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart D, of this chapter.

§ 541.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13288 of March 6, 2003 (68 FR 11457, March 10, 2003), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 541.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to record keeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 542—SYRIAN SANCTIONS REGULATIONS

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Subpart I—Paperwork Reduction Act

542.901 Paperwork Reduction Act notice.

AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p. 168.

SOURCE: 70 FR 17203, Apr. 5, 2005, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 542.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

§ 542.102 Relation of this part to part 596 of this chapter.

For the purposes of the Terrorism List Government Sanctions Regulations set forth in part 596 of this chapter, the Government of Syria in its entirety is not subject to the regulations set forth in this part. Consequently, 31 CFR 596.503 does not apply to financial transactions with the Government of Syria, while 31 CFR 596.504 and 596.505 continue to apply.

Subpart B—Prohibitions

§ 542.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, all property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) [Reserved]

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be or to have been directing or otherwise significantly contributing to the Government of Syria's provision of safe haven to or other support for any person whose property or interests in property are blocked under United States law for terrorism-related reasons, including, but not limited to, Hamas, Hizballah, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, the Popular Front for the Liberation of Palestine-General Command, and any persons designated pursuant to Executive Order 13224 of September 23, 2001;

(ii) To be or to have been directing or otherwise significantly contributing to the Government of Syria's military or security presence in Lebanon;

(iii) To be or to have been directing or otherwise significantly contributing to the Government of Syria's pursuit of the development and production of chemical, biological, or nuclear weapons and medium- and long-range surface-to-surface missiles;

(iv) To be or to have been directing or otherwise significantly contributing to any steps taken by the Government of Syria to undermine United States and international efforts with respect to the stabilization and reconstruction of Iraq; or

(v) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property or interests in property are blocked pursuant to this section.

NOTE 1 TO PARAGRAPH (a) OF § 542.201: The names of persons whose property and interests in property are blocked pursuant to paragraph (a) of this section are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[SYRIA].'' The SDN List is accessible through the following page on the Office of

Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter.

NOTE 2 TO PARAGRAPH (a) OF § 542.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–SYRIA].''

NOTE 3 TO PARAGRAPH (a) OF § 542.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The blocking of property and interests in property pursuant to § 542.201(a) includes, but is not limited to, the prohibition of:

(1) The making of any contribution of funds, goods, or services by, to, or for the benefit of any person whose property or interests in property are blocked pursuant to this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any such person.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property or interests in property are blocked pursuant to § 542.201(a) is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[70 FR 17203, Apr. 5, 2005, as amended at 76 FR 38357, June 30, 2011]

§ 542.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 542.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in, or right, remedy, power, or privilege with respect to, such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 542.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of

this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 542.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Except to the extent otherwise provided by law or unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property or interests in property are blocked pursuant to § 542.201(a).

§ 542.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations subject to § 542.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 542.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 542.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 542.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property or interests in property are blocked pursuant to § 542.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use of blocked funds or other assets as collateral.

NOTE TO § 542.203: See § 542.506 regarding investment and reinvestment of certain funds.

§ 542.204 Expenses of maintaining blocked property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before 12:01 a.m., eastern daylight time, May 12, 2004, all expenses incident to the maintenance of physical property blocked pursuant to § 542.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 542.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 542.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 542.206 Exempt transactions.

(a) *Personal communications*. The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials*. (1) The importation from any country and the exportation to any country of information or informational materials, as defined in § 542.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property or interests in property are blocked pursuant to § 542.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt from regulation or authorize transactions incident to the exportation of software subject to the Export Administration

Regulations, 15 CFR parts 730 through 799, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property or interests in property are blocked pursuant to § 542.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including exportation or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 542.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 542.201 held in the name of a person whose property or interests in property are blocked pursuant to § 542.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 542.302 Effective date.

With respect to a person whose property or interests in property are blocked pursuant to a designation under § 542.201(a), the effective date is the earlier of the date on which either actual notice or constructive notice is received of such person's designation.

§ 542.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 542.304 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a) OF § 542.304. To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 542.305 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 542.306 Licenses; general and specific.

(a) Except as otherwise specified, the term license means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 542.306: See § 501.801 of this chapter on licensing procedures.

§ 542.307 Person.

The term person means an individual or entity.

§ 542.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 542.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 542.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 542.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent, including but not limited to: Depository institutions; banks; savings banks; trust companies; securities brokers and dealers; commodity futures and options brokers and dealers; forward contract and foreign exchange merchants; securities and commodities exchanges; clearing corporations; investment companies; employee benefit plans; and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 542.312 United States person; U.S. person.

The term *United States person* or U.S. person means any United States citizen, permanent resident alien, entity

organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 542.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 542.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 542.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 542.201(a), unless there exists in the property another interest that is blocked pursuant to § 542.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 542.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 542.404 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An incidental transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 542.201(a); or

(b) An incidental transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 542.405 Provision of services.

(a) Except as provided in § 542.206, the prohibitions on transactions involving blocked property contained in § 542.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property or interests in property are blocked pursuant to § 542.201(a); or

(2) With respect to property interests subject to § 542.201.

(b) *Example:* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property or interests in property are blocked pursuant to § 542.201(a).

NOTE TO § 542.405: See §§ 542.507 and 542.508, respectively, on licensing policy with regard to the provision of certain legal or medical services.

§ 542.406 Offshore transactions.

The prohibitions in § 542.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property that the U.S. person knows, or has reason to know, is held in the name of a person

whose property or interests in property are blocked pursuant to § 542.201(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are blocked pursuant to § 542.201(a) has or has had an interest since the effective date.

§ 542.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 542.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized pursuant to this part.

§ 542.408 Charitable contributions.

Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology, including those to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of a person whose property or interests in property are blocked pursuant to § 542.201(a). For purposes of this part, a contribution or donation is made by, to, or for the benefit of a person whose property or interests in property are blocked pursuant to § 542.201(a) if made by, to, or in the name of such a person; if made by, to, or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions or donations by, to, or for such a person.

§ 542.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 542.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property or interests in property are blocked pursuant to § 542.201(a).

§ 542.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 542.201 if effected after the effective date.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 542.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 542.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such licenses or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which

would not otherwise exist under ordinary principles of law.

§ 542.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 542.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to § 542.201(a) has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

NOTE TO § 542.504. Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 542.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 542.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 542.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 542.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 542.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property or interests in property are blocked pursuant to § 542.201(a).

§ 542.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property or interests in property are blocked pursuant to § 542.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling

is not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any Federal or State agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 542.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 542.201(a) is prohibited unless specifically licensed in accordance with § 542.202(e).

§ 542.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 542.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 542.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 542.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 542.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any

false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[70 FR 17203, Apr. 5, 2005, as amended at 71 FR 29253, May 22, 2006; 73 FR 32653, June 10, 2008]

§ 542.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further civil proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30 day period set forth in § 542.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director of the Office of Foreign Assets Control grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 542.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director of the Office of Foreign Assets Control may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Director of the Office of Foreign Assets Control,

only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in handwritten or typed form and signed by the respondent or a representative thereof. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice and must include the Office of Foreign Assets Control identification number listed on the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to respond.* Where the Office of Foreign Assets Control receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 542.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of

the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in Federal District Court.

§ 542.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal District Court.

Subpart H—Procedures

§ 542.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 542.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13338 of May 11, 2004 (69 FR 26751, May 13, 2004), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 542.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 543—CôTE D'IVOIRE SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13396, 71 FR 7389, 3 CFR, 2006 Comp., p. 209.

SOURCE: 74 FR 16764, Apr. 13, 2009, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 543.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 543.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13396 of February 7, 2006 (71 FR 7389, February 10, 2006); and

(2) Any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(i) To constitute a threat to the peace and national reconciliation process in Côte d'Ivoire, such as by blocking the implementation of the Linas-Marcoussis Agreement of January 24, 2003, the Accra III Agreement of July 30, 2004, and the Pretoria Agreement of April 6, 2005;

(ii) To be responsible for serious violations of international law in Côte d'Ivoire;

(iii) To have directly or indirectly supplied, sold, or transferred to Côte d'Ivoire arms or any related materiel or any assistance, advice, or training related to military activities;

(iv) To have publicly incited violence and hatred contributing to the conflict in Côte d'Ivoire;

(v) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(iv) of this section or any person whose property or interests in property are blocked pursuant to this paragraph (a); or

(vi) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this paragraph (a).

NOTE 1 TO PARAGRAPH (a) OF § 543.201: The names of persons listed in or designated pursuant to Executive Order 13396, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[COTED].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 543.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 543.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–COTED].''

NOTE 3 TO PARAGRAPH (a) OF § 543.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions when engaged in by a United States person or within the United States:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence

thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[74 FR 16764, Apr. 13, 2009, as amended at 76 FR 38537, June 30, 2011]

§ 543.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 543.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 543.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13396, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 543.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 543.201(a).

§ 543.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 543.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 543.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 543.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 543.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 543.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 543.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 543.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 543.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

Subpart C—General Definitions

§ 543.301 Arms or any related materiel.

The term *arms or any related materiel* means arms or related materiel of all types, including military aircraft and equipment, but excludes:

(a) Supplies and technical assistance intended solely for the support of or use by the United Nations Operation in Côte d'Ivoire and forces of France who support them;

(b) Supplies of non-lethal military equipment intended solely for humanitarian or protective use, and related technical assistance and training;

(c) Supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Côte d'Ivoire for use by United Nations personnel, representatives of the media, and humanitarian and development workers and associated personnel, for their personal use only;

(d) Supplies temporarily exported to Côte d'Ivoire to the forces of a country that is taking action solely and directly to facilitate the evacuation of its nationals and those for whom it has consular responsibility in Côte d'Ivoire; and

(e) Supplies of arms and related materiel and technical training and assistance intended solely for support of or use in the process of restructuring defense and security forces pursuant to paragraph 3, subparagraph (f) of the Linas-Marcoussis Agreement.

§ 543.302 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 543.201 held in the name of a person whose property and interests in property are blocked pursuant to § 543.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 543.302: See § 543.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 543.201(a).

§ 543.303 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 543.201(a)(1), 12:01 a.m. eastern standard time, February 8, 2006;

(b) With respect to a person whose property and interests in property are blocked pursuant to § 543.201(a)(2), the earlier of the date of actual or constructive notice of such person's designation.

§ 543.304 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 543.305 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 543.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 543.306: See § 501.801 of this chapter on licensing procedures.

§ 543.307 Person.

The term *person* means an individual or entity.

§ 543.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 543.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 543.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 543.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those

branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 543.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 543.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 543.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 543.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 543.201(a), unless there exists in the property another interest that is blocked pursuant to § 543.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 543.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 543.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 543.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c) *Example.* A license authorizing Company A, whose property and interests in property are blocked pursuant to § 543.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 543.201(a).

§ 543.405 Provision of services.

(a) The prohibitions on transactions involving blocked property contained in § 543.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 543.201(a); or

(2) With respect to property interests subject to § 543.201.

(b) *Example*. U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 543.201(a).

NOTE TO § 543.405: See §§ 543.507 and 543.508 on licensing policy with regard to the provision of certain legal and medical services.

§ 543.406 Offshore transactions.

The prohibitions in § 543.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 543.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 543.201(a) has or has had an interest since the effective date.

§ 543.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 543.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 543.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 543.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 543.201(a) if made by, to, or in the name of such a person; if made by, to, or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person.

§ 543.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 543.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 543.201(a).

§ 543.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 543.201 if effected after the effective date.

§ 543.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 543.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 543.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13396 or designated pursuant to § 543.201(a).

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 543.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 543.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

§ 543.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 543.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 543.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 543.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 543.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 543.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 543.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 543.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 543.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 543.201(a).

§ 543.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 543.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 543.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 543.201(a) is prohibited unless specifically licensed in accordance with § 543.202(e).

§ 543.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 543.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 543.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 543.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation

of any license, order, regulation, or prohibition issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 543.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V (April 13, 2009), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is directed to section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (''UNPA''), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $10,000 and, if a natural person, may also be imprisoned for not more than 10 years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(d) Violations involving transactions described at section 203(b)(1),(3), and (4) of IEEPA shall be subject only to the penalties set forth in paragraph (c) of this section.

(e) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry; shall be fined under title 18, United States Code, imprisoned not more than five years, or both.

(f) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 543.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to

submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 543.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a written Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter.

The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 543.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 543.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 543.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13396 of February 7, 2006 (71 FR 7389, February 10, 2006), and any further Executive orders relating to the national emergency declared in Executive Order 13396, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 543.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 544—WEAPONS OF MASS DESTRUCTION PROLIFERATORS SANCTIONS REGULATIONS

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544.901 Paperwork Reduction Act notice.

AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Public Law 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Public Law 110–96, 121 Stat. 1011; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13094, 63 FR 40803, 3 CFR, 1998 Comp., p. 200; E.O. 13382, 70 FR 38567, 3 CFR, 2005 Comp., p. 170.

SOURCE: 74 FR 16773, Apr. 13, 2009, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 544.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

NOTE TO § 544.101: The sanctions implemented pursuant to the Weapons of Mass Destruction Trade Control Regulations set forth in part 539 of this chapter are separate and distinct from the sanctions implemented pursuant to this part, even though both programs have been imposed pursuant to the same declaration of national emergency in Executive Order 12938 of November 14, 1994. Accordingly, a ''designated foreign person'' whose goods, technology, or services are prohibited from being imported into the United States under part 539 is not necessarily a person whose property and interests in property are blocked pursuant to § 544.201(a). Consequently, the property and interests in property of a ''designated foreign person'' under part 539 are not blocked, unless the ''designated foreign person'' has separately become a person whose property and interests in property are blocked pursuant to § 544.201(a) or any other part of 31 CFR chapter V. Note, however, that the importation into the United States of goods, technology, or services (other than information or informational materials) produced or provided by a ''designated foreign person'' under part 539 is prohibited by that part.

Subpart B—Prohibitions

§ 544.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13382 of June 28, 2005 (70 FR 38567, July 1, 2005);

(2) Any foreign person determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Attorney General, and other relevant agencies, to have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of

weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including any efforts to manufacture, acquire, possess, develop, transport, transfer or use such items, by any person or foreign country of proliferation concern;

(3) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to have provided, or attempted to provide, financial, material, technological or other support for, or goods or services in support of, any activity or transaction described in paragraph (a)(2) of this section, or any person whose property and interests in property are blocked pursuant to this section; and

(4) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Attorney General, and other relevant agencies, to be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this section.

NOTE 1 TO PARAGRAPH (a) OF § 544.201: The names of persons listed in or designated pursuant to Executive Order 13382, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[NPWMD].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 544.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 544.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–NPWMD].''

NOTE 3 TO PARAGRAPH (a) OF § 544.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions when engaged in by a United States person or within the United States:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[74 FR 16773, Apr. 13, 2009, as amended at 76 FR 38537, June 30, 2011]

§ 544.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 544.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 544.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13382, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 544.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 544.201(a).

§ 544.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 544.201(a) shall hold

or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 544.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 544.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 544.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 544.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 544.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 544.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 544.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 544.206 Exempt transactions.

(a) *Personal communications*. The prohibitions contained in this part do not

apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of any information or informational materials, as defined in § 544.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 544.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology, or software for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 544.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 544.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 544.201 held in the name of a person whose property and interests in property are blocked pursuant to § 544.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 544.301: See § 544.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 544.201(a).

§ 544.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 544.201(a)(1), 12:01 a.m. eastern daylight time, June 29, 2005; and

(b) With respect to a person whose property and interests in property are blocked pursuant to § 544.201(a)(2), (a)(3), or (a)(4), the earlier of the date of actual or constructive notice of such person's designation.

§ 544.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 544.304 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD–ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a) OF § 544.304: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 544.305 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 544.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 544.306: See § 501.801 of this chapter on licensing procedures.

§ 544.307 Person.

The term *person* means an individual or entity.

§ 544.308 Property; property interest.

The terms *property and property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 544.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of

appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 544.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 544.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 544.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 544.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 544.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 544.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 544.201(a), unless there exists in the property another interest that is blocked pursuant to § 544.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 544.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 544.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 544.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c) *Example.* A license authorizing Company A, whose property and interests in property are blocked pursuant to § 544.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 544.201(a).

§ 544.405 Provision of services.

(a) Except as provided in § 544.206, the prohibitions on transactions involving blocked property contained in § 544.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 544.201(a); or

(2) With respect to property interests subject to § 544.201.

(b) *Example:* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 544.201(a).

NOTE TO § 544.405: See §§ 544.507 and 544.508 on licensing policy with regard to the provision of certain legal and medical services.

§ 544.406 Offshore transactions.

The prohibitions in § 544.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 544.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 544.201(a) has or has had an interest since the effective date.

§ 544.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 544.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 544.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing, or medicine, may be made by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 544.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 544.201(a) if made by, to, or in the name of such a person; if made by, to, or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person.

§ 544.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 544.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 544.201(a).

§ 544.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 544.201 if effected after the effective date.

§ 544.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 544.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 544.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13382 or designated pursuant to § 544.201(a).

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 544.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 544.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

§ 544.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 544.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 544.201(a) has any

interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 544.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 544.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 544.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 544.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 544.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 544.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property and interests in property are blocked pursuant to § 544.201(a).

§ 544.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 544.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 544.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien,

judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 544.201(a) is prohibited unless specifically licensed in accordance with § 544.202(e).

§ 544.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 544.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 544.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 544.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 544.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V (April 13, 2009), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under title 18, United States Code, imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 544.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged

violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 544.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 544.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 544.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 544.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13382 of June 28, 2005 (70 FR 38567, July 1, 2005), and any further Executive Orders relating to the national emergency declared in Executive Order 12938 of November 14, 1994, as expanded by Executive Order 13094 of July 28, 1998, and with respect to which additional steps were taken in Executive Order 13382 of June 28, 2005, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 544.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 546—DARFUR SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13400, 71 FR 25483, 3 CFR, 2006 Comp., p. 220.

SOURCE: 74 FR 25432, May 28, 2009, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 546.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 546.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13400 of April 26, 2006; and

(2) Any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(i) To have constituted a threat to the peace process in Darfur;

(ii) To have constituted a threat to stability in Darfur and the region;

(iii) To be responsible for conduct related to the conflict in Darfur that violates international law;

(iv) To be responsible for heinous conduct with respect to human life or limb related to the conflict in Darfur;

(v) To have directly or indirectly supplied, sold, or transferred arms or any

related materiel, or any assistance, advice, or training related to military activities to:

(A) The Government of Sudan;

(B) The Sudan Liberation Movement/Army;

(C) The Justice and Equality Movement;

(D) The Janjaweed; or

(E) Any person (other than a person listed in paragraph (a)(2)(v)(A) through (a)(2)(v)(D) of this section) operating in the states of North Darfur, South Darfur, or West Darfur that is a belligerent, a nongovernmental entity, or an individual;

(vi) To be responsible for offensive military overflights in and over the Darfur region;

(vii) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(vi) of this section or any person whose property and interests in property are blocked pursuant to this paragraph (a); or

(viii) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this paragraph (a).

NOTE 1 TO PARAGRAPH (a) OF § 546.201: The names of persons listed in or designated pursuant to Executive Order 13400, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[DARFUR].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 546.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 546.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–DARFUR].''

NOTE 3 TO PARAGRAPH (a) OF § 546.201: Sections 501.806 and 501.807 of this chapter V describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions when engaged in by a United States person or within the United States:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[74 FR 25432, May 28, 2009, as amended at 76 FR 38538, June 30, 2011]

§ 546.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 546.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 546.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13400, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 546.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 546.201(a).

§ 546.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 546.201(a) shall hold

or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 546.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 546.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 546.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 546.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 546.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 546.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 546.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

Subpart C—General Definitions

§ 546.301 Arms or any related materiel.

The term *arms or any related materiel* shall mean arms or related materiel of all types, military aircraft, and equipment, but excludes:

(a) Supplies and technical assistance, including training, intended solely for use in authorized monitoring, verification, or peace support operations, including such operations led by regional organizations;

(b) Supplies of non-lethal military equipment intended solely for humanitarian use, human rights monitoring use, or protective use, and related technical assistance, including training;

(c) Supplies of protective clothing, including flak jackets and military helmets, for use by United Nations personnel, representatives of the media, and humanitarian and development workers and associated personnel, for their personal use only;

(d) Assistance and supplies provided in support of implementation of the Comprehensive Peace Agreement signed January 9, 2005, by the Government of Sudan and the People's Liberation Movement/Army; and

(e) Other movements of military equipment and supplies into the Darfur region by the United States or that are permitted by a rule or decision of the Secretary of State, after consultation with the Secretary of the Treasury.

§ 546.302 Blocked account; blocked property.

The terms *blocked account* and blocked property shall mean any account or property subject to the prohibitions in § 546.201 held in the name of a person whose property and interests in property are blocked pursuant to § 546.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 546.302: See § 546.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 546.201(a).

§ 546.303 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 546.201(a)(1), 12:01 a.m. eastern daylight time, April 27, 2006;

(b) With respect to a person whose property and interests in property are blocked pursuant to § 546.201(a)(2), the earlier of the date of actual or constructive notice of such person's designation.

§ 546.304 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 546.305 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 546.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 546.306: See § 501.801 of this chapter on licensing procedures.

§ 546.307 Person.

The term *person* means an individual or entity.

§ 546.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank

deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 546.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 546.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 546.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 546.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 546.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 546.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 546.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 546.201(a), unless there exists in the property another interest that is blocked pursuant to § 546.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 546.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 546.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 546.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c) *Example.* A license authorizing Company A, whose property and interests in property are blocked pursuant to § 546.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 546.201(a).

§ 546.405 Provision of services.

(a) The prohibitions on transactions involving blocked property contained in § 546.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 546.201(a); or

(2) With respect to property interests subject to § 546.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 546.201(a).

NOTE TO § 546.405: See §§ 546.507 and 546.508 on licensing policy with regard to the provision of certain legal or medical services.

§ 546.406 Offshore transactions.

The prohibitions in § 546.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 546.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 546.201(a) has or has had an interest since the effective date.

§ 546.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 546.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 546.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing, or medicine, may be made by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 546.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 546.201(a) if made by, to, or in the name of such a person; if made by, to, or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person.

§ 546.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 546.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 546.201(a).

§ 546.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 546.201 if effected after the effective date.

§ 546.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 546.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 546.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13400 or designated pursuant to § 546.201(a).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 546.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 546.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign

Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 546.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 546.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 546.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 546.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 546.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 546.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 546.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 546.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 546.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose

property and interests in property are blocked pursuant to § 546.201(a).

§ 546.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 546.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 546.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 546.201(a) is prohibited unless specifically licensed in accordance with § 546.202(e).

§ 546.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 546.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 546.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 546.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 546.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V (May 28, 2009), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA

are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is directed to section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (''UNPA''), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $10,000 and, if a natural person, may also be imprisoned for not more than 10 years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(d) Violations involving transactions described at section 203(b)(1), (3), and (4) of IEEPA shall be subject only to the penalties set forth in paragraph (c) of this section.

(e) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined under title 18, United States Code, imprisoned not more than five years, or both.

(f) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 546.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to the Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see Appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 546.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a written Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

§ 546.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 546.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 546.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13400, and any further Executive orders relating to the national emergency declared in Executive Order 13067, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 546.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to record keeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 547—DEMOCRATIC REPUBLIC OF THE CONGO SANCTIONS REGULATIONS

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Sec.
547.101 Relation of this part to other laws and regulations.

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547.901 Paperwork Reduction Act notice.

AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13413, 71 FR 64105, 3 CFR, 2006 Comp., p. 247.

SOURCE: 74 FR 25441, May 28, 2009, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 547.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 547.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13413 of October 27, 2006; and

(2) Any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(i) To be a political or military leader of a foreign armed group operating in the Democratic Republic of the Congo that impedes the disarmament, repatriation, or resettlement of combatants;

(ii) To be a political or military leader of a Congolese armed group that impedes the disarmament, demobilization, or reintegration of combatants;

(iii) To be a political or military leader recruiting or using children in armed conflict in the Democratic Republic of the Congo in violation of applicable international law;

(iv) To have committed serious violations of international law involving the targeting of children in situations of armed conflict in the Democratic Republic of the Congo, including killing and maiming, sexual violence, abduction, and forced displacement;

(v) To have directly or indirectly supplied, sold, or transferred to the Democratic Republic of the Congo, or been the recipient in the territory of the Democratic Republic of the Congo of, arms and related materiel, including military aircraft and equipment, or advice, training, or assistance, including financing and financial assistance, related to military activities;

(vi) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(v) of this section or any person whose property and interests in property are blocked pursuant to this paragraph (a); or

(vii) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this paragraph (a).

NOTE 1 TO PARAGRAPH (a) OF § 547.201: The names of persons listed in or designated pursuant to Executive Order 13413, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[DRCONGO].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://*

www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 547.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 547.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–DRCONGO].''

NOTE 3 TO PARAGRAPH (a) OF § 547.201. Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions when engaged in by a United States person or within the United States:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[74 FR 25441, May 28, 2009, as amended at 76 FR 38538, June 30, 2011]

§ 547.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 547.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 547.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13413, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to

any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 547.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 547.201(a).

§ 547.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 547.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term blocked interest-bearing account means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 547.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 547.201(a) may continue to be held

in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 547.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 547.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 547.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 547.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 547.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

Subpart C—General Definitions

§ 547.301 Arms or any related materiel.

The term *arms or any related materiel* means arms or related materiel of all types, including military aircraft and equipment, but excludes:

(a) Supplies of arms and related materiel, technical training, and assistance intended solely for support of or use by units of the army and police of the Democratic Republic of the Congo, provided that said units:

(1) Have completed the process of their integration; or

(2) Operate under the command, respectively, of the état-major intégré of the Armed Forces or of the National Police of the Democratic Republic of the Congo;

(3) Are in the process of their integration in the territory of the Democratic Republic of the Congo outside the provinces of North and South Kivu and the Ituri district; and

(4) The supplies of arms and related materiel, technical training, and assistance described in paragraphs (a)(1) through (a)(3) of this section are delivered or provided only to receiving sites as designated by the Government of National Unity and Transition, in coordination with the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC), and advance notification of such delivery or provision is provided to the Secretary of State;

(b) Supplies of arms and related materiel, as well as technical training and assistance intended solely for support of or use by MONUC;

(c) Supplies of non-lethal military equipment, and related technical assistance and training, intended solely for humanitarian or protective use, following advance notification to the Secretary of State; and

(d) Supplies of arms and related materiel, training, and technical assistance intended solely for support of or use by the European Union force deployed to support MONUC.

§ 547.302 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 547.201 held in the name of a person whose property and interests in property are blocked pursuant to § 547.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 547.302: See § 547.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 547.201(a).

§ 547.303 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 547.201(a)(1), 12:01 a.m. eastern standard time on October 30, 2006;

(b) With respect to a person whose property and interests in property are blocked pursuant to § 547.201(a)(2), the earlier of the date of actual or constructive notice of such person's designation.

§ 547.304 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 547.305 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 547.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 547.306: See § 501.801 of this chapter on licensing procedures.

§ 547.307 Person.

The term *person* means an individual or entity.

§ 547.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers' acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 547.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 547.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 547.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 547.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 547.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 547.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 547.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 547.201(a), unless there exists in the property another interest that is blocked pursuant to § 547.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 547.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 547.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 547.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c) *Example.* A license authorizing Company A, whose property and interests in property are blocked pursuant to § 547.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 547.201(a).

§ 547.405 Provision of services.

(a) The prohibitions on transactions involving blocked property contained in § 547.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 547.201(a); or

(2) With respect to property interests subject to § 547.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 547.201(a).

NOTE TO § 547.405: See §§ 547.507 and 547.508 on licensing policy with regard to the provision of certain legal or medical services.

§ 547.406 Offshore transactions.

The prohibitions in § 547.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 547.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 547.201(a) has or has had an interest since the effective date.

§ 547.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 547.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 547.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing or medicine, may be made by,

to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 547.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 547.201(a) if made by, to, or in the name of such a person; if made by, to, or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person.

§ 547.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 547.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 547.201(a).

§ 547.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 547.201 if effected after the effective date.

§ 547.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 547.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 547.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13413 or designated pursuant to § 547.201(a).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 547.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 547.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

§ 547.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 547.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 547.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 547.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 547.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 547.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 547.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 547.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 547.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property and interests in property are blocked pursuant to § 547.201(a).

§ 547.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 547.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made

parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 547.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 547.201(a) is prohibited unless specifically licensed in accordance with § 547.202(e).

§ 547.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 547.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 547.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 547.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 547.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V (May 28, 2009), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is directed to section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (''UNPA''), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $10,000 and, if a natural person, may also be imprisoned for not more than 10

years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(d) Violations involving transactions described at section 203(b)(1), (3), and (4) of IEEPA shall be subject only to the penalties set forth in paragraph (c) of this section.

(e) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry; shall be fined under title 18, United States Code, imprisoned not more than five years, or both.

(f) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 547.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be

sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (b)(2) of this section.

(c) *Settlement*. Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see Appendix A to part 501 of this chapter.

(d) *Guidelines*. Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in appendix A to part 501 of this chapter.

(e) *Representation*. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 547.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 547.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 547.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 547.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13413 of October 27, 2006, and any further Executive orders relating to the national emergency declared in Executive Order 13413, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 547.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to record keeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 548—BELARUS SANCTIONS REGULATIONS

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Sec.
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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13405, 71 FR 35485; 3 CFR, 2007 Comp., p. 231.

SOURCE: 75 FR 5503, Feb. 3, 2010, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§548.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts

authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 548.201 Prohibited transactions involving blocked property.

(a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13405 of June 16, 2006 (71 FR 35485, June 20, 2006); and

(2) Any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(i) To be responsible for, or to have participated in, actions or policies that undermine democratic processes or institutions in Belarus;

(ii) To be responsible for, or to have participated in, human rights abuses related to political repression in Belarus;

(iii) To be a senior-level official, a family member of such an official, or a person closely linked to such an official who is responsible for or has engaged in public corruption related to Belarus;

(iv) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraphs (a)(2)(i) through (a)(2)(iii) of this section or any person whose property or interests in property are blocked pursuant to this paragraph (a); or

(v) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property or interests in property are blocked pursuant to this paragraph (a).

NOTE 1 TO PARAGRAPH (a) OF § 548.201: The names of persons listed in or designated pursuant to Executive Order 13405, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[BELARUS].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 548.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 548.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–BELARUS].''

NOTE 3 TO PARAGRAPH (a) OF § 548.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence

thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

(d) The prohibitions in paragraph (a) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

[75 FR 5503, Feb. 3, 2010, as amended at 76 FR 38538, June 30, 2011]

§ 548.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 548.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 548.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13405, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 548.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 548.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 548.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 548.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 548.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 548.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 548.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 548.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 548.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 548.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of any information or informational materials, as defined in § 548.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 548.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology, or software for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 548.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 548.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 548.201 held in the name of a person whose property and interests in property are blocked pursuant to § 548.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations,

withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 548.301: See § 548.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 548.201(a)(1), 12:01 a.m. eastern daylight time on June 19, 2006; and

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 548.201(a), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 548.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 548.304 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD–ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a) OF § 548.304: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 548.305 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (*e.g.*, ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 548.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 548.306: See § 501.801 of this chapter on licensing procedures.

§ 548.307 Person.

The term *person* means an individual or entity.

§ 548.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other

interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 548.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 548.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 548.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 548.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 548.313 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in § 548.201(a)(2)(iv) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary

for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

Subpart D—Interpretations

§ 548.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 548.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 548.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 548.201(a), unless there exists in the property another interest that is blocked pursuant to § 548.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 548.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 548.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 548.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c) *Example.* A license authorizing Company A, whose property and interests in property are blocked pursuant to § 548.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.405 Provision of services.

(a) Except as provided in § 548.206, the prohibitions on transactions involving blocked property contained in § 548.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 548.201(a); or

(2) With respect to property interests subject to § 548.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or

other services to a person whose property and interests in property are blocked pursuant to § 548.201(a).

NOTE TO § 548.405: See §§ 548.507 and 548.508 on licensing policy with regard to the provision of certain legal and medical services.

§ 548.406 Offshore transactions.

The prohibitions in § 548.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 548.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 548.201(a) has or has had an interest since the effective date.

§ 548.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 548.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 548.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 548.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 548.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from any such person.

§ 548.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 548.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 548.201 if effected after the effective date.

§ 548.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 548.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 548.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13405 or designated pursuant to § 548.201(a).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 548.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 548.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets

Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 548.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 548.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 548.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 548.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 548.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 548.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 548.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 548.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 548.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount

under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 548.201(a).

§ 548.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 548.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 548.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 548.201(a) is prohibited unless licensed pursuant to this part.

§ 548.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 548.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 548.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 548.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 548.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V (February 3, 2010), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 548.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be

sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement*. Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines*. Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation*. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 548.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 548.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 548.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 548.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13405 of June 16, 2006 (71 FR 35485, June 20, 2006), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 548.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned

PART 549—LEBANON SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13441, 72 FR 43499, 3 CFR, 2008 Comp., p. 232.

SOURCE: 75 FR 44909, July 30, 2010, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 549.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts

authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 549.201 Prohibited transactions involving blocked property.

(a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(1) To have taken, or to pose a significant risk of taking, actions, including acts of violence, that have the purpose or effect of undermining Lebanon's democratic processes or institutions, contributing to the breakdown of the rule of law in Lebanon, supporting the reassertion of Syrian control or otherwise contributing to Syrian interference in Lebanon, or infringing upon or undermining Lebanese sovereignty;

(2) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described in paragraph (a)(1) of this section, including acts of violence, or any person whose property and interests in property are blocked pursuant to this paragraph (a);

(3) To be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to this paragraph (a); or

(4) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this paragraph (a).

NOTE 1 TO PARAGRAPH (a) OF § 549.201: The names of persons designated pursuant to Executive Order 13441, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[LEBANON].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 549.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 549.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–LEBANON].''

NOTE 3 TO PARAGRAPH (a) OF § 549.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or

control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

(d) The prohibitions in paragraph (a) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

[75 FR 44909, July 30, 2010, as amended at 76 FR 38538, June 30, 2011]

§ 549.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 549.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 549.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13441, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 549.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 549.201(a).

§ 549.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 549.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a Federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 549.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 549.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 549.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 549.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 549.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 549.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 549.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 549.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials.* (1) The importation from any country and the exportation to any country of any information or informational materials, as defined in § 549.304, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 549.201(a), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730 through 774, or to the exportation of goods, technology, or software for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 549.201(a) are prohibited.

(c) *Travel.* The prohibitions contained in this part do not apply to any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 549.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 549.201 held in the name of a person whose property and interests in property are blocked pursuant to § 549.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations,

withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 549.301: *See* § 549.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 549.201(a).

§ 549.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part and, with respect to a person whose property and interests in property are blocked pursuant to § 549.201(a), refers to the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 549.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 549.304 Information or informational materials.

(a) For purposes of this part, the term *information* or *informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a) OF § 549.304: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information* or *informational materials*, with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 549.305 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (*e.g.*, ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 549.306 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 549.306: *See* § 501.801 of this chapter on licensing procedures.

§ 549.307 Person.

The term *person* means an individual or entity.

§ 549.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or

copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 549.309 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 549.310 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 549.311 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 549.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 549.313 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in § 549.201(a)(2) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications,

manuals, or other recorded instructions.

Subpart D—Interpretations

§ 549.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 549.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 549.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 549.201(a), unless there exists in the property another interest that is blocked pursuant to § 549.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 549.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 549.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 549.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c) *Example.* A license authorizing Company A, whose property and interests in property are blocked pursuant to § 549.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, *etc.*, provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 549.201(a).

§ 549.405 Provision of services.

(a) Except as provided in § 549.206, the prohibitions on transactions involving blocked property contained in § 549.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 549.201(a); or

(2) With respect to property interests subject to § 549.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 549.201(a).

NOTE TO § 549.405: *See* §§ 549.507 and 549.508 on licensing policy with regard to the provision of certain legal and medical services.

§ 549.406 Offshore transactions.

The prohibitions in § 549.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 549.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 549.201(a) has or has had an interest since the effective date.

§ 549.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 549.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 549.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 549.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 549.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from any such person.

§ 549.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 549.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 549.201(a).

§ 549.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 549.201 if effected after the effective date.

§ 549.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 549.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 549.201(a), regardless of whether the entity itself is designated pursuant to § 549.201(a).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 549.501 General and specific licensing procedures.

For provisions relating to licensing procedures, *see* part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 549.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the

regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 549.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 549.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 549.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 549.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 549.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 549.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 549.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 549.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 549.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to a person

whose property and interests in property are blocked pursuant to § 549.201(a).

§ 549.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 549.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any Federal or State agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 549.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 549.201(a) is prohibited unless licensed pursuant to this part.

§ 549.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 549.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 549.601 Records and reports.

For provisions relating to required records and reports, *see* part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 549.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 549.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V (July 30, 2010), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be

fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that ''whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully:

(1) Falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

(2) Makes any materially false, fictitious, or fraudulent statement or representation; or

(3) Makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry'' shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 549.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, *see* Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, *see* Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by

mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement*. Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, *see* appendix A to part 501 of this chapter.

(d) *Guidelines*. Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation*. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 549.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, *see* Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

§ 549.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 549.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), *see* part 501, subpart E, of this chapter.

§ 549.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13441 of August 1, 2007 (72 FR 43499, Aug. 3, 2007), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 549.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, *see* § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 551—SOMALIA SANCTIONS REGULATIONS

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APPENDIX A TO PART 551—EXECUTIVE ORDER 13536

AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13536, 75 FR 19869, April 15, 2010.

SOURCE: 75 FR 24395, May. 5, 2010, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§551.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

NOTE TO §551.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 551.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13536 are also prohibited pursuant to this part.

NOTE 1 TO § 551.201: The names of persons listed in or designated pursuant to Executive Order 13536, whose property and interests in property therefore are blocked pursuant to this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[SOMALIA].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 551.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

NOTE 2 TO § 551.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–SOMALIA].''

NOTE 3 TO § 551.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

[75 FR 24395, May. 5, 2010, as amended at 76 FR 38538, June 30, 2011]

§ 551.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 551.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 551.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13536, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following paragraphs (d)(1) through (3):

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed

with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 551.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 551.201.

§ 551.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 551.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 551.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 551.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 551.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 551.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 551.201 held in the name of a person whose property and interests in property are blocked pursuant to § 551.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 551.301: *See* § 551.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 551.201.

§ 551.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person listed in the Annex to E.O. 13536, 12:01 a.m. eastern daylight time, April 13, 2010; or

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to E.O. 13536, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 551.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 551.304 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (*e.g.*, ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 551.305 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 551.305: *See* § 501.801 of this chapter on licensing procedures.

§ 551.306 Person.

The term *person* means an individual or entity.

§ 551.307 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 551.308 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and

whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 551.309 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 551.310 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 551.311 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 551.401 [Reserved]

§ 551.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in this part, any provision in or appendix to this chapter, or any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 551.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 551.201, unless there exists in the property another interest that is blocked pursuant to § 551.201 or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 551.201, such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 551.404 Transactions ordinarily incident to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 551.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 551.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 551.201 if effected after the effective date.

§ 551.406 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 551.201 has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 551.201, regardless of whether the entity itself is listed in the Annex or designated pursuant to Executive Order 13536.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§§ 551.501—551.502 [Reserved]

§ 551.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 551.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 551.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 551.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 551.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 551.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include

charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 551.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 551.201 is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 551.201, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 551.201 is prohibited unless licensed pursuant to this part.

§ 551.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 551.201 is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subparts F—G [Reserved]

Subpart H—Procedures

§ 551.801 [Reserved]

§ 551.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13536 of April 12, 2010 (75 FR 19869, April 15, 2010), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 551.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, *see* § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 551—EXECUTIVE ORDER 13536

EXECUTIVE ORDER BLOCKING PROPERTY OF CERTAIN PERSONS CONTRIBUTING TO THE CONFLICT IN SOMALIA

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the deterioration of the security situation and the persistence of violence in Somalia, and acts of piracy and armed robbery at sea off the coast of Somalia, which have repeatedly been the subject of United Nations Security Council resolutions (including Resolution 1844 of November 20, 2008; Resolution 1846 of December 2, 2008; Resolution 1851 of December 16, 2008; and Resolution 1897 of November 30, 2009), and violations of the arms embargo imposed by the United Nations Security Council in Resolution 733 of January 23, 1992, and elaborated upon and amended by subsequent resolutions (including Resolution 1356 of June 19, 2001; Resolution 1725 of December 6, 2006; Resolution 1744 of February 20, 2007; Resolution 1772 of August 20, 2007; Resolution 1816 of June 2, 2008; and Resolution 1872 of May 26, 2009), constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order; and

(ii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) to have engaged in acts that directly or indirectly threaten the peace, security, or stability of Somalia, including but not limited to:

(1) acts that threaten the Djibouti Agreement of August 18, 2008, or the political process; or

(2) acts that threaten the Transitional Federal Institutions, the African Union Mission in Somalia (AMISOM), or other international peacekeeping operations related to Somalia;

(B) to have obstructed the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;

(C) to have directly or indirectly supplied, sold, or transferred to Somalia, or to have been the recipient in the territory of Somalia of, arms or any related material, or any technical advice, training, or assistance, including financing and financial assistance, related to military activities;

(D) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the activities described in subsections (a)(ii)(A), (a)(ii)(B), or (a)(ii)(C) of this section or any person whose property and interests in property are blocked pursuant to this order; or

(E) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) I hereby determine that, among other threats to the peace, security, or stability of Somalia, acts of piracy or armed robbery at sea off the coast of Somalia threaten the peace, security, or stability of Somalia.

(c) I hereby determine that, to the extent section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) may apply, the making of donations of the type of articles specified in such section by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to subsection (a) of this section would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by subsection (a) of this section.

(d) The prohibitions in subsection (a) of this section include but are not limited to:

(i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

(e) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any 5 jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term ''Transitional Federal Institutions'' means the Transitional Federal Charter of the Somali Republic adopted in February 2004 and the Somali federal institutions established pursuant to such charter, and includes their agencies, instrumentalities, and controlled entities; and

(e) the term ''African Union Mission in Somalia'' means the mission authorized by the United Nations Security Council in Resolution 1744 of February 20, 2007, and reauthorized in subsequent resolutions, and includes its agencies, instrumentalities, and controlled entities.

Sec. 4. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1(a) of this order.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA, as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All 6 agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 7. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 8. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 9. This order is effective at 12:01 a.m. eastern standard time on April 13, 2010.

Barack Obama,
THE WHITE HOUSE,
April 12, 2010.

ANNEX

Individuals

1. Abshir ABDILLAHI [born circa 1966]
2. Hassan Abdullah Hersi AL–TURKI [born circa 1944]
3. Hassan Dahir AWEYS [born 1935]
4. Ahmed Abdi AW–MOHAMED [born 10 July 1977]
5. Yasin Ali BAYNAH [born circa 1966]
6. Mohamed Abdi GARAAD [born circa 1973]
7. Yemane GHEBREAB [born 21 July 1951]
8. Fuad Mohamed KHALAF [born circa 1965]
9. Bashir Mohamed MAHAMOUD [born circa 1979–1982]
10. Fares Mohammed MANA'A [born 8 February 1965]
11. Mohamed SA'ID [born circa 1966]

Entity

1. al-Shabaab

PART 560—IRANIAN TRANSACTIONS REGULATIONS

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560.502 Exclusion from licenses and authorizations.
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Subpart I—Paperwork Reduction Act

560.901 Paperwork Reduction Act notice.
APPENDIX A TO PART 560—PERSONS DETERMINED TO BE THE GOVERNMENT OF IRAN, AS DEFINED IN § 560.304 OF THIS PART
APPENDIX B TO PART 560—BULK AGRICULTURAL COMMODITIES
APPENDIX C TO PART 560—ELIGIBLE PROCUREMENT BODIES

AUTHORITY: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 22 U.S.C. 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

SOURCE: 60 FR 47063, Sept. 11, 1995, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 560.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, including part 535 of this chapter, ''Iranian Assets Control Regulations,'' with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulations authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

[60 FR 47063, Sept. 11, 1995, as amended at 62 FR 45109, Aug. 25, 1997]

Subpart B—Prohibitions

§ 560.201 Prohibited importation of goods or services from Iran.

Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the importation into the United States of any goods or services of Iranian origin or owned or controlled by the Government of Iran, other than information and informational materials within the meaning of section 203(b)(3) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)(3)), is prohibited.

[64 FR 20170, Apr. 26, 1999]

§ 560.202 [Reserved]

§ 560.203 Evasions; attempts.

Any transaction by any United States person or within the United States that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions contained in this part is hereby prohibited.

§ 560.204 Prohibited exportation, reexportation, sale or supply of goods, technology, or services to Iran.

Except as otherwise authorized pursuant to this part, including § 560.511, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the exportation, reexportation, sale, or supply, directly or indirectly, from the United States, or by a United States person, wherever located, of any goods, technology, or services to Iran or the Government of Iran is prohibited, including the exportation, reexportation, sale, or supply of any goods, technology, or services to a person in a third country undertaken with knowledge or reason to know that:

(a) Such goods, technology, or services are intended specifically for supply, transshipment, or reexportation, directly or indirectly, to Iran or the Government of Iran; or

(b) Such goods, technology, or services are intended specifically for use in the production of, for commingling with, or for incorporation into goods, technology, or services to be directly or indirectly supplied, transshipped, or reexported exclusively or predominantly to Iran or the Government of Iran.

[64 FR 20170, Apr. 26, 1999]

§ 560.205 Prohibited reexportation of goods, technology or services to Iran or the Government of Iran by persons other than United States persons; exceptions.

(a) Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, the reexportation from a third country, directly or indirectly, by a person other than a United States person, of any goods, technology or services that have been exported from the United States is prohibited, if:

(1) Undertaken with knowledge or reason to know that the reexportation is intended specifically for Iran or the Government of Iran; and

(2) The exportation of such goods, technology, or services from the United States to Iran was subject to export license application requirements under any United States regulations in effect on May 6, 1995, or thereafter is made subject to such requirements imposed independently of this part (see § 560.414).

(b) The prohibitions of paragraph (a) of this section shall not apply to those goods or that technology subject to export license application requirements if such goods or technology have been:

(1) Substantially transformed into a foreign-made product outside the United States; or

(2) Incorporated into a foreign-made product outside the United States if the aggregate value of such goods and technology described in paragraph (a)(2) of this section constitutes less than 10 percent of the total value of the foreign-made product to be exported from a third country (see § 560.420).

(c) Reexportation by United States persons or from the United States is governed by other sections in this part, including §§ 560.204 and 560.206.

NOTE TO § 560.205. The reexportation of U.S.-origin goods or technology, including U.S.-origin goods or technology that have been incorporated or substantially transformed into a foreign-made product, not prohibited by this section, may require authorization by the U.S. Department of Commerce under the Export Administration Regulations (15 CFR parts 740–774) or by the U.S. State Department under the International Traffic in Arms Regulations (22 CFR 123.9).

[64 FR 20170, Apr. 26, 1999]

§ 560.206 Prohibited trade-related transactions with Iran; goods, technology, or services.

(a) Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, no United States person, wherever located, may engage in any transaction or dealing in or related to:

(1) Goods or services of Iranian origin or owned or controlled by the Government of Iran; or

(2) Goods, technology, or services for exportation, reexportation, sale or supply, directly or indirectly, to Iran or the Government of Iran.

(b) For purposes of paragraph (a) of this section, the term *transaction or dealing* includes but is not limited to purchasing, selling, transporting, swapping, brokering, approving, financing, facilitating, or guaranteeing.

[64 FR 20170, Apr. 26, 1999]

§ 560.207 Prohibited investment.

Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, any new investment by a United States person in Iran or in property (including entities) owned or controlled by the Government of Iran is prohibited.

[64 FR 20170, Apr. 26, 1999]

§ 560.208 Prohibited facilitation by United States persons of transactions by foreign persons.

Except as otherwise authorized pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to May 7, 1995, no United States person, wherever located, may approve, finance, facilitate, or guarantee any transaction by a foreign person where the transaction by that foreign person would be prohibited by this part if performed by a United States person or within the United States.

[64 FR 20171, Apr. 26, 1999]

§ 560.209 Prohibited transactions with respect to the development of Iranian petroleum resources.

Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to March 16, 1995, the following are prohibited:

(a) The entry into or performance by a United States person, or the approval by a United States person of the entry into or performance by an entity owned or controlled by a United States person, of:

(1) A contract that includes overall supervision and management responsibility for the development of petroleum resources located in Iran, or

(2) A guaranty of another person's performance under such contract; or

(b) The entry into or performance by a United States person, or the approval by a United States person of the entry into or performance by an entity owned or controlled by a United States person, of

(1) A contract for the financing of the development of petroleum resources located in Iran, or

(2) A guaranty of another person's performance under such a contract.

§ 560.210 Exempt transactions.

(a) *Personal communications.* The prohibitions of §§ 560.204 and 560.206 do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Humanitarian donations.* The prohibitions of §§ 560.204 and 560.206 do not apply to donations by United States persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.

(c) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information and informational materials as defined in § 560.315, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not exempt from regulation or authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Transactions that are prohibited notwithstanding this section include, but are not limited to, payment of advances for information and informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications), and provision of services to market, produce or co-produce, create

or assist in the creation of information and informational materials.

(3) This section does not exempt from regulation or authorize transactions incident to the exportation of software subject to the Export Administration Regulations (15 CFR parts 730–774).

(4) This section does not exempt from regulation or authorize the exportation of goods (including software) or technology or the sale or leasing of telecommunications transmission facilities (such as satellite links or dedicated lines) where such exportation, sale or leasing is for use in the transmission of any data.

(d) *Travel*. The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages. This exemption extends to transactions with Iranian carriers and those involving group tours and payments in Iran made for transactions directly incident to travel.

(e) *Letters of credit*. Letters of credit and other financing agreements with respect to trade contracts in force as of May 6, 1995, may be performed pursuant to their terms with respect to underlying trade transactions occurring prior to 12:01 a.m. EDT, June 6, 1995. See § 560.413.

[60 FR 47063, Sept. 11, 1995, as amended at 64 FR 20171, Apr. 26, 1999; 64 FR 58791, Nov. 1, 1999]

Subpart C—General Definitions

§ 560.301 Effective date.

The effective date of the prohibitions and directives contained in subpart B of this part is 12:01 a.m., Eastern Daylight Time, August 20, 1997. For the effective date of pre-existing regulations and directives, see the Executive orders in the Authority citation for this part and implementing regulations.

[64 FR 20171, Apr. 26, 1999]

§ 560.302 [Reserved]

§ 560.303 Iran; Iranian.

The term *Iran* means the territory of Iran, and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to an international agreement. The term *Iranian* means pertaining to Iran as defined in this section.

§ 560.304 Government of Iran.

The term *Government of Iran* includes:

(a) The state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof;

(b) Any entity owned or controlled directly or indirectly by the foregoing;

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the applicable effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and

(d) Any person or entity designated by the Secretary of the Treasury as included within paragraphs (a) through (c) of this section.

§ 560.305 Person; entity.

(a) The term *person* means an individual or entity.

(b) The term *entity* means a partnership, association, trust, joint venture, corporation or other organization.

§ 560.306 Iranian-origin goods or services; goods or services owned or controlled by the Government of Iran.

(a) The terms *goods of Iranian origin* and *Iranian-origin goods* include:

(1) Goods grown, produced, manufactured, extracted, or processed in Iran; and

(2) Goods which have entered into Iranian commerce.

(b) The terms *services of Iranian origin* and *Iranian-origin services* include:

(1) Services performed in Iran or by an entity organized under the laws of Iran, or a person residing in Iran; and

(2) Services performed outside Iran by a citizen, national or permanent resident of Iran who is ordinarily resident in Iran, or by an entity organized under the laws of Iran.

(c) The term *goods or services owned or controlled by the Government of Iran* includes:

(1) Goods grown, produced, manufactured, extracted or processed by the Government of Iran or goods in its possession or control; and

(2) Services performed by the Government of Iran.

(d) The terms *services of Iranian-origin*, *Iranian-origin services*, and *services owned or controlled by the Government of Iran* do not include:

(1) Diplomatic and consular services performed by or on behalf of the Government of Iran;

(2) Diplomatic and consular services performed by or on behalf of the Government of the United States; or

(3) Services performed outside Iran by an Iranian citizen or national who is resident in the United States or a third country, provided such services are not performed by or on behalf of the Government of Iran (other than diplomatic and consular services), an entity organized under the laws of Iran, or a person located in Iran.

[64 FR 20171, Apr. 26, 1999]

§ 560.307 United States.

The term *United States* means the United States, including its territories and possessions.

§ 560.308 Importation of goods.

With respect to goods (including software), the term *importation* means the bringing of any goods into the United States, except that in the case of goods transported by vessel, *importation* means the bringing of any goods into the United States with the intent to unlade them.

[64 FR 20171, Apr. 26, 1999]

§ 560.309 [Reserved]

§ 560.310 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 560.311 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 560.312 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 560.313 Entity owned or controlled by the Government of Iran.

The term *entity owned or controlled by the Government of Iran* includes any corporation, partnership, association, or other entity in which the Government of Iran owns a majority or controlling interest, and any entity which is otherwise controlled by that government.

§ 560.314 United States person.

The term *United States person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.

§ 560.315 Information and informational materials.

(a) The term *information and informational materials* includes:

(1) Publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(2) To be considered *information* or *informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States*.

(b) The term *information and informational materials*, with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979 (50 U.S.C. App. 2401-2420, the ''EAA''), or

section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

[60 FR 47063, Sept. 11, 1995, as amended at 64 FR 20171, Apr. 26, 1999]

§ 560.316 New investment.

The term *new investment* means a transaction after 12:01 EDT, May 7, 1995, that constitutes:

(a) A commitment or contribution of funds or other assets; or

(b) A loan or other extension of credit, as defined in § 560.317.

§ 560.317 Credits or loans.

The term *credits* or *loans* means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including but not limited to: overdrafts; currency swaps; purchases of debt securities issued by the Government of Iran; purchases of a loan made by another person; sales of financial assets subject to an agreement to repurchase; renewals or refinancings whereby funds or credits are transferred to or extended to a prohibited borrower or prohibited recipient; the issuance of standby letters of credit; and drawdowns on existing lines of credit.

§ 560.318 [Reserved]

§ 560.319 United States depository institution.

The term *United States depository institution* means any entity (including its foreign branches) organized under the laws of any jurisdiction within the United States, or any agency, office or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies and United States bank holding companies).

[64 FR 20171, Apr. 26, 1999]

§ 560.320 Iranian accounts.

The term *Iranian accounts* means accounts of persons who are ordinarily resident in Iran, except when such persons are not located in Iran, or of the Government of Iran maintained on the books of either a United States depository institution or a United States registered broker or dealer in securities.

[74 FR 36398, July 23, 2009]

§ 560.321 United States registered broker or dealer in securities.

The term *United States registered broker or dealer in securities* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office or branch of a foreign entity located in the United States, that:

(a) Is a ''broker'' or ''dealer'' in securities within the meanings set forth in the Securities Exchange Act of 1934;

(b) Holds or clears customer accounts; and

(c) Is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

[70 FR 15584, Mar. 28, 2005]

Subpart D—Interpretations

§ 560.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 560.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not, unless otherwise specifically provided, affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction,

or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 560.403 Transshipment through Iran.

The prohibitions in §§ 560.204, 560.206 and 560.208 apply to export, reexport or supply transactions which require a transshipment or transit of goods or technology through Iran to third countries.

[64 FR 20172, Apr. 26, 1999]

§ 560.404 [Reserved]

§ 560.405 Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) A transaction by an unlicensed Iranian governmental entity or involving a debit or credit to an Iranian account not explicitly authorized within the terms of the license;

(b) Provision of any transportation services to or from Iran not explicitly authorized in or pursuant to this part other than loading, transporting, and discharging licensed or exempt cargo there;

(c) Distribution or leasing in Iran of any containers or similar goods owned or controlled by United States persons after the performance of transportation services to Iran;

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine or medical equipment to Iran or the Government of Iran (see § 560.532); and

(e) Letter of credit services relating to transactions authorized in § 560.534. See § 560.535(a).

[73 FR 66542, Nov. 10, 2008]

§ 560.406 Transshipment or transit through United States prohibited.

(a) The prohibitions in § 560.201 apply to the importation into the United States, for transshipment or transit, of Iranian-origin goods or goods owned or controlled by the Government of Iran which are intended or destined for third countries.

(b) The prohibitions in § 560.204 apply to the transshipment or transit of foreign goods through the United States which are intended or destined for Iran or the Government of Iran, including entities owned or controlled by the Government of Iran.

[64 FR 20172, Apr. 26, 1999]

§ 560.407 Transactions related to Iranian-origin goods.

(a) Importation into the United States from third countries of goods containing Iranian-origin raw materials or components is not prohibited if those raw materials or components have been incorporated into manufactured products or substantially transformed in a third country by a person other than a United States person.

(b) Transactions relating to Iranian-origin goods that have not been incorporated into manufactured products or substantially transformed in a third country are prohibited.

(c) Transactions relating to goods containing Iranian-origin raw materials or components are not prohibited if those raw materials or components have been incorporated into manufactured products or substantially transformed in a third country by a person other than a United States person.

§ 560.408 Importation into and release from a bonded warehouse or foreign trade zone.

The prohibitions in § 560.201 apply to importation into a bonded warehouse or a foreign trade zone of the United States. However, § 560.201 does not prohibit the release from a bonded warehouse or a foreign trade zone of Iranian-origin goods imported into a bonded warehouse or a foreign trade zone prior to October 29, 1987.

§ 560.409 [Reserved]

§ 560.410 Exportation, reexportation, sale or supply of services.

(a) The prohibition on the exportation, reexportation, sale or supply of services contained in § 560.204 applies to services performed on behalf of a person in Iran or the Government of Iran or where the benefit of such services is otherwise received in Iran, if such services are performed:

(1) In the United States, or

(2) Outside the United States by a United States person, including by an overseas branch of an entity located in the United States.

(b) The benefit of services performed anywhere in the world on behalf of the Government of Iran is presumed to be received in Iran.

(c) *Example*. A United States person is engaged in a prohibited exportation of services to Iran when it extends credit to a third-country firm specifically to enable that firm to manufacture goods for sale to Iran or for an entity of the Government of Iran. See also § 560.416.

[64 FR 20172, Apr. 26, 1999]

§ 560.411 [Reserved]

§ 560.412 Extensions of credit or loans to Iran.

(a) The prohibitions contained in §§ 560.204 and 560.207 apply to but are not limited to the unauthorized renewal or rescheduling of credits or loans in existence as of May 6, 1995, such as the extension of a standby letter of credit.

(b) The prohibitions contained in § 560.209 apply, among other things, to the unauthorized renewal or rescheduling of credits or loans in existence as of March 15, 1995.

(c) The prohibitions contained in §§ 560.204, 560.207 and 560.209 apply to, among other things, credits or loans in any currency.

[64 FR 20172, Apr. 26, 1999]

§ 560.413 Letter of credit payments by Iranian banks in the United States.

(a) For purposes of the exemption in § 560.210(e), payment of letters of credit and other financing agreements according to their terms includes, in the case of payments made by an Iranian bank's branch or agency located in the United States, payments that such branch or agency is:

(1) Legally obligated to make pursuant to the terms of letters of credit and other financing agreements relating to pre-May 7, 1995 trade contracts; or

(2) Licensed to make by the Office of Foreign Assets Control with respect to pre-May 7, 1995 trade contracts.

(b) Payments that are not binding legal obligations of an Iranian bank's branch or agency pursuant to the terms of the letter of credit or other financing agreement are not covered by this exemption.

§ 560.414 Reexportation of certain U.S.-origin goods exported prior to May 7, 1995.

The prohibitions on reexportation in § 560.205 do not apply to United States-origin goods or technology that were exported from the United States prior to 12:01 a.m., Eastern Daylight Time, May 7, 1995, if:

(a) Such goods or technology were not the property of a United States person as of 12:01 a.m. Eastern Daylight Time, May 7, 1995; and

(b) The reexportation of the U.S.-origin goods or technology to Iran or the Government of Iran was not subject to reexport (as opposed to export) license application requirements under U.S. regulations in effect prior to May 6, 1995.

NOTES TO § 560.414. 1. The exclusion in this section applies, among other things, to goods that were as of May 6, 1995, classified under the U.S. Department of Commerce's Export Administration Regulations (15 CFR parts 730–774) as ECCNs 2A994; 3A993; 5A992; 5A995; 6A990; 6A994; 7A994; 8A992; 8A994; 9A990; 9A992; and 9A994, that were exported from the United States prior to 12:01 a.m. Eastern Daylight Time, May 7, 1995, and were not the property of a United States person as of 12:01 a.m. Eastern Daylight Time, May 7, 1995. As of April 26, 1999, items covered by this note are classified under ECCNs 2A994; 3A992.a; 5A991.f; 5A992; 6A991; 6A998; 7A994; 8A992.d, .e, .f and .g; 9A990.a and .b; and 9A991.d and .e.

2. A reexportation of U.S.-origin goods or technology which meets the conditions of paragraph (a) of this section, or which is not within the scope of § 560.205, nevertheless may require specific authorization by other agencies of the U.S. Government for reexportation to Iran or the Government of Iran. For example, items which meet the conditions of paragraph (a) may nevertheless require an export license under the Enhanced Proliferation Control Initiative provisions of the Export Administration Regulations (15 CFR part 744).

[64 FR 20172, Apr. 26, 1999]

§ 560.416 Brokering services.

(a) For purposes of the prohibitions in §§ 560.201, 560.204, 560.205, 560.206 and

560.208, the term *services* includes performing a brokering function.

(b) *Examples*. A person within the United States, or a United States person, wherever located, may not:

(1) Act as broker for the provision of goods, services or technology, from whatever source, to or from Iran or the Government of Iran;

(2) Act as broker for the purchase or swap of crude oil of Iranian origin or owned or controlled by the Government of Iran;

(3) Act as broker for the provision of financing, a financial guarantee or an extension of credit by any person to Iran or the Government of Iran;

(4) Act as a broker for the provision of financing, a financial guarantee or an extension of credit to any person specifically to enable that person to construct or operate a facility in Iran or owned or controlled by the Government of Iran; or

(5) Act as a broker for the provision of financing, a financial guarantee, or an extension of credit to any person specifically to enable that person to provide goods, services, or technology intended for Iran or the Government of Iran.

[64 FR 20172, Apr. 26, 1999]

§ 560.417 Facilitation; change of policies and procedures; referral of business opportunities offshore.

With respect to § 560.208, a prohibited facilitation or approval of a transaction by a foreign person occurs, among other instances, when a United States person:

(a) Alters its operating policies or procedures, or those of a foreign affiliate, to permit a foreign affiliate to accept or perform a specific contract, engagement or transaction involving Iran or the Government of Iran without the approval of the United States person, where such transaction previously required approval by the United States person and such transaction by the foreign affiliate would be prohibited by this part if performed directly by a United States person or from the United States;

(b) Refers to a foreign person purchase orders, requests for bids, or similar business opportunities involving Iran or the Government of Iran to which the United States person could not directly respond as a result of the prohibitions contained in this part; or

(c) Changes the operating policies and procedures of a particular affiliate with the specific purpose of facilitating transactions that would be prohibited by this part if performed by a United States person or from the United States.

[64 FR 20172, Apr. 26, 1999]

§ 560.418 Release of technology or software in the United States or a third country.

The release of technology or software in the United States, or by a United States person wherever located, to any person violates the prohibitions of this part if made with knowledge or reason to know the technology is intended for Iran or the Government of Iran, unless that technology or software meets the definition of *information and informational materials* in § 560.315. See § 560.511.

NOTES TO § 560.418. 1. The U.S. Department of Commerce's Bureau of Export Administration requires a license for the release in the United States (or in a third country) to a foreign national of technology if both of the following conditions are met:

(a) That technology would require a license for exportation (or reexportation) to the home country of the foreign national; and

(b) The foreign national is not a citizen or permanent resident of the United States (or of the third country) or is not a protected individual under the Immigration and Naturalization Act (8 U.S.C. § 1324(b)(a)(3)). See 15 CFR 734.2(b)(2)(ii) and 734.2(b)(5).

2. The transfer to a foreign national of technology subject to regulations administered by the U.S. Department of State or other agencies of the U.S. Government may require authorization by those agencies.

[64 FR 20173, Apr. 26, 1999]

§ 560.419 U.S. employment of persons normally located in Iran.

The prohibitions in § 560.201 make it unlawful to hire an Iranian national normally located in Iran to come to the United States solely or for the principal purpose of engaging in employment on behalf of an entity in Iran or as the employee of a U.S. person, unless that employment is authorized pursuant to a visa issued by the U.S. State Department or by § 560.505. See

also § 560.418 with respect to the release of technology and software.

[64 FR 20173, Apr. 26, 1999]

§ 560.420 Reexportation by non-U.S. persons of certain foreign-made products containing U.S.-origin goods or technology.

For purposes of satisfying the de minimis content rule in § 560.205(b)(2):

(a) U.S.-origin goods (excluding software) falling within the definition in § 560.205 must comprise less than 10 percent of the foreign-made good (excluding software);

(b) U.S.-origin software falling within the definition in § 560.205 must comprise less than 10 percent of the foreign-made software;

(c) U.S.-origin technology falling within the definition in § 560.205 must comprise less than 10 percent of the foreign-made technology; and,

(d) In cases involving a complex product made of a combination of U.S.-origin goods (including software) and technology falling within the definition in § 560.205, the aggregate value of all such U.S.-origin goods (including software) and such technology contained in the foreign-made product must be less than 10 percent of the total value of the foreign-made product.

NOTES TO § 560.420. 1. Notwithstanding the exceptions contained in § 560.205(b)(1) and (b)(2) and this section, a reexportation to Iran or the Government of Iran of U.S.-origin items falling within the definition in § 560.205 is prohibited if those U.S.-origin goods (including software) or that technology have been substantially transformed or incorporated into a foreign-made end product which is destined to end uses or end users prohibited under regulations administered by other U.S. Government agencies. See, e.g., the Export Administration Regulations (31 CFR 736.2(b)(5), 744.2, 744.3, 744.4, 744.7, and 744.10); International Traffic in Arms Regulations (22 CFR 123.9).

2. A reexportation not prohibited by § 560.205 may nevertheless require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government.

3. The provisions of § 560.205 and this section apply only to persons other than United States persons.

[64 FR 20173, Apr. 26, 1999]

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 560.500 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53659, Sept. 11, 2003]

§ 560.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or other authorization.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part authorizes any transactions prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

(d) Specific licenses issued prior to 12:01 a.m., Eastern Daylight Time, August 20, 1997, continue in effect in accordance with their terms except to

the extent specifically revoked, amended, or modified by the Office of Foreign Assets Control.

(e) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data which are not prohibited by this part or which do not require a license by the Office of Foreign Assets Control, nevertheless may require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government. See also § 560.701(d).

[60 FR 47063, Sept. 11, 1995, as amended at 64 FR 20173, Apr. 26, 1999]

§ 560.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action is binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§§ 560.503–560.504 [Reserved]

§ 560.505 Importation of certain Iranian-origin services authorized; activities related to certain visa categories authorized.

(a) The importation of Iranian-origin services into the United States or other dealing in such services is authorized where such services are performed in the United States by an Iranian citizen or national for the purpose of, or which directly relate to, participating in a public conference, performance, exhibition or similar event, and such services are consistent with that purpose.

(b) Persons otherwise qualified for a non-immigrant visa under categories A–3 and G–5 (attendants, servants and personal employees of aliens in the United States on diplomatic status), D (crewmen), F (students), I (information media representatives), J (exchange visitors), M (non-academic students), O and P (aliens with extraordinary ability, athletes, artists and entertainers), Q (international cultural exchange visitors), R (religious workers), or S (witnesses) are authorized to carry out in the United States those activities for which such a visa has been granted by the U.S. State Department.

(c) Persons otherwise qualified for a visa under categories E–2 (treaty investor), H (temporary worker), or L (intracompany transferee) and all immigrant visa categories are authorized to carry out in the United States those activities for which such a visa has been granted by the U.S. State Department, provided that the persons are not coming to the United States to work as an agent, employee or contractor of the Government of Iran or a business entity or other organization in Iran.

[64 FR 20173, Apr. 26, 1999, as amended at 64 FR 58791, Nov. 1, 1999]

§ 560.506 Importation and exportation of certain gifts authorized.

The importation into the United States of Iranian-origin goods from Iran or a third country, and the exportation from the United States to Iran of goods, are authorized for goods sent as gifts to persons provided that the value of the gift is not more than $100; the goods are of a type and in quantities normally given as gifts between individuals; and the goods are not controlled for chemical and biological weapons (CB), missile technology (MT), national security (NS), or nuclear proliferation (NP). See Commerce Control List, Export Administration Regulations (15 CFR part 774).

[64 FR 20174, Apr. 26, 1999]

§ 560.507 Accompanied baggage authorized.

(a) Persons entering the United States directly or indirectly from Iran are authorized to import into the

United States Iranian-origin accompanied baggage normally incident to travel.

(b) Persons leaving the United States for Iran are authorized to export from the United States accompanied baggage normally incident to travel.

(c) This authorization applies to accompanied baggage that includes only articles that are necessary for personal use incident to travel, not intended for any other person or for sale, and are not otherwise prohibited from importation or exportation under applicable United States laws.

§ 560.508 Telecommunications and mail transactions authorized.

All transactions of common carriers incident to the receipt or transmission of telecommunications and mail between the United States and Iran are authorized. For purposes of this section, the term *mail* includes parcels only to the extent the parcels contain goods exempted from the prohibitions contained in this part or otherwise eligible for importation from or exportation to Iran under a general or specific license.

§ 560.509 Certain transactions related to patents, trademarks and copyrights authorized.

(a) All of the following transactions in connection with patent, trademark, copyright or other intellectual property protection in the United States or Iran are authorized:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright or other form of intellectual property protection, including importation of or dealing in Iranian-origin services, payment for such services, and payment to persons in Iran directly connected to such intellectual property protection;

(2) The receipt of a patent, trademark, copyright or other form of intellectual property protection;

(3) The renewal or maintenance of a patent, trademark, copyright or other form of intellectual property protection; and

(4) The filing and prosecution of opposition or infringement proceedings with respect to a patent, trademark, copyright or other form of intellectual property protection, or the entrance of a defense to any such proceedings.

(b) Nothing in this section affects obligations under any other provision of law.

[60 FR 47063, Sept. 11, 1995, as amended at 64 FR 20174, Apr. 26, 1999]

§ 560.510 Transactions related to the resolution of disputes between the United States or United States nationals and the Government of Iran.

(a) Except as otherwise authorized, specific licenses may be issued on a case-by-case basis to authorize transactions in connection with awards, decisions or orders of the Iran-United States Claims Tribunal in The Hague, the International Court of Justice, or other international tribunals (collectively, ''tribunals''); agreements settling claims brought before tribunals; and awards, orders, or decisions of an administrative, judicial or arbitral proceeding in the United States or abroad, where the proceeding involves the enforcement of awards, decisions or orders of tribunals, or is contemplated under an international agreement, or involves claims arising before 12:01 a.m. EDT, May 7, 1995, that resolve disputes between the Government of Iran and the United States or United States nationals, including the following transactions:

(1) Importation into the United States of, or any transaction related to, goods and services of Iranian origin or owned or controlled by the Government of Iran;

(2) Exportation or reexportation to Iran or the Government of Iran of any goods, technology, or services, except to the extent that such exportation or reexportation is also subject to export licensing application requirements of another agency of the United States Government and the granting of such a license by that agency would be prohibited by law;

(3) Financial transactions related to the resolution of disputes at tribunals, including transactions related to the funding of proceedings or of accounts related to proceedings or to a tribunal; participation, representation, or testimony before a tribunal; and the payment of awards of a tribunal; and

(4) Other transactions otherwise prohibited by this part which are necessary to permit implementation of the foregoing awards, decisions, orders, or agreements.

(b) Specific licenses may be issued on a case-by-case basis to authorize payment of costs related to the storage or maintenance of goods in which the Government of Iran has title, and to authorize the transfer of title to such goods, provided that such goods are in the United States and that such goods are the subject of a proceeding pending before a tribunal.

(c)(1) All transactions are authorized with respect to the importation of Iranian-origin goods and services necessary to the initiation and conduct of legal proceedings, in the United States or abroad, including administrative, judicial and arbitral proceedings and proceedings before tribunals.

(2) Specific licenses may be issued on a case-by-case basis to authorize the exportation to Iran or the Government of Iran of goods, and of services not otherwise authorized by § 560.525, necessary to the initiation and conduct of legal proceedings, in the United States or abroad, including administrative, judicial and arbitral proceedings and proceedings before tribunals, except to the extent that the exportation is also subject to export licensing application requirements of another agency of the United States Government and the granting of such a license by that agency would be prohibited by law.

(3) Representation of United States persons or of third country persons in legal proceedings, in the United States or abroad, including administrative, judicial and arbitral proceedings and proceedings before tribunals, against Iran or the Government of Iran is not prohibited by this part. The exportation of certain legal services to a person in Iran or the Government of Iran is authorized in § 560.525.

(d) The following are authorized:

(1) All transactions related to payment of awards of the Iran-United States Claims Tribunal in The Hague against Iran.

(2) All transactions necessary to the payment and implementation of awards (other than exports or reexports subject to export license application requirements of other agencies of the United States Government) in a legal proceeding to which the United States Government is a party, or to payments pursuant to settlement agreements entered into by the United States Government in such a legal proceeding.

[60 FR 47063, Sept. 11, 1995, as amended at 62 FR 41852, Aug. 4, 1997]

§ 560.511 Exportation or supply of insubstantial United States content for use in foreign-made products or technology.

(a) Except as provided in paragraph (b) of this section and notwithstanding the prohibitions in § 560.204, the exportation or supply of goods or technology from the United States, or by a United States person wherever located, for substantial transformation or incorporation into a foreign-made end product in a country other than the United States or Iran, intended specifically or predominantly for Iran or the Government of Iran, is permitted under this part where the exporter has ascertained that all of the following are the case:

(1) The U.S.-origin goods or technology being exported for substantial transformation or incorporation abroad were not subject to export license application requirements under any United States regulations in effect on May 6, 1995, or were not thereafter made subject to such regulations imposed independently of this part;

(2) With respect to the foreign-made end product:

(i) U.S.-origin goods (excluding software) comprise less than 10 percent of the foreign-made good (excluding software);

(ii) U.S.-origin software comprises less than 10 percent of the foreign-made software;

(iii) U.S.-origin technology comprises less than 10 percent of the foreign-made technology; and

(iv) In cases involving a complex product made of a combination of goods (including software) and technology, the aggregate value of all U.S.-origin goods (including software) and technology contained in the foreign-

made end product is less than 10 percent of the total value of the foreign-made product;

(3) The foreign-made end product is not destined to end uses or end users prohibited under regulations administered by other U.S. Government agencies. See, e.g., the Export Administration Regulations (31 CFR 736.2(b)(5), 744.2, 744.3, 744.4, 744.7, and 744.10); International Traffic in Arms Regulations (22 CFR 123.9);

(4) The foreign-made end product is not intended for use in the Iranian petroleum or petrochemical industry. For this purpose, products intended for use in the Iranian petroleum or petrochemical industry include not only products uniquely suited for use in those industries, such as oilfield services equipment, but also goods and technology for use in products, such as computers, office equipment, construction equipment, or building materials, which are suitable for use in other industries but which are intended specifically for use in the petroleum or petrochemical industries.

(b) The authorization contained in this section is not available if the foreign-made end product is of a type which other U.S. Government agencies make ineligible for de minimis U.S.-origin content. See, e.g., the Export Administration Regulations (15 CFR 734.4(a) and (b)); International Traffic in Arms Regulations (22 CFR 123.9).

NOTE TO § 560.511. An exportation authorized by this section may nevertheless require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government.

[64 FR 20174, Apr. 26, 1999]

§ 560.512 Iranian Government missions in the United States.

(a) All transactions ordinarily incident to the importation of goods or services into the United States by, the exportation of goods or services from the United States by, or the provision of goods or services in the United States to, the missions of the Government of Iran to international organizations in the United States, and Iranians admitted to the United States under section 101(a)(15)(G) of the Immigration and Nationality Act (''INA''), 8 U.S.C. 1101(a)(15)(G), are authorized, provided that:

(1) The goods or services are for the conduct of the official business of the mission, or for personal use of personnel admitted to the United States under INA section 101(a)(15)(G), and are not for resale; and

(2) The transaction is not otherwise prohibited by law.

(b) All transactions ordinarily incident to the importation of goods or services into the United States by, the exportation of goods or services from the United States by, or the provision of goods or services in the United States to, the Iranian Interests Section of the Embassy of Pakistan (or any successor protecting power) in the United States, are authorized, provided that:

(1) The goods or services are for the conduct of the official business of the Iranian Interests Section, and are not for resale; and

(2) The transaction is not otherwise prohibited by law.

(c) All transactions ordinarily incident to the provision of goods or services in the United States to the employees of Iranian missions to international organizations in the United States, and to employees of the Iranian Interests Section of the Embassy of Pakistan (or any successor protecting power) in the United States, are authorized, provided that the transaction is not otherwise prohibited by law.

§ 560.513 Importation of Iranian-origin oil.

(a) Specific licenses will be issued on a case-by-case basis to permit the importation of Iranian-origin oil in connection with the resolution or settlement of cases before the Iran-United States Claims Tribunal in The Hague, established pursuant to the Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran of January 19, 1981, or where the proceeds are otherwise to be deposited in the Tribunal's Security Account.

(b) License applications submitted pursuant to this section must contain

the importer's certification that the oil is of Iranian origin with all relevant supporting documentation, including specification of the production site at which the oil was extracted, and that the sale or transfer of the oil is by or for the account of the Government of Iran. Licenses will not be issued for importations of Iranian-origin oil which is not sold or transferred by or for the account of the Government of Iran. In cases where the oil is being imported either in whole or in part in resolution or settlement of a case pending before the Tribunal, applicants are required to identify the case and submit a copy of the settlement agreement and the Award on Agreed Terms issued by the Tribunal. In cases where any proceeds are generated for the account of the Government of Iran from the importation of Iranian-origin oil, the importer must demonstrate that irrevocable arrangements are in place that will ensure that the proceeds will be deposited in the Tribunal's Security Account.

§ 560.514 [Reserved]

§ 560.515 30-day delayed effective date for pre-May 7, 1995 trade contracts involving Iran.

(a) All transactions necessary to complete performance of a trade contract entered into prior to May 7, 1995, and involving Iran (a *pre-existing trade contract*), including the exportation of goods, services (including financial services), or technology from the United States that was authorized pursuant to Federal regulations in force immediately prior to May 6, 1995, or performance under a pre-existing trade contract for transactions in Iranian-origin or Government of Iran-owned or controlled goods or services that do not involve importation into the United States, are authorized without specific licensing by the Office of Foreign Assets Control if the conditions in paragraph (a)(1) or (a)(2) of this section are met:

(1) If the pre-existing trade contract is for an exportation of goods or technology from the United States that was authorized pursuant to Federal regulations in force immediately prior to May 6, 1995, the goods or technology must be exported from the United States prior to 12:01 a.m. Eastern Daylight Time, June 6, 1995, and all other activity by U.S. persons that is necessary and incidental to the performance of the pre-existing trade contract (other than payment under a financing contract) must be completed prior to 12:01 a.m. Eastern Daylight Time, August 6, 1995; or

(2) All obligations under a pre-existing trade contract (other than payment under a financing contract) must be fully completed prior to 12:01 a.m. Eastern Daylight Time, June 6, 1995, if the pre-existing trade contract is for one of the following:

(i) The exportation of services from the United States benefitting a person in Iran or the Government of Iran;

(ii) The reexportation of goods or technology to Iran, the Government of Iran, or an entity owned or controlled by the Government of Iran that was authorized pursuant to Federal regulations in force immediately prior to May 6, 1995; or

(iii) Transactions relating to goods or services of Iranian origin or owned or controlled by the Government of Iran other than transactions relating to importation into the United States of such goods or services.

(b) In order to complete performance of a pre-existing trade contract, the arrangement or renegotiation of contracts for transactions necessary and incidental to performance of the pre-existing trade contract is authorized. Such incidental transactions may include, for example, financing, shipping and insurance arrangements. Amendments to a pre-existing trade contract for the purpose of accelerating a previously-specified delivery schedule under a contract for a fixed quantity or value of goods, technology or services, or curtailing or canceling required performance, are authorized without specific licensing. Any other alteration of the trade contract must be specifically licensed by the Office of Foreign Assets Control.

(c) The existence of a contract will be determined with reference to the principles contained in Article 2 of the Uniform Commercial Code.

[60 FR 47063, Sept. 11, 1995, as amended at 64 FR 20174, Apr. 26, 1999]

§ 560.516 Payment and United States dollar clearing transactions involving Iran.

(a) United States depository institutions are authorized to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, if the transfer is covered in full by any of the following conditions and does not involve debiting or crediting an Iranian account:

(1) The transfer arises from an underlying transaction that has been authorized by a specific or general license issued pursuant to this part;

(2) The transfer arises from an underlying transaction that is not prohibited by this part, such as a non-commercial remittance to or from Iran (e.g., a family remittance not related to a family-owned enterprise); or

(3) The transfer arises from an underlying transaction that is exempted from regulation pursuant to § 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), such as an exportation to Iran or importation from Iran of information and informational materials, a travel-related remittance, or payment for the shipment of a donation of articles to relieve human suffering.

(b) United States registered brokers or dealers in securities are authorized to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, if the transfer is covered in full by any of the conditions set forth in paragraph (a) of this section and does not involve the debiting or crediting of an Iranian account.

(c) Before a United States depository institution or a United States registered broker or dealer in securities initiates a payment on behalf of any customer, or credits a transfer to the account on its books of the ultimate beneficiary, the United States depository institution or United States registered broker or dealer in securities must determine that the underlying transaction is not prohibited by this part.

(d) Pursuant to the prohibitions contained in § 560.208, a United States depository institution or a United States registered broker or dealer in securities may not make transfers to or for the benefit of a foreign-organized entity owned or controlled by it if the underlying transaction would be prohibited if engaged in directly by the U.S. depository institution or U.S. registered broker or dealer in securities.

(e) This section does not authorize transactions with respect to property blocked pursuant to part 535.

[73 FR 66542, Nov. 10, 2008]

§ 560.517 Exportation of services: Iranian accounts at United States depository institutions or United States registered brokers or dealers in securities.

(a) United States depository institutions are prohibited from performing services with respect to Iranian accounts, as defined in § 560.320, except that United States depository institutions are authorized to provide and be compensated for services and incidental transactions with respect to:

(1) The maintenance of Iranian accounts, including the payment of interest and the debiting of service charges;

(2) The processing of transfers arising from underlying transactions that are exempted from regulation pursuant to section 203(b) of the International Emergency Economic Powers Act, 50 U.S.C. 1702(b), such as an exportation of information or informational materials to Iran, a travel-related remittance, or payment for the shipment of a donation of articles to relieve human suffering; and

(3) At the request of the account party, the closing of Iranian accounts and the lump sum transfer only to the account party of all remaining funds and other assets in the account.

(b) United States registered brokers or dealers in securities are prohibited from performing services with respect to Iranian accounts, as defined in § 560.320, except that United States registered brokers or dealers in securities are authorized to provide and be compensated for services and incidental transactions with respect to:

(1) The limited maintenance of an Iranian account, including only the payment into such account of interest, cash dividends, and stock dividends; the debiting of service charges; and the

execution of stock splits and dividend reinvestment plans; and

(2) At the request of the account party, the closing of Iranian accounts through the one-time liquidation of all assets in the account at fair market value and the lump sum transfer only to the account party of all proceeds derived therefrom and all remaining funds in the account.

(c) Specific licenses may be issued with respect to the operation of Iranian accounts that constitute accounts of:

(1) Foreign government missions and their personnel in Iran; or

(2) Missions of the Government of Iran in the United States.

[60 FR 47063, Sept. 11, 1995, as amended at 70 FR 15584, Mar. 28, 2005; 74 FR 36398, July 23, 2009]

§ 560.518 Transactions in Iranian-origin and Iranian Government property.

(a) Except for transactions involving the Government of Iran, all domestic transactions with respect to Iranian-origin goods located in the United States are authorized, provided that this paragraph (a) does not affect the status of property blocked pursuant to part 535 or detained or seized, or subject to detention or seizure, pursuant to this part.

(b) All transactions necessary and incidental to a United States person's sale or other disposition of goods or services of Iranian origin or owned or controlled by the Government of Iran that are located or to be performed outside the United States and were acquired by that United States person in transactions not prohibited by part 535 or this part are authorized, provided:

(1) The sale or other disposition does not result in the importation of such goods or services into the United States, and

(2) The sale or other disposition is completed no later than 12:01 a.m. EDT, August 6, 1995.

(c) Except as provided in paragraphs (a) and (b) of this section, United States persons may not deal in goods or services of Iranian origin or owned or controlled by the Government of Iran, except that the following transactions are authorized:

(1) Transactions by a United States person with third-country nationals incidental to the storage and maintenance in third countries of Iranian-origin goods owned prior to May 7, 1995, by that United States person or acquired thereafter by that United States person consistent with the provisions of this part;

(2) Exportation of Iranian-origin household and personal effects from the United States incident to the relocation of United States persons outside the United States; and

(3) Purchase for personal use or consumption in Iran of Iranian-origin goods or services.

(d) In addition to transactions authorized by paragraph (c)(1) of this section, a United States person is authorized after 12:01 a.m. EDT, May 7, 1995, to use or dispose of Iranian-origin household and personal effects that are located outside the United States and that have been acquired by the United States person in transactions not prohibited by part 535 or this part.

§ 560.519 Policy governing news organization offices.

(a) Specific licenses may be issued on a case-by-case basis authorizing transactions necessary for the establishment and operation of news bureaus in Iran by United States organizations whose primary purpose is the gathering and dissemination of news to the general public.

(b) Transactions that may be authorized include but are not limited to those incident to the following:

(1) Leasing office space and securing related goods and services;

(2) Hiring support staff;

(3) Purchasing Iranian-origin goods for use in the operation of the office; and

(4) Paying fees related to the operation of the office in Iran.

(c) Specific licenses may be issued on a case-by-case basis authorizing transactions necessary for the establishment and operation of news bureaus in the United States by Iranian organizations whose primary purpose is the gathering and dissemination of news to the general public.

(d) The number assigned to such specific licenses should be referenced in

all import and export documents and in all funds transfers and other banking transactions through banking institutions organized or located in the United States in connection with the licensed transactions to avoid disruption of the trade and financial transactions.

§ 560.520 Exportation of agricultural commodities on contracts entered into prior to May 7, 1995.

(a) All transactions by United States persons in connection with the exportation from the United States to Iran of any agricultural commodity under an export sales contract are authorized, provided:

(1) Such contract was entered into prior to 12:01 a.m. EDT, May 7, 1995; and

(2) The terms of such contract require delivery of the commodity prior to February 2, 1996.

(b) The performance of letters of credit and other financing agreements with respect to exports authorized by this section is authorized pursuant to their terms.

(c) For purposes of this section, the term *agricultural commodity* means feed grains, rice, wheat, cotton, peanuts, tobacco, dairy products, and oilseeds (including vegetable oil).

(d) Specific licenses may be granted on a case-by-case basis for transactions by United States persons in connection with the exportation of other agricultural articles from the United States to Iran that do not fall within the definition of ''agricultural commodity'' contained in paragraph (c) of this section, provided such exportation is pursuant to an export sales contract and the conditions contained in paragraphs (a)(1) and (a)(2) of this section are met.

§ 560.521 Diplomatic pouches.

The following transactions are authorized:

(a) The importation into the United States from Iran, or the exportation from the United States to Iran, of diplomatic pouches and their contents; and

(b) The exportation, reexportation, sale, or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods or technology to a third-country government, or to its contractors or agents, for shipment to Iran via a diplomatic pouch. To the extent necessary, this section also authorizes the shipment of such goods or technology by the third-country government to Iran via a diplomatic pouch.

NOTE TO PARAGRAPH (b) OF § 560.521: The exportation or reexportation of certain U.S.-origin goods or technology to a third-country government, or to its contractors or agents, may require authorization by the U.S. Department of Commerce under the Export Administration Regulations (15 CFR parts 730 et seq.).

[72 FR 15832, Apr. 3, 2007]

§ 560.522 Allowable payments for overflights of Iranian airspace.

Payments to Iran of charges for services rendered by the Government of Iran in connection with the overflight of Iran or emergency landing in Iran of aircraft owned by a United States person or registered in the United States are authorized.

§ 560.523 Exportation of equipment and services relating to information and informational materials.

Specific licenses may be issued on a case-by-case basis for the exportation of equipment and services necessary for the establishment of news wire feeds or other transmissions of information and informational materials.

[64 FR 20175, Apr. 26, 1999]

§ 560.524 Household goods and personal effects.

(a) The exportation from the United States to Iran of household and personal effects, including baggage and articles for family use, of persons departing the United States to relocate in Iran is authorized provided the articles included in such effects have been actually used by such persons or by family members accompanying them, are not intended for any other person or for sale, and are not otherwise prohibited from exportation. See also, § 560.518(c)(2).

(b) The importation of Iranian-origin household and personal effects, including baggage and articles for family use, of persons arriving in the United

States is authorized; to qualify, articles included in such effects must have been actually used abroad by such persons or by other family members arriving from the same foreign household, must not be intended for any other person or for sale, and must not be otherwise prohibited from importation. For purposes of this paragraph, household and personal effects include all articles meeting the criteria stated in this paragraph regardless of the time elapsed since the importer's arrival in the United States from Iran.

[60 FR 47063, Sept. 11, 1995, as amended at 65 FR 25643, May 3, 2000]

§ 560.525 Exportation of certain legal services.

(a) The provision of the following legal services to the Government of Iran or to a person in Iran, and receipt of payment of professional fees and reimbursement of incurred expenses, are authorized:

(1) Provision of legal advice and counselling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counselling is not provided to facilitate transactions that would violate any of the prohibitions contained in this part;

(2) Representation when a person in Iran or the Government of Iran has been named as a defendant in or otherwise made a party to domestic United States legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic United States legal, arbitration, or administrative proceedings on behalf of the Government of Iran or a person in Iran;

(4) Representation before any federal or state agency with respect to the imposition, administration, or enforcement of United States sanctions against Iran;

(5) Initiation and conduct of legal proceedings, in the United States or abroad, including administrative, judicial and arbitral proceedings and proceedings before international tribunals (including the Iran-United States Claims Tribunal in The Hague and the International Court of Justice):

(i) To resolve disputes between the Government of Iran or an Iranian national and the United States or a United States national;

(ii) Where the proceeding is contemplated under an international agreement; or

(iii) Where the proceeding involves the enforcement of awards, decisions, or orders resulting from legal proceedings within the scope of paragraph (a)(5)(i) or (a)(5)(ii) of this section, provided that any transaction, unrelated to the provision of legal services or the payment therefor, that is necessary or related to the execution of an award, decision or order resulting from such legal proceeding, or otherwise necessary for the conduct of such proceeding, and which would otherwise be prohibited by this part requires a specific license in accordance with §§ 560.510 and 560.801;

(6) Provision of legal advice and counselling in connection with settlement or other resolution of matters described in paragraph (a)(5) of this section; and

(7) Provision of legal services in any other context in which prevailing United States law requires access to legal counsel at public expense.

(b) The provision of any other legal services to a person in Iran or the Government of Iran, not otherwise authorized in or exempted by this part, requires the issuance of a specific license.

[60 FR 47063, Sept. 11, 1995, as amended at 62 FR 41852, Aug. 4, 1997]

§ 560.526 Commodities trading and related transactions.

(a) *Trading in Iranian-origin commodities.* With respect to § 560.206, specific licenses may be issued on a case-by-case basis to authorize certain commodities trading by a United States person in Iranian-origin goods, or transactions incidental to such trading, where:

(1) No party to the transaction with the United States person is a person in Iran or the Government of Iran, and

(2) It was impossible for the United States person to determine at the time of entry into the transaction, given all circumstances of the transaction, that the goods would be of Iranian origin or would be owned or controlled by the Government of Iran.

(b) *Trading in commodities destined for Iran or the Government of Iran.* With respect to § 560.204, specific licenses may be issued on a case-by-case basis to authorize certain trading by United States persons in commodities of U.S. or third-country origin destined for Iran or the Government of Iran, or transactions incidental to such trading, where:

(1) It was impossible for the United States person to determine at the time of entry into the transaction, given all circumstances of the transaction, that the goods would be for delivery to Iran or to the Government of Iran;

(2) The United States person did not contract with a person in Iran or the Government of Iran; and

(3) The United States person did not initiate the nomination of the commodity's destination as Iran or the Government of Iran.

§ 560.527 Rescheduling existing loans.

Specific licenses may be issued on a case-by-case basis for rescheduling loans or otherwise extending the maturities of existing loans, and for charging fees or interest at commercially reasonable rates, in connection therewith, provided that no new funds or credits are thereby transferred or extended to Iran or the Government of Iran.

§ 560.528 Aircraft safety.

Specific licenses may be issued on a case-by-case basis for the exportation and reexportation of goods, services, and technology to insure the safety of civil aviation and safe operation of U.S.-origin commercial passenger aircraft.

§ 560.529 Bunkering and emergency repairs.

Goods or services provided in the United States to a non-Iranian carrier transporting passengers or goods to or from Iran are permissible if they are:

(a) Bunkers or bunkering services;

(b) Supplied or performed in the course of emergency repairs; or

(c) Supplied or performed under circumstances which could not be anticipated prior to the carrier's departure for the United States.

[64 FR 20175, Apr. 26, 1999]

§ 560.530 Commercial sales, exportation, and reexportation of agricultural commodities, medicine, and medical devices.

(a) *One-year license requirement.* The exportation or reexportation of agricultural commodities (including bulk agricultural commodities listed in appendix B to this part 560), medicine, or medical devices to the Government of Iran, any entity in Iran, individuals in Iran, or persons in third countries purchasing specifically for resale to any of the foregoing, shall only be made pursuant to a one-year license issued by the United States Department of the Treasury, Office of Foreign Assets Control, for contracts entered into during the one-year period of the license and shipped within the 12-month period beginning on the date of the signing of the contract. No license will be granted for the exportation or reexportation of agricultural commodities, medicine, or medical equipment to any entity or individual in Iran promoting international terrorism. Executory contracts entered into pursuant to paragraph (b)(2) of this section prior to the issuance of the one-year license described in this paragraph shall be deemed to have been signed on the date of issuance of that one-year license (and, therefore, the exporter is authorized to make shipments under that contract within the 12-month period beginning on the date of issuance of the one-year license).

(b) *General license for arrangement of exportation and reexportation of covered products.* (1) The making of shipping arrangements, cargo inspections, obtaining of insurance, and arrangement of financing (consistent with § 560.532) for the exportation or reexportation of agricultural commodities, medicine, and medical devices to the Government of Iran, entities in Iran, individuals in Iran, or persons in third countries purchasing specifically for resale to any of the foregoing, is authorized.

(2) If desired, entry into executory contracts (including executory pro forma invoices, agreements in principle, or executory offers capable of acceptance such as bids in response to public tenders) for the exportation or reexportation of agricultural commodities, medicine, and medical devices to

the Government of Iran, entities in Iran, individuals in Iran, or persons in third countries purchasing specifically for resale to any of the foregoing, is authorized, provided that performance of an executory contract is expressly made contingent upon the prior issuance of the one-year license described in paragraph (a) of this section.

(c) *Instructions for obtaining one-year licenses.* In order to obtain the one-year license described in paragraph (a), the exporter must provide to the Office of Foreign Assets Control:

(1) The applicant's full legal name (if the applicant is a business entity, the state or jurisdiction of incorporation and principal place of business).

(2) The applicant's mailing and street address (so that OFAC may reach a responsible point of contact, the applicant should also include the name of the individual(s) responsible for the application and related commercial transactions along with their telephone and fax numbers and, if available, e-mail addresses).

(3) The names, mailing addresses, and, if available, fax and telephone numbers of all parties with an interest in the transaction. If the goods are being exported or reexported to a purchasing agent in Iran, the exporter must identify the agent's principals at the wholesale level for whom the purchase is being made. If the goods are being exported or reexported to an individual, the exporter must identify any organizations or entities with which the individual is affiliated that have an interest in the transaction.

(4) A description of all items to be exported or reexported pursuant to the requested one-year license, including a statement that the item is classified as EAR 99, and, if necessary, documentation sufficient to verify that the items to be exported or reexported are classified as EAR 99 and do not fall within any of the limitations contained in paragraph (d) of this section.

(5) An Official Commodity Classification of EAR 99 issued by the Department of Commerce, Bureau of Industry and Security (''BIS''), certifying that the product is EAR 99, is required to be submitted to OFAC with the request for a license authorizing the exportation or reexportation of all fertilizers, live horses, western red cedar, and medical devices other than basic medical supplies, such as syringes, bandages, gauze and similar items, that are specifically listed on BIS's Web site, *http://www.bis.doc.gov/policiesandregulations/tradesanctionsreformexportenhancementact.html.* Medical supplies that are specifically listed on BIS's Web site may not require an Official Commodity Classification of EAR 99 from BIS. BIS will also provide a list on its Web site of medicines that are ineligible for a one-year license under these procedures. Exporters should seek an Official Commodity Classification of EAR 99 from BIS for medicines and submit a copy to OFAC. See 15 CFR 745.3 for instructions for obtaining Official Commodity Classification of EAR 99 from BIS.

(d) *Limitations.* (1) Nothing in this section or in any license issued pursuant to paragraph (a) of this section relieves the exporter from compliance with the export license application requirements of another Federal agency.

(2) Nothing in this section or in any license issued pursuant to paragraph (a) of this section authorizes the exportation or reexportation of any agricultural commodity, medicine, or medical device controlled on the United States Munitions List established under section 38 of the Arms Export Control Act (22 U.S.C. 2778); controlled on any control list established under the Export Administration Act of 1979 or any successor statute (50 U.S.C. App. 2401 *et seq.*); or used to facilitate the development or production of a chemical or biological weapon or weapon of mass destruction.

(3) Nothing in this section or in any license issued pursuant to paragraph (a) of this section affects prohibitions on the sale or supply of U.S. technology or software used to manufacture agricultural commodities, medicine, or medical devices, such as technology to design or produce biotechnological items or medical devices.

(4) Nothing in this section or in any license issued pursuant to paragraph (a) of this section affects U.S. nonproliferation export controls, including end-user and end-use controls maintained under the Enhanced Proliferation Control Initiative.

(5) This section does not apply to any transaction or dealing involving property blocked pursuant to this chapter or any other activity prohibited by this chapter not otherwise authorized in this part.

(e) *Covered items.* For the purposes of this part, agricultural commodities, medicine, and medical devices are defined below.

(1) *Agricultural commodities.* For the purposes of this section, agricultural commodities are:

(i) Products not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1, and that fall within the term ''agricultural commodity'' as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(ii) Products not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1, that are intended for ultimate use in Iran as:

(A) Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds);

(B) Seeds for food crops;

(C) Fertilizers or organic fertilizers; or

(D) Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.

(2) *Medicine.* For the purposes of this section, the term medicine has the same meaning given the term ''drug'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(3) *Medical device.* For the purposes of this section, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

[74 FR 61034, Nov. 23, 2009]

§ 560.531 [Reserved]

§ 560.532 Payment for and financing of exports and reexports of agricultural commodities, medicine, and medical devices.

(a) *General license for payment terms.* The following payment terms for sales of agricultural commodities and products, medicine, and medical equipment pursuant to §§ 560.530 and 560.531 are authorized:

(1) Payment of cash in advance;

(2) Sales on open account, provided that the account receivable may not be transferred by the person extending the credit; or

(3) Financing by third-country financial institutions that are neither United States persons nor Government of Iran entities. Such financing may be confirmed or advised by U.S. financial institutions.

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case-by-case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to § 560.530. See § 501.801(b) of this chapter for specific licensing procedures.

(c) *No debits or credits to Iranian accounts on the books of U.S. depository institutions.* Nothing in this section authorizes payment terms or trade financing involving debits or credits to Iranian accounts, as defined in § 560.320.

(d) *Transfers through the U.S. financial system.* Any payment relating to a transaction authorized in or pursuant to § 560.530 or § 560.533 that is routed through the U.S. financial system must reference the relevant Office of Foreign Assets Control license authorizing the payment to avoid the rejection of the transfer. See § 560.516(c).

(e) Notwithstanding any other provision of this part, no commercial exportation to Iran may be made with United States Government assistance, including United States foreign assistance, United States export assistance,

and any United States credit or guarantees absent a Presidential waiver.

[74 FR 61035, Nov. 23, 2009]

§ 560.533 Brokering sales of agricultural commodities, medicine, and medical devices.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to provide brokerage services on behalf of U.S. persons for the sale and exportation or reexportation by United States persons of agricultural commodities, medicine, and medical devices, provided that the sale and exportation or reexportation is authorized by a one-year license issued pursuant to § 560.530.

(b) *Specific licensing for brokering sales by non-U.S. persons of bulk agricultural commodities.* Specific licenses may be issued on a case-by-case basis to permit United States persons to provide brokerage services on behalf of non-United States, non-Iranian persons for the sale and exportation or reexportation of bulk agricultural commodities to the Government of Iran, entities in Iran or individuals in Iran. Specific licenses issued pursuant to this section will authorize the brokering only of sales that:

(1) Are limited to the bulk agricultural commodities listed in appendix B to this part 560;

(2) Are to purchasers permitted pursuant to § 560.530; and

NOTE TO § 560.533(b)(2): Requests for specific licenses to provide brokerage services under this paragraph must include all of the information described in § 560.530(c).

(3) Make any performance involving the exportation or reexportation of any goods, technology or services (including technical data, software, or information) that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, items classified EAR 99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Industry and Security. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9.)

(c) *No debits or credits to Iranian accounts on the books of U.S. depository institutions.* Payment for any brokerage fee earned pursuant to this section may not involve debits or credits to Iranian accounts, as defined in § 560.320.

(d) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

[74 FR 61035, Nov. 23, 2009]

§§ 560.534—560.535 [Reserved]

§ 560.536 Humanitarian activities in and around Iraq.

(a) A nongovernmental organization specifically licensed pursuant to 31 CFR part 575 or otherwise authorized pursuant to 31 CFR 575.527 to conduct certain humanitarian activities in and around Iraq is authorized to conduct activities in Iran that are directly incidental and essential to its authorized humanitarian activities in and around Iraq, subject to all conditions and restrictions imposed on the organization pursuant to 31 CFR 575.527 and the terms of its license or registration. This section does not authorize the actual provision of humanitarian support in Iran.

(b) No exportations or re-exportations of goods or technology, whether U.S. or foreign origin, to Iran are permitted pursuant to this section, except for articles, such as food, clothing, and medicine, intended to be used to relieve human suffering or items intended for temporary use, as personal baggage, by representatives of the authorized nongovernmental organization, provided that:

(1) Any such goods or technology are not of the type controlled under the Department of Commerce's Export Administration Regulations for exportation or re-exportation to Iran or controlled on the United States Munitions List, and

(2) Any such personal items are either consumed by representatives of that organization during the visit or removed from Iran at the end of each visit.

(c) This section does not authorize the shipment or transshipment of goods or technology, whether U.S. or foreign origin, from Iran to any other

country, including Iraq, except for the shipment or transshipment to Iraq of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering. Nongovernmental organizations that wish to transport other types of goods or technology from Iran to Iraq must apply for specific authorization from the Office of Foreign Assets Control pursuant to § 501.801(b), 31 CFR chapter V.

(d) U.S. financial institutions are authorized to engage in funds transfers in connection with transactions authorized pursuant to this section consistent with the provisions of 31 CFR 560.516.

(e) Nongovernmental organizations conducting transactions under this section based on a specific license or a registration issued pursuant to 31 CFR part 575 must reference their license or registration number on all payments and funds transfers and on all related documentation.

[68 FR 11742, Mar. 12, 2003]

§ 560.537 Authorization of certain survey or assessment missions in Iran.

(a) Subject to the conditions of paragraphs (b), (c), and (d) of this section, nongovernmental organizations are authorized to conduct survey or assessment missions in Iran related to the planning or preparation for the provision of humanitarian support to the Iraqi people. This section does not authorize the actual provision of such humanitarian support in Iran.

(b) The authorization of paragraph (a) of this section is available only to the following types of nongovernmental organizations:

(1) Nongovernmental organizations registered pursuant to 31 CFR 575.527; or

(2) Nongovernmental organizations that have been issued specific licenses under 31 CFR part 575 to carry out humanitarian activities in Iraq, but not including organizations that have been issued specific licenses solely to export goods to Iraq.

(c) This section does not authorize nongovernmental organizations to open offices or to establish permanent facilities of any kind or to purchase any goods, services, or technology in Iran of any kind, except those described in paragraph (d)(3) of this section.

(d) The authorization of this section is subject to the following conditions:

(1) U.S. financial institutions are authorized to engage in funds transfers in connection with transactions authorized pursuant to this section consistent with the provisions of 31 CFR 560.516.

(2) Nongovernmental organizations conducting transactions under this section based on a specific license or a registration issued pursuant to 31 CFR part 575 must reference their license or registration number on all payments and funds transfers and on all related documentation.

(3) Any funds transferred to Iran pursuant to this section may be used only for the purchase of services and goods necessary and essential to the conduct of the assessment mission and, whether U.S. or foreign origin, not of the type controlled under the Department of Commerce's Export Administration Regulations for exportation or re-exportation to Iran or controlled on the United States Munitions List.

(4)(i) No exportations or re-exportations of goods or technology, whether U.S. or foreign origin, to Iran are permitted pursuant to this section, except for those items intended for temporary use, as personal baggage, by mission representatives, provided that such items are either consumed by mission representatives during the visit or removed from Iran at the end of each visit, and further provided that any such personal items are not of the type controlled under the Department of Commerce's Export Administration Regulations for exportation or re-exportation to Iran or controlled on the United States Munitions List.

(ii) Nongovernmental organizations that wish to export or re-export goods or technology to Iran, beyond personal baggage items described in paragraph (d)(4)(i) of this section, as part of a survey or assessment mission must apply for specific authorization from the Office of Foreign Assets Control pursuant to § 501.801(b), 31 CFR chapter V.

(5) Nongovernmental organizations acting under this section shall take adequate measures to prevent any items authorized for exportation, re-exportation, or local purchase from being

obtained or acquired by the Government of Iran.

[68 FR 11743, Mar. 12, 2003]

§ 560.538 Authorized transactions necessary and ordinarily incident to publishing.

(a) To the extent that such activities are not exempt from this part, and subject to the restrictions set forth in paragraphs (b) through (d) of this section, U.S. persons are authorized to engage in all transactions necessary and ordinarily incident to the publishing and marketing of manuscripts, books, journals, and newspapers in paper or electronic format (collectively, ''written publications''). This section does not apply if the parties to the transactions described in this paragraph include the Government of Iran. For the purposes of this section, the term ''Government of Iran'' includes the state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof, which includes the Central Bank of Islamic Republic of Iran, and any person acting or purporting to act directly or indirectly on behalf of any of the foregoing with respect to the transactions described in this paragraph. For the purposes of this section, the term ''Government of Iran'' does not include any academic and research institutions and their personnel. Pursuant to this section, the following activities are authorized, provided that U.S. persons ensure that they are not engaging, without separate authorization, in the activities identified in paragraphs (b) through (d) of this section:

(1) Commissioning and making advance payments for identifiable written publications not yet in existence, to the extent consistent with industry practice;

(2) Collaborating on the creation and enhancement of written publications;

(3)(i) Augmenting written publications through the addition of items such as photographs, artwork, translation, explanatory text, and, for a written publication in electronic format, the addition of embedded software necessary for reading, browsing, navigating, or searching the written publication;

(ii) Exporting embedded software necessary for reading, browsing, navigating, or searching a written publication in electronic format, provided that the software is classified as ''EAR 99'' under the Export Administration Regulations, 15 CFR parts 730 through 774 (the ''EAR''), or is not subject to the EAR;

(4) Substantive editing of written publications;

(5) Payment of royalties for written publications;

(6) Creating or undertaking a marketing campaign to promote a written publication; and

(7) Other transactions necessary and ordinarily incident to the publishing and marketing of written publications as described in this paragraph (a).

(b) This section does not authorize transactions involving the provision of goods or services not necessary and ordinarily incident to the publishing and marketing of written publications as described in paragraph (a) of this section. For example, this section does not authorize U.S. persons:

(1) To provide or receive individualized or customized services (including, but not limited to, accounting, legal, design, or consulting services), other than those necessary and ordinarily incident to the publishing and marketing of written publications, even though such individualized or customized services are delivered through the use of information and informational materials;

(2) To create or undertake for any person a marketing campaign with respect to any service or product other than a written publication, or to create or undertake a marketing campaign of any kind for the benefit of the Government of Iran;

(3) To engage in the exportation or importation of goods to or from Iran other than the exportation of embedded software described in paragraph (a)(3)(ii); or

(4) To operate a publishing house, sales outlet, or other office in Iran.

NOTE TO PARAGRAPH (b): The importation from Iran and the exportation to Iran of information or informational materials, as defined in § 560.315, whether commercial or otherwise, regardless of format or medium of

transmission, are exempt from the prohibitions and regulations of this part. See § 560.210(c).

(c) This section does not authorize U.S. persons to engage the services of publishing houses or translators in Iran unless such activity is primarily for the dissemination of written publications in Iran.

(d) This section does not authorize:

(1) The exportation from or importation into the United States of services for the development, production, or design of software;

(2) Transactions for the development, production, design, or marketing of technology specifically controlled by the International Traffic in Arms Regulations, 22 CFR parts 120 through 130 (the ''ITAR''), the EAR, or the Department of Energy Regulations set forth at 10 CFR part 810.

(3) The exportation of information or technology subject to the authorization requirements of 10 CFR part 810, or Restricted Data as defined in section 11 y. of the Atomic Energy Act of 1954, as amended, or of other information, data, or technology the release of which is controlled under the Atomic Energy Act and regulations therein;

(4) The exportation of any item (including information) subject to the EAR where a U.S. person knows or has reason to know that the item will be used, directly or indirectly, with respect to certain nuclear, missile, chemical, or biological weapons or nuclear-maritime end-uses as set forth in part 744 of the EAR. In addition, U.S. persons are precluded from exporting any item subject to the EAR to certain restricted end-users, as set forth in part 744 of the EAR, as well as certain persons whose export privileges have been denied pursuant to parts 764 or 766 of the EAR, without authorization from the Department of Commerce; or

(5) The exportation of information subject to licensing requirements under the ITAR or exchanges of information that are subject to regulation by other government agencies.

[72 FR 50051, Aug. 30, 2007]

§ 560.539 Official activities of certain international organizations.

(a) *General license.* Except as provided in paragraph (b) of this section, the performance of transactions for the conduct of the official business of the United Nations, the World Bank, the International Monetary Fund, the International Atomic Energy Agency, the International Labor Organization or the World Health Organization in or involving Iran by U.S. persons who are employees or contractors thereof is hereby authorized. Authorized transactions include, but are not limited to:

(1) The provision of services involving Iran necessary for carrying out the official business;

(2) Purchasing Iranian-origin goods and services for use in carrying out the official business;

(3) Leasing office space and securing related goods and services;

(4) Funds transfers to or from accounts of the international organizations covered in this paragraph, provided that funds transfers to or from Iran are not routed through an account of an Iranian bank on the books of a U.S. financial institution; and

(5) The operation of accounts for employees and contractors located in Iran who are described in this paragraph. Transactions conducted through these accounts must be solely for the employee's or contractor's personal use and not for any commercial purposes in or involving Iran. Any funds transfers to or from an Iranian bank must be routed through a third-country bank that is not a U.S. person.

(b) *Limitations.* This section does not authorize:

(1) the exportation from the United States to Iran of any goods or technology listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement No. 1 (CCL);

(2) the reexportation to Iran of any U.S.-origin goods or technology listed on the CCL; or

(3) the exportation or reexportation from the United States or by a U.S. person, wherever located, to Iran of any services not necessary and ordinarily incident to the official business in Iran. Such transactions require separate authorization from OFAC.

NOTE TO PARAGRAPH (b): The CCL includes items such as laptops, personal computers, cell phones, personal digital assistants and other wireless handheld devices/blackberries,

and other similar items. The exportation of these items to Iran, even on a temporary basis, is prohibited, unless specifically authorized in a license issued pursuant to this part in a manner consistent with the Iran-Iraq Arms Nonproliferation Act of 1992 and other relevant law.

(c) *Other requirements.* The general license set forth in this section shall not operate to relieve any persons authorized hereunder from compliance with any other U.S. legal requirements applicable to the transactions authorized pursuant to paragraph (a) of this section.

[71 FR 48796, Aug. 22, 2006]

§ 560.540 Exportation of certain services and software incident to Internet-based communications.

(a) To the extent that such transactions are not exempt from the prohibitions of this part and subject to the restrictions set forth in paragraph (b) of this section, the following transactions are authorized:

(1) The exportation from the United States or by U.S. persons, wherever located, to persons in Iran of services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such services are publicly available at no cost to the user.

(2) The exportation from the United States or by U.S. persons, wherever located, to persons in Iran of software necessary to enable the services described in paragraph (a)(1) of this section, provided that such software is classified as ''EAR99'' under the Export Administration Regulations, 15 CFR parts 730 through 774 (the ''EAR''), is not subject to the EAR, or is classified by the U.S. Department of Commerce (''Commerce'') as mass market software under export control classification number (''ECCN'') 5D992 of the EAR, and provided further that such software is publicly available at no cost to the user.

(b) This section does not authorize:

(1) The direct or indirect exportation of services or software with knowledge or reason to know that such services or software are intended for the Government of Iran.

(2) The direct or indirect exportation of any goods or technology listed on the Commerce Control List in the EAR, 15 CFR part 774, supplement No. 1 (''CCL''), except for software necessary to enable the services described in paragraph (a)(1) of this section that is classified by Commerce as mass market software under ECCN 5D992 of the EAR.

(3) The direct or indirect exportation of Internet connectivity services or telecommunications transmission facilities (such as satellite links or dedicated lines).

(4) The direct or indirect exportation of web-hosting services that are for purposes other than personal communications (e.g., web-hosting services for commercial endeavors) or of domain name registration services.

(c) Specific licenses may be issued on a case-by-case basis for the exportation of other services and software incident to the sharing of information over the Internet, provided the software is classified as ''EAR99,'' not subject to the EAR, or classified by Commerce as mass market software under ECCN 5D992 of the EAR.

[75 FR 11000, Mar. 10, 2010]

Subpart F—Reports

§ 560.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45109, Aug. 25, 1997]

§ 560.602 [Reserved]

§ 560.603 Reports on oil transactions engaged in by foreign affiliates.

(a) *Requirement for reports.* A report must be filed with the Office of Foreign Assets Control with respect to each foreign affiliate of a United States person that engaged in a reportable transaction, as defined in paragraph (b) of this section, during the calendar quarter. Reports are due within 60 days after the end of each calendar quarter.

(b) *Definitions.* For purposes of this section:

(1) The term *reportable transaction* means any purchase, sale, or swap of Iranian-origin crude oil or natural gas. For purposes of this paragraph (b), a purchase, sale, or swap is deemed to have occurred as of the date of the bill of lading used in connection with such transaction.

(2) The term *foreign affiliate* means a person or entity other than a United States person (see § 560.314) which is organized or located outside the United States and which is owned or controlled by a United States person or persons.

(c) *Who must report.* A United States person must file a report with respect to each foreign affiliate owned or controlled by it which engaged in a reportable transaction or transactions during the calendar quarter. For the calendar quarter beginning October 1, 1996, and all subsequent quarters, a United States person must file a report only as to each foreign affiliate owned or controlled by it which engaged in a reportable transaction or transactions totaling $1,000,000 or more during the calendar quarter. A single United States entity within a consolidated or affiliated group may be designated to report on each foreign affiliate of the United States members of the group. Such centralized reporting may be done by the United States person who owns or controls, or has been delegated authority to file on behalf of, the remaining United States persons in the group.

(d) *What must be reported.* (1) Part I of the report must provide the name, address, and principal place of business of the United States person; its place of incorporation or organization if an entity; and the name, title, and telephone number of the individual to contact concerning the report.

(2) Part II of the report must provide, with respect to the foreign affiliate, its name and address; the type of entity, e.g, corporation, partnership, limited liability company; the country of its incorporation or organization; and its principal place of business.

(3) Part III of the report must include the following information with respect to each reportable transaction (a separate Part III must be submitted for each reportable transaction):

(i) The nature of the transaction, e.g., purchase, sale, swap;

(ii) A description of the product involved;

(iii) The name of the Iranian or third country party or parties involved in the transaction;

(iv) The currency and amount of the transaction, and corresponding United States dollar value of the transaction if not denominated in United States dollars.

(e) *Where to report.* Reports must be filed with the Compliance Programs Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW—Annex, Washington, DC 20220. Reports may be submitted by facsimile transmission at 202/622–1657. A copy must be retained for the reporter's records.

(f) *Whom to contact.* Blocked Assets Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW.—Annex, Washington, DC 20220; telephone: 202/622–2440.

[63 FR 62941, Nov. 10, 1998]

Subpart G—Penalties

§ 560.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 560.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104–132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a U.S. person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(e) Violations of this part may also be subject to relevant provisions of the Customs laws and other applicable laws.

[60 FR 47063, Sept. 11, 1995, as amended at 61 FR 43461, Aug. 23, 1996; 61 FR 54939, Oct. 23, 1996; 62 FR 45109, Aug. 25, 1997; 71 FR 29253, May 22, 2006; 73 FR 32654, June 10, 2008]

§ 560.702 Detention of shipments.

Import shipments into the United States of Iranian-origin goods in violation of § 560.201 and export shipments from the United States of goods destined for Iran in violation of § 560.202 or 560.204 shall be detained. No such import, export, or reexport will be permitted to proceed, except as specifically authorized by the Secretary of the Treasury. Unless licensed, such shipments are subject to penalty or seizure and forfeiture action, under the Customs laws or other applicable provisions of law, depending on the circumstances.

§ 560.703 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he may issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice may be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice will describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to make presentations.* The prepenalty notice also shall inform the person of his right to make a written presentation within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 560.704 Presentation responding to prepenalty notice.

(a) *Time within which to respond.* The named person shall have 30 days from the date of mailing of the prepenalty

notice to make a written presentation to the Director.

(b) *Form and contents of the written presentation.* The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

§ 560.705 Penalty notice.

(a) *No violation.* If, after considering any presentations made in response to the prepenalty notice and any relevant facts, the Director determines that there was no violation by the person named in the prepenalty notice, he shall promptly notify the person in writing of the determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any presentations made in response to the prepenalty notice, the Director determines that there was a violation by the person named in the prepenalty notice, he may issue a written notice of the imposition of the monetary penalty to that person.

§ 560.706 Referral for administrative collection measures or to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 560.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 45109, Aug. 25, 1997, as amended at 68 FR 53659, Sept. 11, 2003]

§ 560.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 12613, Executive Order 12957, Executive Order 12959, and any further Executive orders relating to the national emergency declared in Executive Order 12957 may be taken by the Director, Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[60 FR 47063, Sept. 11, 1995. Redesignated at 62 FR 45109, Aug. 25, 1997]

§ 560.803 Customs procedures: Goods specified in § 560.201.

(a) With respect to goods specified in § 560.201, and not otherwise licensed or excepted from the scope of that section, appropriate Customs officers shall not accept or allow any:

(1) Entry for consumption or warehouse (including any appraisement entry, any entry of goods imported in the mails, regardless of value, and any informal entries);

(2) Entry for immediate exportation;

(3) Entry for transportation and exportation;

(4) Withdrawal from warehouse;

(5) Admission, entry, transfer or withdrawal to or from a foreign trade zone; or

(6) Manipulation or manufacture in a warehouse or in a foreign trade zone.

(b) Customs officers may accept or allow the importation of Iranian-origin goods under the procedures listed in paragraph (a) if:

(1) A specific license pursuant to this part is presented; or

(2) Instructions authorizing the transaction are received from the Office of Foreign Assets Control.

(c) Whenever a specific license is presented to an appropriate Customs officer in accordance with this section, one additional legible copy of the entry, withdrawal or other appropriate document with respect to the merchandise

involved must be filed with the appropriate Customs officers at the port where the transaction is to take place. Each copy of any such entry, withdrawal or other appropriate document, including the additional copy, must bear plainly on its face the number of the license pursuant to which it is filed. The original copy of the specific license must be presented to the appropriate Customs officers in respect of each such transaction and must bear a notation in ink by the licensee or person presenting the license showing the description, quantity and value of the merchandise to be entered, withdrawn or otherwise dealt with. This notation must be so placed and so written that there will exist no possibility of confusing it with anything placed on the license at the time of its issuance. If the license in fact authorizes the entry, withdrawal, or other transaction with regard to the merchandise, the appropriate Customs officer, or other authorized Customs employee, shall verify the notation by signing or initialing it after first assuring himself that it accurately describes the merchandise it purports to represent. The license shall thereafter be returned to the person presenting it and the additional copy of the entry, withdrawal or other appropriate document shall be forwarded by the appropriate Customs officer to the Office of Foreign Assets Control.

(d) If it is unclear whether an entry, withdrawal or other action affected by this section requires a specific license from the Office of Foreign Assets Control, the appropriate Customs officer may withhold any action thereon and shall advise such person to communicate directly with the Office of Foreign Assets Control to request that instructions be sent to the Customs officer to authorize him to take action with regard thereto.

[60 FR 47063, Sept. 11, 1995. Redesignated at 62 FR 45109, Aug. 25, 1997]

Subpart I—Paperwork Reduction Act

§ 560.901 Paperwork Reduction Act notice.

The specific information collection requirements in § 560.603 have been approved by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act (44 U.S.C. 3507(j)) and assigned control number 1505–0106. For approval by OMB under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45109, Aug. 25, 1997]

APPENDIX A TO PART 560—PERSONS DETERMINED TO BE THE GOVERNMENT OF IRAN, AS DEFINED IN § 560.304 OF THIS PART

This non-exhaustive appendix lists persons determined by the Office of Foreign Assets Control (''OFAC'') to be the *Government of Iran,* as defined in § 560.304 of this part. The persons listed below are considered to be the *Government of Iran* not only when they operate from the locations listed below, but also when they operate from any other location. The names and addresses are subject to change. This part 560 contains prohibitions against engaging in most transactions with persons that meet the definition of the *Government of Iran,* whether such persons are located or incorporated inside or outside of Iran. Moreover, regardless of whether a person is listed below, if the person comes within the definition of *Government of Iran* in § 560.304, the prohibitions on engaging in transactions with the person, wherever located worldwide, apply to the same extent they would apply if the person were listed in this appendix. Note that the prohibitions in this part 560 also apply to most transactions with persons located in Iran that are not the Government of Iran.

The names of persons listed in this appendix also are included on OFAC's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[IRAN].'' Although there is no requirement to block the property and interests of property of persons listed in this appendix, U.S. persons are cautioned that entities identified as owned or controlled by the Government of Iran also may be designated or blocked pursuant to additional sanctions programs administered by OFAC. The entry for a person's name in this appendix and on the SDN List may include—in addition to the identifier ''[IRAN]''—identifier(s) for the other sanctions program(s) pursuant to which the

person is listed on the SDN List (*e.g.*, ''[IRAN] [NPWMD]'' or ''[IRAN] [SDGT]'').

NOTES TO APPENDIX A TO PART 560: 1.The alphabetical list below provides the following information concerning persons determined by OFAC to be the Government of Iran: The name (including known former or alternate names), address, the identifier ''[IRAN]'', and, if applicable, the identifier(s) denoting other sanctions program(s) pursuant to which the person is blocked.

2. The abbreviations used in this appendix are ''a.k.a.'' (also known as) and ''f.k.a.'' (formerly known as).

3. The references to sanctions programs in 31 CFR chapter V include: [IRAN] (Iranian Transactions Regulations, part 560); [IFSR] (Iranian Financial Sanctions Regulations, part 561); [ISA] (Executive Order 13574, 76 FR 30505, May 25, 2011; Iran Sanctions Act of 1996 (Pub. L. 104–172) (50 U.S.C. 1701 note), as amended by, *inter alia,* the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195)); [NPWMD] (Weapons of Mass Destruction Proliferators Sanctions Regulations, part 544); and [SDGT] (Global Terrorism Sanctions Regulations, part 594).

4. The names of persons listed in Appendix A to part 560 are published in the FEDERAL REGISTER and included on the SDN List. The SDN List is accessible through the following page on OFAC's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in Appendix A to this chapter. New names of persons determined to be the Government of Iran and changes to existing listings also are published in the FEDERAL REGISTER.

This document and additional information concerning OFAC are available from OFAC's Web site: *http://www.treasury.gov/ofac*. Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622–0077. Please consult OFAC's Web site prior to engaging in transactions that may be subject to the prohibitions contained in part 560. If you have further questions, please contact OFAC's Sanctions Compliance & Evaluation Division at 202/622–2490 or 800/540–6322 (toll-free).

ASCOTEC HOLDING GMBH (f.k.a. AHWAZ STEEL COMMERCIAL & TECHNICAL SERVICE GMBH ASCOTEC; f.k.a. AHWAZ STEEL COMMERCIAL AND TECHNICAL SERVICE GMBH ASCOTEC; a.k.a. ASCOTEC GMBH), Tersteegen Strasse 10, Dusseldorf 40474, Germany; Registration ID HRB 26136 (Germany); all offices worldwide [IRAN]

ASCOTEC JAPAN K.K., 8th Floor, Shiba East Building, 2–3–9 Shiba, Minato-ku, Tokyo 105–0014, Japan; all offices worldwide [IRAN]

ASCOTEC MINERAL & MACHINERY GMBH (a.k.a. ASCOTEC MINERAL AND MACHINERY GMBH; f.k.a. BREYELLER KALTBAND GMBH), Tersteegenstr. 10, Dusseldorf 40474, Germany; Registration ID HRB 55668 (Germany); all offices worldwide [IRAN]

ASCOTEC SCIENCE & TECHNOLOGY GMBH (a.k.a. ASCOTEC SCIENCE AND TECHNOLOGY GMBH), Tersteegenstrasse 10, Dusseldorf D 40474, Germany; Registration ID HRB 58745 (Germany); all offices worldwide [IRAN]

ASCOTEC STEEL TRADING GMBH (a.k.a. ASCOTEC STEEL), Tersteegenstr. 10, Dusseldorf 40474, Germany; Georg-Glock-Str. 3, Dusseldorf 40474, Germany; Registration ID HRB 48319 (Germany); all offices worldwide [IRAN]

BANK KESHAVARZI IRAN (a.k.a. AGRICULTURAL BANK OF IRAN; a.k.a. BANK KESHAVARZI), PO Box 14155–6395, 129 Patrice Lumumba St, Jalal-al-Ahmad Expressway, Tehran 14454, Iran; all offices worldwide [IRAN]

BANK MARKAZI JOMHOURI ISLAMI IRAN (a.k.a. BANK MARKAZI IRAN; a.k.a. CENTRAL BANK OF IRAN; a.k.a. CENTRAL BANK OF THE ISLAMIC REPUBLIC OF IRAN), 213 Ferdowsi Avenue, Tehran 11365, Iran; PO Box 15875/7177, 144 Mirdamad Blvd, Tehran, Iran [IRAN]

BANK MASKAN (a.k.a. HOUSING BANK (OF IRAN)), PO Box 11365/5699, No 247 3rd Floor Fedowsi Ave, Cross Sarhang Sakhaei St, Tehran, Iran; all offices worldwide [IRAN]

BANK MELLAT, Cumhuriyet Bulvari No 88/A, PK 7103521, Konak, Izmir, Turkey; PO Box 375010, Amiryan Str #6, P/N–24, Yerevan, Armenia; PO Box 79106425, Ziya Gokalp Bulvari No 12, Kizilay, Ankara, Ankara, Turkey; 327 Forsat and Taleghani Avenue, Tehran 15817, Iran; Buyukdere Cad, Cicek Sokak No 1—1 Levent, Levent, Istanbul, Turkey; Keumkang Tower—13th & 14th Floor, 889–13 Daechi-Dong, Gangnam-Ku, Seoul 135–280, Korea, South; Head Office Bldg, 327 Taleghani Ave, Tehran 15817, Iran; all offices worldwide [IRAN] [NPWMD] [IFSR]

BANK MELLI IRAN (a.k.a. BANK MELLI; a.k.a. NATIONAL BANK OF IRAN), PO Box 2656, Liva Street, Abu Dhabi, United Arab Emirates; PO Box 459, Al Borj St, Sharjah, United Arab Emirates; Room 704–6, Wheelock Hse, 20 Pedder St, Central, Hong Kong; PO Box 1894, Baniyas St, Deira, Dubai City, United Arab Emirates; PO Box 1894, Al Wasl Rd, Jumeirah, Dubai, United Arab Emirates; 43 Avenue Montaigne, Paris 75008, France; PO Box 1888, Clock Tower, Industrial Rd, Al Ain Club Bldg, Al Ain, Abu Dhabi, United Arab Emirates; Postfach 112 129, Holzbruecke 2, D–20459, Hamburg, Germany; PO Box 2643, Ruwi, Muscat 112, Oman; Unit 1703–4, 17th Floor, Hong Kong Club Building, 3 A Chater Road Central, Hong Kong; PO Box 11365–171, Ferdowsi Avenue, Tehran, Iran;

Bank Melli Iran Bldg, 111 St 24, 929 Arasat, Baghdad, Iraq; PO Box 248, Hamad Bin Abdulla St, Fujairah, United Arab Emirates; PO Box 5270, Oman Street Al Nakheel, Ras Al-Khaimah, United Arab Emirates; PO Box 3093, Ahmed Seddiqui Bldg, Khalid Bin El-Walid St, Bur-Dubai, Dubai City 3093, United Arab Emirates; Nobel Ave. 14, Baku, Azerbaijan; all offices worldwide [IRAN] [NPWMD] [IFSR]

BANK OF INDUSTRY AND MINE (OF IRAN) (a.k.a. BANK SANAD VA MADAN; a.k.a. ''BIM''), No 1655, Firouzeh Building, Mahmoudiye Street, Valiasr Ave, Tehran, Iran; PO Box 15875–4456, Firouzeh Tower, No 1655 Vali-Asr Ave after Chamran Crossroads, Tehran 1965643511, Iran; all offices worldwide [IRAN] [NPWMD] [IFSR]

BANK REFAH KARGARAN (a.k.a. BANK REFAH; a.k.a. WORKERS' WELFARE BANK (OF IRAN)), No. 40 North Shiraz Street, Mollasadra Ave, Vanak Sq, Tehran 19917, Iran; all offices worldwide [IRAN] [NPWMD] [IFSR]

BANK SADERAT IRAN (a.k.a. IRAN EXPORT BANK), PO Box 4308, 25–29 Venizelou St, Athens, Attica GR 105 64, Greece; 1st Floor, Alrose Bldg, Verdun—Rashid Karame St, Beirut, Lebanon; PO Box 700, Abu Dhabi, United Arab Emirates; Bur Dubai, Khaled Bin Al Walid St, Dubai City, United Arab Emirates; Sheikh Zayed Rd, Dubai City, United Arab Emirates; PO Box 316, Bank Saderat Bldg, Alaroda St, Borj Ave, Sharjah, United Arab Emirates; 16 rue de la Paix, Paris 75002, France; Alghobeiri Branch—Aljawhara Bldg, Ghobeiry Blvd, Beirut, Lebanon; PO Box 4425, Salwa Rd, Doha, Qatar; PO Box 1140, Al-Am Road, Al-Ein, Al Ain, Abu Dhabi, United Arab Emirates; Postfach 112227, Deichstrasse 11, 20459, Hamburg, Germany; PO Box 5126, Beirut, Lebanon; PO Box 1269, Muscat 112, Oman; PO Box 4182, Murshid Bazar Branch, Dubai City, United Arab Emirates; 5 Lothbury, London EC2R 7HD, United Kingdom; Postfach 160151, Friedenstr 4, D–60311, Frankfurt am Main, Germany; 3rd Floor, Aliktisad Bldg, Ras El Ein Street Baalbak, Baalbak, Lebanon; Saida Branch, Sida Riad Elsoleh St, Martyrs Sq, Saida, Lebanon; Borj Albarajneh Branch—20 Alholom Bldg, Sahat Mreijeh, Kafaat St, Beirut, Lebanon; PO Box 16, Liwara Street, Ajman, United Arab Emirates; Ground Floor Business Room, Building Banke Khoon Road, Harat, Afghanistan; No. 56, Opposite of Security Department, Toraboz Khan Str., Kabul, Afghanistan; 3rd Floor, Mteco Centre, Mar Elias, Facing Al Hellow Barrak, POB 5126, Beirut, Lebanon; 2nd Floor, No 181 Makhtoomgholi Ave, Ashgabat, Turkmenistan; PO Box 4182, Almaktoum Rd, Dubai City, United Arab Emirates; PO Box 15745–631, Bank Saderat Tower, 43 Somayeh Avenue, Tehran, Iran; PO Box 2256, Doha, Qatar; all offices worldwide [SDGT] [IRAN] [IFSR]

BANK SADERAT PLC (f.k.a. IRAN OVERSEAS INVESTMENT BANK LIMITED; f.k.a. IRAN OVERSEAS INVESTMENT BANK PLC; f.k.a. IRAN OVERSEAS INVESTMENT CORPORATION LIMITED), 5 Lothbury, London EC2R 7HD, United Kingdom; PO Box 15175/584, 6th Floor, Sadaf Bldg, 1137 Vali Asr Ave, Tehran 15119–43885, Iran; UK Company Number 01126618 (United Kingdom); all offices worldwide [SDGT] [IRAN] [IFSR]

BANK SEPAH, Imam Khomeini Square, Tehran 1136953412, Iran; Hafenstrasse 54, D–60327, Frankfurt am Main, Germany; 64 Rue de Miromesnil, Paris 75008, France; Via Barberini 50, Rome, RM 00187, Italy; 17 Place Vendome, Paris 75008, France; all offices worldwide [IRAN] [NPWMD] [IFSR]

BANK TEJARAT, PO Box 734001, Rudaki Ave 88, Dushanbe 734001, Tajikistan; c/o Persia International Bank, 6 Lothbury, London EC2R 7HH, United Kingdom; c/o Europaisch-Iranische Handelsbank AG, Depenau 2, D–20095, Hamburg, Germany; PO Box 119871, 4th Floor, c/o Persia International Bank PLC, The Gate Bldg, Dubai City, United Arab Emirates; PO Box 11365–5416, 152 Taleghani Avenue, Tehran 15994, Iran; 124–126 Rue de Provence, Angle 76 bd Haussman, Paris 75008, France; 130, Zandi Alley, Taleghani Avenue, No 152, Ostad Nejat Ollahi Cross, Tehran 14567, Iran; Office C208, Beijing Lufthansa Center No 50, Liangmaqiao Rd, Chaoyang District, Beijing 100016, China; all offices worldwide [IRAN]

BANK TORGOVOY KAPITAL ZAO (a.k.a. TC BANK; a.k.a. TK BANK; a.k.a. TK BANK ZAO; a.k.a. TORGOVY KAPITAL (TK BANK); a.k.a. TRADE CAPITAL BANK; a.k.a. TRADE CAPITAL BANK (TC BANK); a.k.a. ZAO BANK TORGOVY KAPITAL), 3 Kozlova Street, Minsk 220005, Belarus; Registration ID 30 (Belarus); all offices worldwide [IRAN]

BIMEH IRAN INSURANCE COMPANY (U.K.) LIMITED (a.k.a. BIUK), 4/5 Fenchurch Buildings, London EC3M 5HN, United Kingdom; UK Company Number 01223433 (United Kingdom); all offices worldwide [IRAN]

BREYELLER STAHL TECHNOLOGY GMBH & CO. KG (a.k.a. BREYELLER STAHL TECHNOLOGY GMBH AND CO. KG; f.k.a. ROETZEL-STAHL GMBH & CO. KG; f.k.a. ROETZEL-STAHL GMBH AND CO. KG), Josefstrasse 82, Nettetal 41334, Germany; Registration ID HRA 4528 (Germany); all offices worldwide [IRAN]

EUROPAISCH-IRANISCHE HANDELSBANK AG (f.k.a. DEUTSCH-IRANISCHE HANDELSBANK AG; a.k.a. EUROPAEISCH–IRANISCHE HANDELSBANK; a.k.a. EUROPAESCH-

IRANISCHE HANDELSBANK AKTIENGESELLSCHAFT; a.k.a. GERMAN-IRANIAN TRADE BANK), Tehran Branch, No. 1655/1, Valiasr Avenue, PO Box 19656 43 511, Tehran, Iran; Kish Branch, Sanaee Avenue, PO Box 79415/148, Kish Island 79415, Iran; Hamburg Head Office, Depenau 2, D–20095 Hamburg, P.O. Box 101304, D–20008 Hamburg, Hamburg, Germany; all offices worldwide [IRAN] [NPWMD] [IFSR]

EXPORT DEVELOPMENT BANK OF IRAN (a.k.a. BANK TOSEH SADERAT IRAN; a.k.a. BANK TOWSEEH SADERAT IRAN; a.k.a. BANK TOWSEH SADERAT IRAN; a.k.a. EDBI), No. 129, 21's Khaled Eslamboli, No. 1 Building, Tehran, Iran; Export Development Building, Next to the 15th Alley, Bokharest Street, Argentina Square, Tehran, Iran; No. 26, Tosee Tower, Arzhantine Square, P.O. Box 15875–5964, Tehran 15139, Iran; No. 4, Gandi Ave., Tehran 1516747913, Iran; Tose'e Tower, Corner of 15th St., Ahmed Qasir Ave., Argentine Square, Tehran, Iran; Registration ID 86936 (Iran) issued 10 Jul 1991; all offices worldwide [IRAN] [NPWMD] [IFSR]

IFIC HOLDING AG (a.k.a. IHAG), Koenigsallee 60 D, Dusseldorf 40212, Germany; Registration ID HRB 48032 (Germany); all offices worldwide [IRAN]

IHAG TRADING GMBH, Koenigsallee 60 D, Dusseldorf 40212, Germany; Registration ID HRB 37918 (Germany); all offices worldwide [IRAN]

INDUSTRIAL DEVELOPMENT AND RENOVATION ORGANIZATION OF IRAN (a.k.a. IDRO; a.k.a. IRAN DEVELOPMENT & RENOVATION ORGANIZATION COMPANY; a.k.a. IRAN DEVELOPMENT AND RENOVATION ORGANIZATION COMPANY; a.k.a. SAWZEMANE GOSTARESH VA NOWSAZI SANAYE IRAN), Vali Asr Building, Jam e Jam Street, Vali Asr Avenue, Tehran 15815–3377, Iran; all offices worldwide [IRAN]

INTRA CHEM TRADING GMBH (a.k.a. INTRA-CHEM TRADING CO. (GMBH)), Schottweg 3, Hamburg 22087, Germany; Registration ID HRB48416 (Germany); all offices worldwide [IRAN]

IRAN FOREIGN INVESTMENT COMPANY (a.k.a. IFIC), No. 4, Saba Blvd., Africa Blvd., Tehran 19177, Iran; P.O. Box 19395–6947, Tehran, Iran; all offices worldwide [IRAN]

IRAN INSURANCE COMPANY (a.k.a. BIMEH IRAN), P.O. Box 1867, Al Ain, Abu Dhabi, United Arab Emirates; P.O. Box 3281, Abu Dhabi, United Arab Emirates; P.O. Box 849, Ras-Al-Khaimah, United Arab Emirates; P.O. Box 417, Muscat 113, Oman; Al Alia Center, Salaheddine Rd., Al Malaz, P.O. Box 21944, Riyadh 11485, Saudi Arabia; Al-Lami Center, Ali-Bin-Abi Taleb St. Sharafia, P.O. Box 11210, Jeddah 21453, Saudi Arabia; Abdolaziz-Al-Masaeed Building, Sheikh Maktoom St., Deira, P.O. Box 2004, Dubai, United Arab Emirates; 107 Dr Fatemi Avenue, Tehran 14155/6363, Iran; P.O. Box 995, Manama, Bahrain; P.O. Box 1666, Sharjah, United Arab Emirates; P.O. Box 676, Salalah 211, Oman; Al Rajhi Bldg., 3rd Floor, Suite 23, Dhahran St., P.O. Box 1305, Dammam 31431, Saudi Arabia; all offices worldwide [IRAN]

IRAN PETROCHEMICAL COMMERCIAL COMPANY (a.k.a. PETROCHEMICAL COMMERCIAL COMPANY; a.k.a. SHERKATE BASARGANI PETROCHEMIE (SAHAMI KHASS); a.k.a. SHERKATE BAZARGANI PETRCHEMIE; a.k.a. ''IPCC''; a.k.a. ''PCC''), Topcu Ibrahim Sokak No: 13 D: 7 Icerenkoy-Kadikoy, Istanbul, Turkey; No. 1014, Doosan We've Pavilion, 58, Soosong-Dong, Jongno-Gu, Seoul, Korea, South; 99–A, Maker Tower F, 9th Floor, Cuffe Parade, Colabe, Mumbai 400 005, India; No. 1339, Vali Nejad Alley, Vali-e-Asr St., Vanak Sq., Tehran, Iran; Office No. 707, No. 10, Chao Waidajie, Chao Tang District, Beijing 100020, China; INONU CAD. SUMER Sok., Zitas Bloklari C.2 Bloc D.H, Kozyatagi, Kadikoy, Istanbul, Turkey; all offices worldwide [IRAN]

IRANIAN MINES AND MINING INDUSTRIES DEVELOPMENT AND RENOVATION ORGANIZATION (a.k.a. IMIDRO; a.k.a. IRAN MINING INDUSTRIES DEVELOPMENT AND RENOVATION ORGANIZATION; a.k.a. IRANIAN MINES AND MINERAL INDUSTRIES DEVELOPMENT AND RENOVATION), No. 39, Sepahbod Gharani Avenue, Ferdousi Square, Tehran, Iran; all offices worldwide [IRAN]

IRANIAN OIL COMPANY (U.K.) LIMITED (a.k.a. IOC UK LTD), Riverside House, Riverside Drive, Aberdeen AB11 7LH, United Kingdom; UK Company Number 01019769 (United Kingdom); all offices worldwide [IRAN]

IRASCO S.R.L. (a.k.a. IRASCO ITALY), Via Di Francia 3, Genoa 16149, Italy; Registration ID GE 348075 (Italy); all offices worldwide [IRAN]

KALA LIMITED (a.k.a. KALA NAFT LONDON LTD), NIOC House, 4 Victoria Street, Westminster, London SW1H 0NE, United Kingdom; UK Company Number 01517853 (United Kingdom); all offices worldwide [IRAN]

KALA PENSION TRUST LIMITED, C/O Kala Limited, N.I.O.C. House, 4 Victoria Street, London SW1H 0NE, United Kingdom; UK Company Number 01573317 (United Kingdom); all offices worldwide [IRAN]

MACHINE SAZI ARAK CO. LTD. (a.k.a. MACHINE SAZI ARAK COMPANY P J S C; a.k.a. MACHINE SAZI ARAK SSA; a.k.a. MASHIN SAZI ARAK; a.k.a. ''MSA''), P.O. Box 148, Arak 351138, Iran; Arak, Km 4 Tehran Road, Arak, Markazi Province, Iran; No. 1, Northern Kargar Street,

Tehran 14136, Iran; all offices worldwide [IRAN]

MAHAB GHODSS CONSULTING ENGINEERING COMPANY (a.k.a. MAHAB GHODSS CONSULTING ENGINEERING CO.; a.k.a. MAHAB GHODSS CONSULTING ENGINEERS SSK; a.k.a. MAHAB QODS ENGINEERING CONSULTING CO.), 16 Takharestan Alley, Dastgerdy Avenue, P.O. Box 19395–6875, Tehran 19187 81185, Iran; No. 17, Dastgerdy Avenue, Takharestan Alley, 19395–6875, Tehran 1918781185, Iran; Registration ID 48962 (Iran) issued 1983; all offices worldwide [IRAN]

METAL & MINERAL TRADE S.A.R.L. (a.k.a. METAL & MINERAL TRADE (MMT); a.k.a. METAL AND MINERAL TRADE (MMT); a.k.a. METAL AND MINERAL TRADE S.A.R.L.; a.k.a. MMT LUXEMBURG; a.k.a. MMT SARL), 11b, Boulevard Joseph II L–1840, Luxembourg; Registration ID B 59411 (Luxembourg); all offices worldwide [IRAN]

MINES AND METALS ENGINEERING GMBH (M.M.E.), Georg-Glock-Str. 3, Dusseldorf 40474, Germany; Registration ID HRB 34095 (Germany); all offices worldwide [IRAN]

MSP KALA NAFT CO. TEHRAN (a.k.a. KALA NAFT CO SSK; a.k.a. KALA NAFT COMPANY LTD; a.k.a. KALA NAFT TEHRAN; a.k.a. KALA NAFT TEHRAN COMPANY; a.k.a. KALAYEH NAFT CO; a.k.a. M.S.P.-KALA; a.k.a. MANUFACTURING SUPPORT & PROCUREMENT CO.-KALA NAFT; a.k.a. MANUFACTURING SUPPORT AND PROCUREMENT (M.S.P.) KALA NAFT CO. TEHRAN; a.k.a. MANUFACTURING, SUPPORT AND PROCUREMENT KALA NAFT COMPANY; a.k.a. MSP KALA NAFT TEHRAN COMPANY; a.k.a. MSP KALANAFT; a.k.a. MSP-KALANAFT COMPANY; a.k.a. SHERKAT SAHAMI KHASS KALA NAFT; a.k.a. SHERKAT SAHAMI KHASS POSHTIBANI VA TEHIYEH KALAYE NAFT TEHRAN; a.k.a. SHERKATE POSHTIBANI SAKHT VA TAHEIH KALAIE NAFTE TEHRAN), Head Office Tehran, Sepahbod Gharani Ave., P.O. Box 15815/1775 15815/3446, Tehran, Iran; Chekhov St., 24.2, AP 57, Moscow, Russia; Sanaee Ave., P.O. Box 79417–76349, N.I.O.C., Kish, Iran; 10th Floor, Sadaf Tower, Kish Island, Iran; 242 Sepahbod Gharani Street, Karim Khan Zand Bridge, Corner Kalantari Street, 8th Floor, P.O. Box 15815–1775/15815–3446, Tehran 15988, Iran; Building No. 226, Corner of Shahid Kalantari Street, Sepahbod Gharani Avenue, Karimkhan Avenue, Tehran 1598844815, Iran; No. 242, Shahid Kalantari St., Near Karimkhan Bridge, Sepahbod Gharani Avenue, Tehran, Iran; 333 7th Ave SW #1102, Calgary, AB T2P 2Z1, Canada; Room No. 704—No. 10 Chao Waidajie Chao Yang District, Beijing 10020, China; P.O. Box 2965, Sharjah, United Arab Emirates; all offices worldwide [IRAN]

NAFTIRAN INTERTRADE CO. (NICO) LIMITED (a.k.a. NAFT IRAN INTERTRADE COMPANY LTD; a.k.a. NAFTIRAN INTERTRADE COMPANY (NICO); a.k.a. NAFTIRAN INTERTRADE COMPANY LTD; a.k.a. NICO), Petro Pars Building, Saadat Abad Ave, No. 35, Farhang Blvd, Tehran, Iran; 41, 1st Floor, International House, The Parade, St Helier JE2 3QQ, Jersey; all offices worldwide [IRAN]

NAFTIRAN INTERTRADE CO. (NICO) SARL (a.k.a. NICO), 6, Avenue de la Tour-Haldimand, Pully, VD 1009, Switzerland; all offices worldwide [IRAN]

NAFTIRAN TRADING SERVICES CO. (NTS) LIMITED, 47 Queen Anne Street, London W1G 9JG, United Kingdom; 6th Floor NIOC Ho, 4 Victoria St, London SW1H 0NE, United Kingdom; UK Company Number 02600121 (United Kingdom); all offices worldwide [IRAN]

NATIONAL IRANIAN OIL COMPANY (a.k.a. NIOC), Hafez Crossing, Taleghani Avenue, P.O. Box 1863 and 2501, Tehran, Iran; all offices worldwide [IRAN]

NATIONAL IRANIAN OIL COMPANY PTE LTD, 7 Temasek Boulevard #07–02, Suntec Tower One 038987, Singapore; Registration ID 199004388C (Singapore); all offices worldwide [IRAN]

NATIONAL PETROCHEMICAL COMPANY (a.k.a. ''NPC''), No. 104, North Sheikh Bahaei Blvd., Molla Sadra Ave., Tehran, Iran; all offices worldwide [IRAN]

NICO ENGINEERING LIMITED, 41, 1st Floor, International House, The Parade, St. Helier JE2 3QQ, Jersey; Registration ID 75797 (Jersey); all offices worldwide [IRAN]

NIOC INTERNATIONAL AFFAIRS (LONDON) LIMITED, NIOC House, 4 Victoria Street, London SW1H ONE, United Kingdom; UK Company Number 02772297 (United Kingdom); all offices worldwide [IRAN]

NPC INTERNATIONAL LIMITED (a.k.a. N P C INTERNATIONAL LTD; a.k.a. NPC INTERNATIONAL COMPANY), 5th Floor NIOC House, 4 Victoria Street, London SW1H ONE, United Kingdom; UK Company Number 02696754 (United Kingdom); all offices worldwide [IRAN]

ONERBANK ZAO (a.k.a. EFTEKHAR BANK; a.k.a. HONOR BANK; a.k.a. HONORBANK; a.k.a. HONORBANK ZAO; a.k.a. ONER BANK; a.k.a. ONERBANK; a.k.a. ONER–BANK), Ulitsa Klary Tsetkin 51, Minsk 220004, Belarus; Registration ID 807000227 (Belarus) issued 16 Oct 2009; SWIFT/BIC HNRBBY2X (Belarus); all offices worldwide [IRAN]

P.C.C. (SINGAPORE) PRIVATE LIMITED (a.k.a. P.C.C. SINGAPORE BRANCH; a.k.a. PCC SINGAPORE PTE LTD), 78 Shenton Way, #08–02 079120, Singapore; 78 Shenton

Way, 26–02A Lippo Centre 079120, Singapore; Registration ID 199708410K (Singapore); all offices worldwide [IRAN]

PARS OIL AND GAS COMPANY (a.k.a. POGC), No. 1 Parvin Etesami Street, Fatemi Avenue, Tehran, Iran; No. 133, Side of Parvin Etesami Alley, opposite Sazman Ab—Dr. Fatemi Avenue, Tehran, Iran [IRAN]

PETROCHEMICAL COMMERCIAL COMPANY (U.K.) LIMITED (a.k.a. PCC (UK); a.k.a. PCC UK; a.k.a. PCC UK LTD), 4 Victoria Street, London SW1H ONE, United Kingdom; UK Company Number 02647333 (United Kingdom); all offices worldwide [IRAN]

PETROCHEMICAL COMMERCIAL COMPANY FZE (a.k.a. PCC FZE), 1703, 17th Floor, Dubai World Trade Center Tower, Sheikh Zayed Road, Dubai, United Arab Emirates; Office No. 99–A, Maker Tower ''F'' 9th Floor Cutte Pavade, Colabe, Bumbai 700005, India; all offices worldwide [IRAN]

PETROCHEMICAL COMMERCIAL COMPANY INTERNATIONAL (a.k.a. PETROCHEMICAL COMMERCIAL COMPANY INTERNATIONAL LIMITED; a.k.a. PETROCHEMICAL COMMERCIAL COMPANY INTERNATIONAL LTD; a.k.a. PETROCHEMICAL TRADING COMPANY LIMITED; a.k.a. ''PCCI''), P.O. Box 261539, Jebel Ali, Dubai, United Arab Emirates; 41, 1st Floor, International House, The Parade, St. Helier JE2 3QQ, Jersey; Ave. 54, Yimpash Business Center, No. 506, 507, Ashkhabad 744036, Turkmenistan; No. 21 End of 9th St, Gandi Ave, Tehran, Iran; 21, Africa Boulevard, Tehran, Iran; Registration ID 77283 (Jersey); all offices worldwide [ISA] [IRAN]

PETROIRAN DEVELOPMENT COMPANY (PEDCO) LIMITED (a.k.a. PETRO IRAN DEVELOPMENT COMPANY; a.k.a. ''PEDCO''), 41, 1st Floor, International House, The Parade, St. Helier JE2 3QQ, Jersey; No. 102, Next to Shahid Amir Soheil Tabrizian Alley, Shahid Dastgerdi (Ex Zafar) Street, Shariati Street, Tehran 19199/45111, Iran; Kish Harbour, Bazargan Ferdos Warehouses, Kish Island, Iran; No. 22, 7th Lane, Khalid Eslamboli Street, Shahid Beheshti Avenue, Tehran, Iran; National Iranian Oil Company—PEDCO, P.O. Box 2965, Al Bathaa Tower, 9th Floor, Apt. 905, Al Buhaira Corniche, Sharjah, United Arab Emirates; P.O. Box 15875–6731, Tehran, Iran; Registration ID 67493 (Jersey); all offices worldwide [IRAN]

PETROPARS INTERNATIONAL FZE (a.k.a. PPI FZE), P.O. Box 72146, Dubai, United Arab Emirates; all offices worldwide [IRAN]

PETROPARS LTD. (a.k.a. PETROPARS LIMITED; a.k.a. ''PPL''), No. 35, Farhang Blvd., Saadat Abad, Tehran, Iran; Calle La Guairita, Centro Profesional Eurobuilding, Piso 8, Oficina 8E, Chuao, Caracas 1060, Venezuela; P.O. Box 3136, Road Town, Tortola, Virgin Islands, British; all offices worldwide [IRAN]

PETROPARS UK LIMITED, 47 Queen Anne Street, London W1G 9JG, United Kingdom; UK Company Number 03503060 (United Kingdom); all offices worldwide [IRAN]

SINA BANK (f.k.a. BFCC; f.k.a. BONYAD FINANCE AND CREDIT COMPANY; f.k.a. SINA FINANCE AND CREDIT COMPANY), 187 Motahhari Avenue, P.O. Box 1587998411, Tehran, Iran; Kish Financial Center, Sahel, Kish Island, Iran; SWIFT/BIC SINAIRTH418 (Iran); alt. SWIFT/BIC SINAIRTH (Iran); all offices worldwide [IRAN]

WEST SUN TRADE GMBH (a.k.a. WEST SUN TRADE), Mundsburger Damm 16, Hamburg 22087, Germany; Arak Machine Mfg. Bldg., 2nd Floor, opp. of College Economy, Northern Kargar Ave., Tehran 14136, Iran; Winterhuder Weg 8, Hamburg 22085, Germany; Registration ID HRB 45757 (Germany); all offices worldwide [IRAN]

[76 FR 38538, June 30, 2011]

APPENDIX B TO PART 560—BULK AGRICULTURAL COMMODITIES

NOTES: 1. Appendix B sets forth those agricultural commodities eligible for the bulk agricultural commodity sales licensing procedures in § 560.531.

2. Commodities are identified by their classification numbers in the Harmonized Tariff Schedule of the United States (see 19 U.S.C. 1202) (''HTS'').

HTS Number	Commodity
1001.10	Durum Wheat
1001.90	Other Wheat and Meslin, including seed, Red Spring Wheat, White Winter Wheat, ''Canadian'' Western Red Winter Wheat, Soft White Spring Wheat, and Wheat not elsewhere specified
1101.00	Wheat or Meslin Flour
1006.10	Rice in the husk (paddy or rough)
1006.20	Husked (brown) Rice
1006.30	Semi-milled or wholly milled Rice, whether or not polished or glazed
1006.40	Broken Rice
1102.30	Rice Flour
1103.14	Rice Groats, Meal and Pellets
1002.00	Rye
1003.00	Barley
1004.00	Oats
1007.00	Grain Sorghum
1005.00	Corn (Maize)
0713.31	Dried Beans including *Vigna mungo (L.), Hepper,* and *Vigna radiata (L.) Wilczek*
0713.32	Small red (adzuki) beans
0713.33	Kidney beans, including white pea beans
0713.39	Beans, other
0713.50	Broad beans and horse beans
0713.10	Dried Peas (*Pisum sativum*)
0713.20	Chickpeas (garbanzos)
0713.40	Lentils

HTS Number	Commodity
0713.90	Dried leguminous vegetables, shelled, not elsewhere specified
1201.00	Soybeans, whether or not broken
2304.00	Soybean cake, meal and pellets
1507.10	Soybean oil, crude
1507.90	Soybean oil, other
1514.10	Rapeseed, colza and mustard oil, crude
1514.90	Rapeseed, colza and mustard oil, other
1515.21	Corn (Maize) oil, crude
1515.29	Corn (Maize) oil, other
1512.21	Cottonseed oil, crude
1512.29	Cottonseed oil, other
1517.90	Cottonseed oil, hydrogenated
1508.10	Peanut (ground-nut) oil, crude
1508.90	Peanut (ground-nut) oil, other
1515.50	Sesame oil
1512.11	Sunflower-seed oil, crude
1512.19	Sunflower-seed oil, other
1212.91	Sugar Beets, fresh, chilled, frozen or dried
1212.92	Sugar Cane, fresh, chilled, frozen or dried
1701.11	Cane Sugar, raw, solid form
1701.12	Beet Sugar, raw, solid form
1701.91	Cane or Beet Sugar, solid form, containing added coloring or flavoring
1701.99	Cane or Beet Sugar, other, not elsewhere specified

[64 FR 41793, Aug. 2, 1999]

APPENDIX C TO PART 560—ELIGIBLE PROCUREMENT BODIES

This appendix C sets forth eligible procurement bodies of the Government of Iran identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state. See §560.531(e).

Government Trading Corporation (a.k.a. GTC).

State Livestock and Logistics Co. (a.k.a. State Livestock Affairs Logistics; a.k.a. SLAL).

[64 FR 58792, Nov. 1, 1999]

PART 561—IRANIAN FINANCIAL SANCTIONS REGULATIONS

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APPENDIX A TO PART 561 [RESERVED]

AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 111–195, 124 Stat. 1312.

SOURCE: 75 FR 49838, Aug. 16, 2010, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 561.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part or the conditions imposed pursuant to this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 561.201 Prohibitions or strict conditions with respect to correspondent accounts or payable-through accounts of certain foreign financial institutions identified by the Secretary of the Treasury.

Upon a finding by the Secretary of the Treasury that a foreign financial institution knowingly engages in one or more of the activities described in paragraphs (a)(1) through (a)(5) of this section, consistent with the Secretary of the Treasury's authorities under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195), either the Secretary of the Treasury will issue an order or regulation imposing one or more strict conditions, as set forth in paragraph (b) of this section, on the opening or maintaining of a correspondent account or a payable-through account in the United States for that foreign financial institution, or, as set forth in paragraph (c) of this section, the name of that foreign financial institution will be added to appendix A to this part, and a U.S. financial institution shall be prohibited from opening or maintaining a correspondent account or a payable-through account in the United States for that foreign financial institution.

(a) A foreign financial institution engages in an activity described in this paragraph if, in any location or currency, the foreign financial institution knowingly:

(1) Facilitates the efforts of the Government of Iran (including efforts of Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates)—

(i) To acquire or develop weapons of mass destruction or delivery systems for weapons of mass destruction; or

(ii) To provide support for organizations designated as foreign terrorist organizations under section 219(a) of the Immigration and Nationality Act (8 USC 1189(a)) or support for acts of international terrorism, as defined in section 561.312 of this part;

(2) Facilitates the activities of a person subject to financial sanctions pursuant to United Nations Security Council Resolutions 1737, 1747, 1803, or 1929, or any other resolution adopted by the Security Council that imposes sanctions with respect to Iran;

NOTE TO PARAGRAPH (a)(2) OF § 561.201: Persons subject to financial sanctions pursuant to the United Nations Security Council resolutions listed in paragraph (a)(2) of § 561.201 include individuals and entities listed in the Annex to UNSC Resolution 1737, Annex I of UNSC Resolution 1747, Annexes I and III of UNSC Resolution 1803, and Annexes I, II, and III of UNSC Resolution 1929; and individuals and entities designated by the Security Council or by the Committee established pursuant to UNSC Resolution 1737 (the ''Committee'') as being engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities, or the development of nuclear weapon

delivery systems; and individuals and entities acting on behalf of or at the direction of those so listed or designated; and entities owned or controlled by those so listed or designated; and individuals and entities determined by the Security Council or the Committee to have assisted listed or designated individuals or entities in evading sanctions of, or in violating the provisions of, UNSC Resolutions 1737, 1747, 1803, or 1929.

(3) Engages in money laundering to carry out an activity described in paragraphs (a)(1) or (a)(2) of this section;

(4) Facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity described in paragraphs (a)(1) or (a)(2) of this section; or

(5) Facilitates a significant transaction or transactions or provides significant financial services for—

(i) Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 USC 1701 *et seq.*); or

(ii) A financial institution whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism.

NOTE TO PARAGRAPH (a)(5) OF §561.201: The names of persons whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA'') are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List''). The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Agents or affiliates of Iran's Islamic Revolutionary Guard Corps (''IRGC'') whose property and interests in property are blocked pursuant to IEEPA are identified by a special reference to the ''[IRGC]'' at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and interests in property are blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544, will have the identifier ''[NPWMD] [IRGC]'' at the end of its entry on the SDN List. SDN List entries for financial institutions whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism also include identifiers which reference this part in addition to part 544 or part 594, as the case may be, located at the end of their entries on the SDN List (*e.g.*, [NPWMD][IFSR] or [SDGT][IFSR]). In addition, *see* §561.405 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked.

(b) The Secretary of the Treasury by order or regulation may impose one or more strict conditions on the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary finds engages in one or more of the activities described in paragraph (a) of this section. The prohibition in paragraph (c) of this section on the opening or maintaining of a correspondent account or a payable-through account in the United States for a foreign financial institution shall not apply if the Secretary of the Treasury has imposed one or more strict conditions pursuant to this paragraph on the opening or maintaining of a correspondent account or payable-through account for that foreign financial institution, and such condition or conditions remain in effect. Such conditions may include, but are not limited to, the following:

(1) Prohibiting any provision of trade finance through the correspondent account or payable-through account of the foreign financial institution;

(2) Restricting the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution to certain types of transactions, such as personal remittances;

(3) Placing monetary limits on the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution; or

(4) Requiring pre-approval from the U.S. financial institution for all transactions processed through the correspondent account or payable-through account of the foreign financial institution.

NOTE TO PARAGRAPH (b) OF § 561.201: The actual condition(s) to be imposed will be specified upon the identification of the foreign financial institution in the order or regulation issued by the Secretary of the Treasury.

(c) Except to the extent paragraph (b) of this section applies, and except as otherwise authorized pursuant to this part, a U.S. financial institution shall not open or maintain a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary of the Treasury finds engages in one or more of the activities described in paragraph (a) of this section. The names of foreign financial institutions that are found by the Secretary of the Treasury to engage in one or more of the activities described in paragraph (a) of this section, and for which U.S. financial institutions may not open or maintain correspondent accounts or payable-through accounts as provided in this paragraph, will be listed in appendix A to this part.

[75 FR 49838, Aug. 16, 2010, as amended at 76 FR 38542, June 30, 2011]

§ 561.202 Prohibitions on persons owned or controlled by U.S. financial institutions.

Except as otherwise authorized pursuant to this part, any person that is owned or controlled by a U.S. financial institution is prohibited from knowingly engaging in any transaction with or benefitting Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 USC 1701 *et seq.*).

NOTE 1 TO § 561.202: The names of persons whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA'') are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (the ''SDN List''). The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in Appendix A to this chapter. Agents or affiliates of Iran's Islamic Revolutionary Guard Corps (''IRGC'') whose property and interests in property are blocked pursuant to IEEPA are identified by a special reference to the ''[IRGC]'' at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and interests in property are blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544, will have the identifier ''[NPWMD][IRGC]'' at the end of its entry on the SDN List. In addition, *see* § 561.405 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked.

NOTE 2 TO § 561.202: A U.S. financial institution is subject to the civil penalties provided for in section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1705(b)) if any person that it owns or controls violates the prohibition set forth in this section and the U.S. financial institution knew or should have known of such violation. *See* § 561.701(a)(2).

[75 FR 49838, Aug. 16, 2010, as amended at 76 FR 38542, June 30, 2011]

Subpart C—General Definitions

§ 561.301 Effective date.

(a) The effective date of a prohibition or condition imposed pursuant to § 561.201 on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition.

(b) The effective date of the prohibition contained in § 561.202 with respect to Iran's Islamic Revolutionary Guard Corps and any of its agents or affiliates whose property and interests in property are blocked as of August 16, 2010 is August 16, 2010;

(c) The effective date of the prohibition contained in § 561.202 with respect to an agent or affiliate of Iran's Islamic Revolutionary Guard Corps

whose property and interests in property become blocked after August 16, 2010 is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 561.302 UNSC Resolution 1737.

The term *UNSC Resolution 1737* means United Nations Security Council Resolution 1737, adopted December 23, 2006.

§ 561.303 UNSC Resolution 1747.

The term *UNSC Resolution 1747* means United Nations Security Council Resolution 1747, adopted March 24, 2007.

§ 561.304 UNSC Resolution 1803.

The term *UNSC Resolution 1803* means United Nations Security Council Resolution 1803, adopted March 3, 2008.

§ 561.305 UNSC Resolution 1929.

The term *UNSC Resolution 1929* means United Nations Security Council Resolution 1929, adopted June 9, 2010.

§ 561.306 Correspondent account.

For purposes of this part, the term *correspondent account* means an account established by a U.S. financial institution for a foreign financial institution to receive deposits from, or to make payments on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution.

§ 561.307 Payable-through account.

For purposes of this part, the term *payable-through account* means a correspondent account maintained by a U.S. financial institution for a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

§ 561.308 Foreign financial institution.

For purposes of this part, the term *foreign financial institution* means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, or the North American Development Bank.

§ 561.309 U.S. financial institution.

For purposes of this part, the term *U.S. financial institution* means any U.S. entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, insurance companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 561.310 Money laundering.

For purposes of this part, the term *money laundering* means engaging in deceptive practices to obscure the nature of transactions involving the movement of illicit cash or illicit cash equivalent proceeds into, out of, or

through a country, or into, out of, or through a financial institution, such that the transactions are made to appear legitimate.

§ 561.311 Agent.

For purposes of this part, the term *agent* includes an entity established by a person for purposes of conducting transactions on behalf of the person in order to conceal the identity of the person.

§ 561.312 Act of international terrorism.

For purposes of this part, the term *act of international terrorism* has the same definition as that provided under section 14 of the Iran Sanctions Act of 1996 (50 U.S.C. 1701 note). As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V, August 16, 2010, the term *act of international terrorism* means an act which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or any state and which appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.

§ 561.313 Financial services.

For purposes of paragraph (a)(5) of § 561.201, the term *financial services* includes loans, transfers, accounts, insurance, investments, securities, guarantees, foreign exchange, letters of credit, and commodity futures or options.

§ 561.314 Knowingly.

For purposes of this part, the term *knowingly*, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

§ 561.315 Person.

The term *person* means an individual or entity.

§ 561.316 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 561.317 Money service businesses.

For purposes of this part, the term *money service businesses* means any agent, agency, branch, or office of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed in 31 CFR 103.11(uu)(1) through (uu)(5). The term does not include a bank or a person registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

Subpart D—Interpretations

§ 561.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 561.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 561.403 Facilitation of certain efforts, activities, or transactions by foreign financial institutions.

For purposes of § 561.201, the term *facilitate* used with respect to certain efforts, activities, or transactions refers

to the provision of assistance by a foreign financial institution for those efforts, activities, or transactions, including, but not limited to, the provision of currency, financial instruments, securities, or any other transmission of value; purchasing; selling; transporting; swapping; brokering; financing; approving; guaranteeing; or the provision of other services of any kind; or the provision of personnel; or the provision of software, technology, or goods of any kind.

§ 561.404 Significant transaction or transactions; significant financial services.

In determining, for purposes of paragraph (a)(5) of § 561.201, whether a transaction is significant, whether transactions are significant, or whether financial services are significant, the Secretary of the Treasury may consider the totality of the facts and circumstances. As a general matter, the Secretary may consider some or all of the following factors:

(a) *Size, number, and frequency*. The size, number, and frequency of transactions or financial services performed over a period of time, including whether the transactions or financial services are increasing or decreasing over time and the rate of increase or decrease.

(b) *Nature*. The nature of the transaction(s) or financial services, including the type, complexity, and commercial purpose of the transaction(s) or financial services.

(c) *Level of awareness; pattern of conduct*. (1) Whether the transaction(s) or financial service(s) are performed with the involvement or approval of management or only by clerical personnel; and

(2) Whether the transaction(s) or financial services are part of a pattern of conduct or the result of a business development strategy.

(d) *Nexus*. The proximity between the party to the transaction or transactions or the provider of the financial services and a blocked person described in paragraph (a)(5)(i) or (ii) of § 561.201. For example, a transaction or financial service in which a foreign financial institution provides brokerage or clearing services to such a blocked person in a direct customer relationship generally would be of greater significance than a transaction or financial service a foreign financial institution provides to such a blocked person in an indirect or tertiary relationship.

(e) *Impact*. The impact of the transaction(s) or financial services on the objectives of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, including:

(1) The economic or other benefit conferred or attempted to be conferred on a blocked person described in paragraph (a)(5)(i) or (ii) of § 561.201;

(2) Whether and how the transaction(s) or financial services contribute to the proliferation of weapons of mass destruction or delivery systems for such weapons, to support for international terrorism, or to the suppression of human rights; and

(3) Whether the transaction(s) or financial services support humanitarian activity or involve the payment of basic expenses as specified in and authorized pursuant to UNSC Resolution 1737 or the payment of extraordinary expenses that have been authorized by the Sanctions Committee established pursuant to UNSC Resolution 1737.

(f) *Deceptive practices*. Whether the transaction(s) or financial services involve an attempt to obscure or conceal the actual parties or true nature of the transaction(s) or financial service(s).

(g) *Other Relevant factors*. Such other factors that the Secretary deems relevant on a case-by-case basis in determining the significance of a transaction, transactions, or financial services.

§ 561.405 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (''IEEPA'') has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to

IEEPA, regardless of whether the entity itself is listed on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List.

[76 FR 38542, June 30, 2011]

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 561.501 General and specific licensing procedures.

For provisions relating to licensing procedures, *see* part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part or conditions imposed pursuant to this part are considered actions taken pursuant to this part.

§ 561.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 561.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 561.504 Transactions related to closing a correspondent account or payable-through account.

(a) During the 10-day period beginning on the effective date of the prohibition in § 561.201(c) on the opening or maintaining of a correspondent account or a payable-through account for a foreign financial institution listed in appendix A to this part, U.S. financial institutions that maintain correspondent accounts or payable-through accounts for the foreign financial institution are authorized to:

(1) Process only those transactions through the account, or permit the foreign financial institution to execute only those transactions through the account, that are for the purpose of, and necessary for, closing the account; and

(2) Transfer the funds remaining in the correspondent account or the payable-through account to an account of the foreign financial institution located outside of the United States and close the correspondent account or the payable-through account.

(b) Specific licenses may be issued on a case-by-case basis to authorize transactions by a U.S. financial institution with respect to a correspondent account or a payable-through account maintained by the U.S. financial institution for a foreign financial institution listed in Appendix A to this part that are outside the scope of the transactions authorized in paragraph (a) of this section and/or that occur beyond the [10-day] period authorized in that paragraph.

(c) Nothing in this section authorizes the opening of a correspondent account or payable-through account for a foreign financial institution listed in Appendix A to this part.

NOTE TO § 561.504: This section does not authorize a U.S. financial institution to unblock property or interests in property, or to engage in any transaction or dealing in property or interests in property, blocked pursuant to any other part of this chapter in the process of closing a correspondent account or a payable-through account for a foreign financial institution listed in appendix A to this part. *See* § 561.101.

Subpart F—Reports

§ 561.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter.

Subpart G—Penalties

§ 561.701 Penalties.

(a) *Civil Penalties.* (1) As set forth in section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (''CISADA''), a civil penalty not to exceed the amount set forth in section 206(b) of the International Emergency Economic Powers Act (''IEEPA'')(50 U.S.C. 1705(b)) may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any order or regulation issued pursuant to § 561.201(b) or of the prohibition in § 561.201(c) or of any license set forth in or issued pursuant to this part concerning such order, regulation, or prohibition.

(2) As set forth in section 104(d) of CISADA, a civil penalty not to exceed the amount set forth in section 206(b) of IEEPA may be imposed on a U.S. financial institution if:

(i) A person owned or controlled by the U.S. financial institution violates, attempts to violate, conspires to violate, or causes a violation of the prohibition in § 561.202 or of any order, regulation, or license set forth in or issued pursuant to this part concerning such prohibition; and

(ii) The U.S. financial institution knew or should have known that the person violated, attempted to violate, conspired to violate, or caused a violation of such prohibition.

NOTE TO PARAGRAPH (a) OF § 561.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V, August 16, 2010, IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(b) *Criminal penalty.* As set forth in section 104(c) of CISADA, a person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any order or regulation issued pursuant to § 561.201(b) or of the prohibition in § 561.201(c) shall, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(c) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that ''whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry'' shall be fined under title 18, United States Code, imprisoned, or both.

(e) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 561.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a

violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty may be warranted, the Office of Foreign Assets Control may issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within 30 days of the date of service of the Pre-Penalty Notice. The failure to submit a response within the applicable time period set forth in this paragraph (b) shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Enforcement Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 561.703 Penalty imposition.

If, after considering any timely written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a

Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 561.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart G—Procedures

§ 561.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), *see* part 501, subpart E, of this chapter.

§ 561.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to section 104(c), (d), or (i) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195), and any action of the Secretary of the Treasury described in this part, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

§ 561.803 Consultations.

In implementing section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) and this part, the Secretary of the Treasury shall consult with the Secretary of State and may, in the sole discretion of the Secretary of the Treasury, consult with such other agencies and departments and such other interested parties as the Secretary considers appropriate.

Subpart I—Paperwork Reduction Act

§ 561.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, *see* § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 561 [RESERVED]

PART 562—IRANIAN HUMAN RIGHTS ABUSES SANCTIONS REGULATIONS

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562.101 Relation of this part to other laws and regulations.

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562.901 Paperwork Reduction Act notice.
APPENDIX A TO PART 562—EXECUTIVE ORDER 13553 OF SEPTEMBER 28, 2010

AUTHORITY: 3 U.S.C. 301; 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 13553, 75 FR 60567, October 1, 2010.

SOURCE: 76 FR 7695, Feb. 11, 2011, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 562.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

NOTE TO § 562.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 562.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13553 are also prohibited pursuant to this part.

NOTE 1 TO § 562.201: The names of persons listed in or designated pursuant to Executive Order 13553, whose property and interests in property therefore are blocked pursuant to this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[IRAN–HR].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 562.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

NOTE 2 TO § 562.201: The International Emergency Economic Powers Act (50 U.S.C.

1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–IRAN–HR].''

NOTE 3 TO § 562.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

[76 FR 7695, Feb. 11, 2011, as amended at 76 FR 38542, June 30, 2011]

§ 562.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 562.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 562.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13553, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 562.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or

other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 562.201.

§ 562.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 562.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a Federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account described in paragraph (b) of this section may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 562.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account as described in paragraphs (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 562.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 562.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 562.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 562.201 held in the name of a person whose property and interests in property are blocked pursuant to § 562.201, or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 562.301: *See* § 562.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 562.201.

§ 562.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person listed in the Annex to Executive Order 13553,

12:01 a.m. eastern daylight time, September 29, 2010; or

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to Executive Order 13553, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 562.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 562.304 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (*e.g.*, ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 562.305 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 562.305: *See* § 501.801 of this chapter on licensing procedures.

§ 562.306 Person.

The term *person* means an individual or entity.

§ 562.307 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 562.308 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 562.309 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 562.310 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 562.311 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 562.401 [Reserved]

§ 562.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in this part, any provision in or appendix to this chapter, or any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 562.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 562.201, unless there exists in the property another interest that is blocked pursuant to § 562.201 or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 562.201, such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 562.404 Transactions ordinarily incident to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 562.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 562.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by

a U.S. bank or other U.S. person, is a prohibited transfer under § 562.201 if effected after the effective date.

§ 562.406 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 562.201 has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 562.201, regardless of whether the entity itself is listed in the Annex or designated pursuant to Executive Order 13553.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§§ 562.501–562.502 [Reserved]

§ 562.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 562.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 562.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 562.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See* also § 562.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 562.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 562.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 562.201 is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any Federal or State agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 562.201, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 562.201 is prohibited unless licensed pursuant to this part.

§ 562.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 562.201 is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subparts F–G [Reserved]

Subpart H—Procedures

§ 562.801 [Reserved]

§ 562.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13553 of September 28, 2010 (75 FR 60567, October 1, 2010), and any further Executive orders relating to the national emergency declared in Executive Order 12957, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 562.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, *see* § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 562—EXECUTIVE ORDER 13553 OF SEPTEMBER 28, 2010

EXECUTIVE ORDER

BLOCKING PROPERTY OF CERTAIN PERSONS WITH RESPECT TO SERIOUS HUMAN RIGHTS ABUSES BY THE GOVERNMENT OF IRAN AND TAKING CERTAIN OTHER ACTIONS

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (CISADA), and section 301 of title 3, United States Code, and in order to take additional steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995,

I, BARACK OBAMA, President of the United States of America, hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) the persons listed in the Annex to this order; and

(ii) any person determined by the Secretary of the Treasury, in consultation with

or at the recommendation of the Secretary of State:

(A) to be an official of the Government of Iran or a person acting on behalf of the Government of Iran (including members of paramilitary organizations) who is responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, the commission of serious human rights abuses against persons in Iran or Iranian citizens or residents, or the family members of the foregoing, on or after June 12, 2009, regardless of whether such abuses occurred in Iran;

(B) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the activities described in subsection (a)(ii)(A) of this section or any person whose property and interests in property are blocked pursuant to this order; or

(C) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) I hereby determine that the making of donations of the type of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to subsection (a) of this section would seriously impair my ability to deal with the national emergency declared in Executive Order 12957, and I hereby prohibit such donations as provided by subsection (a) of this section.

(c) The prohibitions in subsection (a) of this section include but are not limited to:

(i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

(d) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For the purposes of this order:

(a) the term ''*person*'' means an individual or entity;

(b) the term ''*entity*'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''*United States person*'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term ''*Government of Iran*'' includes the Government of Iran, any political subdivision, agency, or instrumentality thereof, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran; and

(e) the term ''*family member*'' means, with respect to an individual, a spouse, child, parent, sibling, grandchild, or grandparent of the individual.

Sec. 4. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 12957, there need be no prior notice of a listing or determination made pursuant to section 1(a) of this order.

Sec. 5. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and sections 105(a)–(c) of CISADA (22 U.S.C. 8514(a)–(c)), other than as described in sections 6 and 7 of this order, as may be necessary to carry out the purposes of this order other than the purposes of sections 6 and 7. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby further authorized to exercise the functions and waiver authorities conferred upon the President by section 401(b) of CISADA (22 U.S.C. 8551(b)) with respect to the requirement to impose or maintain sanctions pursuant to IEEPA under section 105(a) of CISADA (22 U.S.C. 8514(a)) and to redelegate these functions and waiver authorities consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 6. The Secretary of State is hereby authorized to exercise the functions and authorities conferred upon the President by section 105(a) of CISADA (22 U.S.C. 8514(a))

with respect to imposition of the visa sanctions described in section 105(c) of CISADA (22 U.S.C. 8514(c)) and to redelegate these functions and authorities consistent with applicable law. The Secretary of State is hereby further authorized to exercise the functions and authorities conferred upon the President by section 105(c) of CISADA (22 U.S.C. 8514(c)) with respect to the promulgation of rules and regulations related to the visa sanctions described therein and to redelegate these functions and authorities consistent with applicable law. The Secretary of State is hereby further authorized to exercise the functions and waiver authorities conferred upon the President by section 401(b) of CISADA (22 U.S.C. 8551(b)) with respect to the requirement to impose or maintain visa sanctions under section 105(a) of CISADA (22 U.S.C. 8514(a)) and to redelegate these functions and waiver authorities consistent with applicable law. In exercising the functions and authorities in the previous sentence, the Secretary of State shall consult the Secretary of Homeland Security on matters related to admissibility or inadmissibility within the authority of the Secretary of Homeland Security.

Sec. 7. The Secretary of State, in consultation with the Secretary of the Treasury, is hereby authorized to submit the initial and updated lists of persons who are subject to visa sanctions and whose property and interests in property are blocked pursuant to this order to the appropriate congressional committees as required by section 105(b) of CISADA (22 U.S.C. 8514(b)) and to redelegate these functions consistent with applicable law. The Secretary of State, in consultation with the Secretary of the Treasury, is hereby further authorized to exercise the functions and waiver authorities conferred upon the President by section 401(b) of CISADA (22 U.S.C. 8551(b)) with respect to the requirement to include a person on the list required by section 105(b) of CISADA (22 U.S.C. 8514(b)) and to redelegate these functions and waiver authorities consistent with applicable law.

Sec. 8. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA, as may be necessary to carry out section 104 of CISADA (22 U.S.C. 8513). The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law.

Sec. 9. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 10. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 11. The measures taken pursuant to this order are in response to actions of the Government of Iran occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as response to those later actions.

Sec. 12. This order is effective at 12:01 a.m. eastern daylight time on September 29, 2010.

ANNEX

Individuals

1. Mohammad Ali JAFARI [Commander of the Islamic Revolutionary Guard Corps, born September 1, 1957]
2. Sadeq MAHSOULI [Minister of Welfare and Social Security, former Minister of the Interior and Deputy Commander-in-Chief of the Armed Forces for Law Enforcement, born 1959]
3. Qolam-Hossein MOHSENI-EJEI [Prosecutor-General of Iran, former Minister of Intelligence, born circa 1956]
4. Saeed MORTAZAVI [Head of Iranian Anti-Smuggling Task Force, former Prosecutor-General of Tehran, born 1967]
5. Heydar MOSLEHI [Minister of Intelligence, born 1956]
6. Mostafa Mohammad NAJJAR [Minister of the Interior and Deputy Commander-in-Chief of the Armed Forces for Law Enforcement, born 1956]
7. Ahmad-Reza RADAN [Deputy Chief of the National Police, born 1963 or 1964]
8. Hossein TAEB [Deputy Islamic Revolutionary Guard Corps Commander for Intelligence, former Commander of the Basij Forces, born 1963]

PART 570—LIBYAN SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
570.101 Relation of this part to other laws and regulations.

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570.508 Libyan diplomatic missions in the United States.

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Subpart H—Procedures

570.801 [Reserved]
570.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

570.901 Paperwork Reduction Act notice.
APPENDIX A TO PART 570—EXECUTIVE ORDER 13566

AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13566, 76 FR 11315, March 2, 2011.

SOURCE: 76 FR 38562, July 1, 2011, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 570.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

NOTE TO § 570.101: This part has been published in abbreviated form for the purpose of providing immediate guidance to the public. OFAC intends to supplement this part with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.

Subpart B—Prohibitions

§ 570.201 Prohibited transactions.

All transactions prohibited pursuant to Executive Order 13566 of February 25, 2011 (76 FR 11315, March 2, 2011), are also prohibited pursuant to this part.

NOTE 1 TO § 570.201: The names of persons listed in or designated pursuant to Executive Order 13566, whose property and interests in property therefore are blocked pursuant to this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[LIBYA2].'' The SDN List is accessible through the following page on the Office of

Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in Appendix A to this chapter. *See* § 570.406 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section. Executive Order 13566 also blocks the property and interests in property of the *Government of Libya*. *See* § 570.304 of this part for the definition of the term *Government of Libya*. The property and interests in property of persons falling within the definition of the term *Government of Libya* are blocked pursuant to this section regardless of whether the names of such persons are published in the FEDERAL REGISTER or incorporated into the SDN List.

NOTE 2 TO § 570.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–LIBYA2].''

NOTE 3 TO § 570.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as the Government of Libya or persons whose property and interests in property are blocked pursuant to this section.

§ 570.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 570.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 570.201, unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, Executive Order 13566, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 570.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 570.201.

§ 570.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (e) or (f) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 570.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a Federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 570.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 570.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 570.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

Subpart C—General Definitions

§ 570.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 570.201 held in the name of the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201, or in which the Government of Libya or such person has an interest, and

with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 570.301: See § 570.406 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 570.201.

§ 570.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to the Government of Libya, as defined in § 570.304, or a person listed in the Annex to Executive Order 13566, 8 p.m. eastern standard time, February 25, 2011; or

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to Executive Order 13566, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 570.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 570.304 Government of Libya.

The term *Government of Libya* includes:

(a) The state and the Government of Libya, as well as any political subdivision, agency, or instrumentality thereof, and the Central Bank of Libya;

(b) Any entity owned or controlled, directly or indirectly, by the foregoing;

(c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and

(d) Any other person determined by the Office of Foreign Assets Control to be included within paragraphs (a) through (c) of this section.

NOTE 1 TO § 570.304: The names of some of the persons that fall within this definition are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[LIBYA2].'' The SDN List is accessible through the following page on OFAC's Web site: *http://www.treasury.gov/sdn*. However, the property and interests in property of persons falling within the definition of the term *Government of Libya* are blocked pursuant to § 570.201 regardless of whether the names of such persons are published in the FEDERAL REGISTER or incorporated into the SDN List.

NOTE 2 TO § 570.304: Section 501.807 of this chapter describes the procedures to be followed by persons seeking administrative reconsideration of their status as the Government of Libya.

§ 570.305 [Reserved]

§ 570.306 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 570.307 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 570.307: See § 501.801 of this chapter on licensing procedures.

§ 570.308 Person.

The term *person* means an individual or entity.

§ 570.309 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages,

pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 570.310 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, or filing of, or levy of or under, any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 570.311 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 570.312 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, or commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 570.313 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 570.401 [Reserved]

§ 570.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in this part, any provision in or appendix to this chapter, or any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 570.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of Libya or a person, such property shall no longer be deemed to be property blocked pursuant to § 570.201, unless there exists in the property another interest that is blocked pursuant to § 570.201, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201, such property shall be deemed to be property in which the Government of Libya or that person has an interest and therefore blocked.

§ 570.404 Transactions ordinarily incident to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201; or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 570.405 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 570.201 if effected after the effective date.

§ 570.406 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 570.201 has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 570.201, regardless of whether the entity itself is listed in the Annex or designated pursuant to Executive Order 13566.

NOTE TO § 570.406: This section, which deals with the consequences of ownership of entities, in no way limits section 570.304's definition of the term *Government of Libya*.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 570.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Additional general licenses and statements of licensing policy relating to this part may be available through the following page on OFAC's Web site: *http://www.treasury.gov/resource-center/sanctions/programs/pages/libya.aspx*.

§ 570.502 [Reserved]

§ 570.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 570.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which the Government of Libya or any other person whose property and interests in property are blocked pursuant to § 570.201 has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 570.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 570.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 570.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, Internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 570.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of the Government of Libya or any other persons whose property and interests in property are blocked pursuant to § 570.201 is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of the Government of Libya or persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. Federal, state, or local court or agency;

(4) Representation of the Government of Libya or persons before any U.S. Federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against the Government of Libya or such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to the Government of Libya or any other persons whose property and interests in property are blocked pursuant to § 570.201, not otherwise authorized by this section, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or

other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 570.201 is prohibited unless licensed pursuant to this part.

NOTE TO § 570.506: Effective July 1, 2011, this section replaces and supersedes General License No. 3, dated March 9, 2011, which was issued pursuant to Executive Order 13566, and posted on OFAC's Web site, to authorize provision of certain legal services.

§ 570.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 570.201 is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 570.508 Libyan diplomatic missions in the United States.

(a) The provision of goods or services in the United States to the diplomatic missions of the Government of Libya to the United States and the United Nations is authorized, provided that:

(1) The goods or services are for the conduct of the official business of the missions, or for personal use of the employees of the missions, and are not for resale;

(2) The transaction does not involve the purchase, sale, financing, or refinancing of real property;

(3) The transaction is not otherwise prohibited by law; and

(4) The transaction is conducted through an account at a U.S. financial institution specifically licensed by OFAC.

NOTE TO PARAGRAPH (a)(4) OF § 570.508: U.S. financial institutions are required to obtain specific licenses to operate accounts for, or extend credit to, the diplomatic missions of the Government of Libya to the United States and the United Nations.

(b) The provision of goods or services in the United States to the employees of the diplomatic missions of the Government of Libya to the United States and the United Nations is authorized, provided that:

(1) The goods or services are for personal use of the employees of the missions, and are not for resale; and

(2) The transaction is not otherwise prohibited by law.

NOTE 1 TO § 570.508: See § 570.404 for authorization, with certain exceptions, of any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto.

NOTE 2 TO § 570.508: Effective July 1, 2011, this section replaces and supersedes General License No. 2, dated March 1, 2011, which was issued pursuant to Executive Order 13566 and posted on OFAC's Web site.

Subparts F–G [Reserved]

Subpart H—Procedures

§ 570.801 [Reserved]

§ 570.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13566 of February 25, 2011 (76 FR 11315, March 2, 2011), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 570.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO PART 570—EXECUTIVE ORDER 13566

EXECUTIVE ORDER 13566 OF FEBRUARY 25, 2011

Blocking Property and Prohibiting Certain Transactions Related to Libya

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), and section 301 of title 3, United States Code, I, BARACK OBAMA, President of the United States of America, find that Colonel Muammar Qadhafi, his government, and close associates have taken extreme measures against the people of Libya, including by using weapons of war, mercenaries, and wanton violence against unarmed civilians. I further find that there is a serious risk that Libyan state assets will be misappropriated by Qadhafi, members of his government, members of his family, or his close associates if those assets are not protected. The foregoing circumstances, the prolonged attacks, and the increased numbers of Libyans seeking refuge in other countries from the attacks, have caused a deterioration in the security of Libya and pose a serious risk to its stability, thereby constituting an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(a) The persons listed in the Annex to this order; and

(b) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be a senior official of the Government of Libya;

(ii) To be a child of Colonel Muammar Qadhafi;

(iii) To be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of human rights abuses related to political repression in Libya;

(iv) To have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of the activities described in subsection (b)(iii) of this section or any person whose property and interests in property are blocked pursuant to this order;

(v) To be owned or controlled by, or to have acted or purported to act for or on behalf of, any person whose property and interests in property are blocked pursuant to this order; or

(vi) To be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to this order.

Sec. 2. All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the Government of Libya, its agencies, instrumentalities, and controlled entities, and the Central Bank of Libya, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Sec. 3. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in this order, there need be no prior notice of a listing or determination made pursuant to section 1 of this order.

Sec. 4. I hereby determine that, to the extent section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) may apply, the making of donations of the type of articles specified in such section by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to sections 1 and 2 of this order would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by sections 1 and 2 of this order.

Sec. 5. The prohibitions in sections 1 and 2 of this order include but are not limited to:

(a) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) The receipt of any contribution or provision of funds, goods, or services from any such person.

Sec. 6. The prohibitions in sections 1 and 2 of this order apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 7. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or

attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 8. Nothing in this order shall prohibit transactions for the conduct of the official business of the Federal Government by employees, grantees, or contractors thereof.

Sec. 9. For the purposes of this order:

(a) The term ''person'' means an individual or entity;

(b) The term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization; and

(c) The term ''United States person'' means any United States citizen or national, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Sec. 10. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the United States Government consistent with applicable law. All agencies of the United States Government are hereby directed to take all appropriate measures within their authority to carry out the provisions of this order.

Sec. 11. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to determine that circumstances no longer warrant the blocking of the property and interests in property of a person listed in the Annex to this order, and to take necessary action to give effect to that determination.

Sec. 12. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to submit the recurring and final reports to the Congress on the national emergency declared in this order, consistent with section 401(c) of the NEA (50 U.S.C. 1641(c)) and section 204(c) of IEEPA (50 U.S.C. 1703(c)).

Sec. 13. This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 14. This order is effective at 8 p.m. eastern standard time on February 25, 2011.

Barack Obama

THE WHITE HOUSE,

February 25, 2011.

PART 576—IRAQ STABILIZATION AND INSURGENCY SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
576.101 Relation of this part to other laws and regulations.

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576.601 Records and reports.

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576.701 Penalties.
576.702 Pre-Penalty Notice; settlement.
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576.801 Procedures.
576.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

576.901 Paperwork Reduction Act notice.

AUTHORITY: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 110–96, 121 Stat. 1011; E.O. 13303, 68 FR 31931, 3 CFR, 2003 Comp., p. 227; E.O. 13315, 68 FR 52315, 3 CFR, 2003 Comp., p. 252; E.O. 13350, 69 FR 46055, 3 CFR, 2004 Comp., p. 196; E.O. 13364, 69 FR 70177, 3 CFR, 2004 Comp., p. 236; E.O. 13438, 72 FR 39719, 3 CFR, 2007 Comp., p. 224.

SOURCE: 75 FR 55466, Sept. 13, 2010, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 576.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

NOTE TO § 576.101: The Iraqi Sanctions Regulations, 31 CFR part 575, have been removed from 31 CFR chapter V.

Subpart B—Prohibitions

§ 576.201 Prohibited transactions involving blocked property.

(a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the former Iraqi regime or its state bodies, corporations, or agencies, or of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Persons listed in the Annex to Executive Order 13315 of August 28, 2003, as amended by Executive Order 13350 of July 29, 2004; and

(2) Persons determined by the Secretary of the Treasury, in consultation with the Secretary of State,

(i) To be senior officials of the former Iraqi regime or their immediate family members; or

(ii) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any of the persons whose property and interests in property are blocked pursuant to paragraphs (a)(1) or (a)(2) of this section; and

(3) Persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Secretary of Defense,

(i) To have committed, or to pose a significant risk of committing, an act or acts of violence that have the purpose or effect of:

(A) Threatening the peace or stability of Iraq or the Government of Iraq; or

(B) Undermining efforts to promote economic reconstruction and political reform in Iraq or to provide humanitarian assistance to the Iraqi people;

(ii) To have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, such an act or acts of violence or any person whose property and interests in property are blocked pursuant to paragraph (a)(3) of this section; or

(iii) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraph (a)(3) of this section.

NOTE 1 TO PARAGRAPH (a) OF § 576.201: The names of persons listed in or designated pursuant to Executive Order 13315, as amended by Executive Order 13350, or designated pursuant to Executive Order 13438, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[IRAQ2]'' (for persons designated pursuant to paragraphs (a)(1) and (a)(2) of this section) or ''[IRAQ3]'' (for persons designated pursuant to paragraph (a)(3) of this section). The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 576.412 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 576.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–IRAQ2]'' or ''[BPI–IRAQ3].''

NOTE 3 TO PARAGRAPH (a) OF § 576.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) All property and interests in property blocked pursuant to Executive Order 12722 of August 2, 1990, or Executive Order 12724 of August 9, 1990, that continued to be blocked as of July 30, 2004, remain blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in, except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

NOTE TO PARAGRAPH (b) OF § 576.201: In § 576.510 of this part, the Office of Foreign Assets Control authorizes all transactions involving property and interests in property blocked solely pursuant to Executive Orders 12722 or 12724. The Iraqi Sanctions Regulations, 31 CFR part 575, which implemented Executive Orders 12722 and 12724, have been removed from 31 CFR chapter V.

(c) The prohibitions in paragraphs (a) and (b) of this section include, but are not limited to, prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraphs (a) or (b) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraphs (a) or (b) of this section.

(d) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

(e) The prohibitions in paragraphs (a) and (b) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

[75 FR 55466, Sept. 13, 2010, as amended at FR 38543, June 30, 2011]

§ 576.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 576.201(a) or § 576.201(b), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 576.201(a) or § 576.201(b), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Orders 13315, 13350, or 13438, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of

material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 576.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 576.201(a), or with respect to any property and interests in property blocked pursuant to § 576.201(b).

§ 576.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 576.201(a) or § 576.201(b) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 576.201(a) or § 576.201(b) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 576.201(a) or § 576.201(b) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 576.201(a), nor may their holder cooperate in or facilitate the pledging or

other attempted use as collateral of blocked funds or other assets.

§ 576.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 576.201(a) or § 576.201(b) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 576.201(a) or § 576.201(b) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 576.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 576.206 Protection granted to the Development Fund for Iraq, Iraqi Petroleum and Petroleum Products, and the Central Bank of Iraq.

(a) Unless licensed or otherwise authorized pursuant to this part, and except as provided in paragraph (b) of this section, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process on or after the effective date is prohibited, and shall be deemed null and void, with respect to the following:

(1) The Development Fund for Iraq;

(2) All Iraqi petroleum and petroleum products, and interests therein, but only until title passes to the initial purchaser, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein, in which any foreign country or a national thereof has any interest, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons; and

(3) Any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by the Central Bank of Iraq, or held, maintained, or otherwise controlled by any financial institution of any kind in the name of, on behalf of, or otherwise for the Central Bank of Iraq.

(b) The prohibitions in paragraph (a) of this section shall not apply with respect to any final judgment arising out of a contractual obligation entered into by the Government of Iraq, including any agency or instrumentality thereof, after June 30, 2004.

§ 576.207 Exemption for property controlled by the military forces of the United States and their coalition partners in Iraq.

The prohibitions in § 576.201(a)(1) and (a)(2) shall not apply to property and interests in property that come under the control of the military forces of the United States and their coalition partners present in Iraq and acting in their official capacity under the command or operational control of the commander of United States Central Command.

§ 576.208 Prohibited transactions related to certain Iraqi cultural property.

Unless licensed or otherwise authorized pursuant to this part or otherwise consistent with U.S. law, the trade in or transfer of ownership or possession of Iraqi cultural property or other items of archeological, historical, cultural, rare scientific, and religious importance that were illegally removed, or for which a reasonable suspicion exists that they were illegally removed,

from the Iraq National Museum, the National Library, and other locations in Iraq since August 6, 1990, is prohibited.

NOTE TO § 576.208: *See* § 576.411 for interpretive guidance on this section. Questions concerning whether particular Iraqi cultural property or other items are subject to this section should be directed to the Cultural Heritage Center, U.S. Department of State, tel. 202–632–6301, fax 202–632–6300, Web site *http://culturalheritage.state.gov*, e-mail *culprop@state.gov*.

§ 576.209 Exempt transactions.

(a) *Personal communications*. The prohibitions contained in § 576.201(a)(3) do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) *Information or informational materials*. (1) The importation from any country and the exportation to any country of any information or informational materials, as defined in § 576.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of § 576.201(a)(3).

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 576.201(a)(3), payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology, or software for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 576.201(a) are prohibited.

(c) *Travel*. The prohibitions contained in § 576.201(a)(3) do not apply to any transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 576.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean:

(a) (1) Any account or property subject to the prohibitions in § 576.201(a) held in the name of a person whose property and interests in property are blocked pursuant to § 576.201(a), or in which such person has an interest, or

(2) Any account or property subject to the prohibitions in § 576.201(b), and

(b) With respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 576.301: *See* § 576.412 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.302 Development Fund for Iraq.

The term *Development Fund for Iraq* means the fund established on or about May 22, 2003, on the books of the Central Bank of Iraq, by the Administrator of the Coalition Provisional Authority responsible for the temporary governance of Iraq and all accounts held for the fund or for the Central Bank of Iraq in the name of the fund.

§ 576.303 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 576.201(a)(1), 12:01 a.m. Eastern Daylight Time (''e.d.t.''), August 29, 2003, for those persons listed on the Annex to Executive Order 13315, and 12:01 a.m., e.d.t., July 30, 2004, for those persons added to the Annex to Executive Order 13315 by Executive Order 13350;

(b) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 576.201(a)(2) or (a)(3), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked;

(c) With respect to the transactions prohibited by § 576.206(a)(1) and (a)(2), 12:01 a.m. e.d.t., May 23, 2003;

(d) With respect to the transactions prohibited by § 576.206(a)(3), 12:01 a.m. Eastern Standard Time (''e.s.t.''), November 30, 2004.

(e) With respect to the transactions prohibited by § 576.201(b) or § 576.208, 12:01 a.m. e.d.t., July 30, 2004.

§ 576.304 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup or other organization.

§ 576.305 Former Iraqi regime.

The term *former Iraqi regime* means the Saddam Hussein regime that governed Iraq until on or about May 1, 2003.

§ 576.306 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (A) OF § 576.307: To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials,* with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to sections 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 576.307 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (*e.g.*, ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 576.308 Iraqi petroleum and petroleum products.

The term *Iraqi petroleum and petroleum products* means any petroleum, petroleum products, or natural gas originating in Iraq, including any Iraqi-origin oil inventories, wherever located.

§ 576.309 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set

forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 576.309: *See* § 501.801 of this chapter for licensing procedures.

§ 576.310 Government of Iraq.

The term *Government of Iraq* means:

(a) Any interim or permanent Iraqi government in authority after June 30, 2004, and any subdivision, agency, or instrumentality thereof; and

(b) Any partnership, association, corporation, or other organization substantially owned or controlled by the foregoing.

§ 576.311 Person.

The term *person* means an individual or entity.

§ 576.312 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 576.313 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 576.314 UNSC Resolution 1483.

The term *UNSC Resolution 1483* means United Nations Security Council Resolution No. 1483, adopted May 22, 2003.

§ 576.315 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 576.316 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange,

securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 576.317 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 576.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 576.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 576.403 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 576.201 if made after the effective date.

§ 576.404 Termination and acquisition of an interest in property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 576.201, unless there exists in the property another interest that is blocked pursuant to § 576.201 or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 576.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

(c) Unless otherwise provided in a license or authorization issued pursuant to this part, Iraqi petroleum and petroleum products shall enjoy the protections of § 576.206 until title passes to the initial purchaser. For purposes of this part, an *initial purchaser* is a purchaser other than the Government of Iraq or persons acting for it or on its behalf in the marketing or sale of Iraqi petroleum and petroleum products.

§ 576.405 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in

property are blocked pursuant to § 576.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(c)

Example. A license authorizing Company A, whose property and interests in property are blocked pursuant to § 576.201(a), to complete a securities sale also authorizes all activities by other parties required to complete the sale, including transactions by the buyer, broker, transfer agents, banks, etc., provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.406 Provision of services.

(a) Except as provided in § 576.209, the prohibitions on transactions involving blocked property contained in § 576.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 576.201(a); or

(2) With respect to property interests subject to § 576.201.

(b)

Example: U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 576.201(a).

NOTE TO § 576.406: *See* §§ 576.507 and 576.509 on licensing policy with regard to the provision of certain legal and medical services.

§ 576.407 Offshore transactions.

The prohibitions in § 576.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 576.201, or property in which a person whose property and interests in property are blocked pursuant to § 576.201 has or has had an interest since the effective date.

§ 576.408 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 576.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 576.409 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 576.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 576.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from any such person.

§ 576.410 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 576.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.411 Prohibited transactions involving certain Iraqi cultural property.

(a) The prohibition on trade in or transfer of ownership or possession of certain Iraqi cultural property in § 576.208 is separate from, and independent of, other laws and regulations

that may also prohibit the same conduct.

(b) The mere compliance with certain legal, administrative, or procedural requirements, such as the filing of a U.S. Customs and Border Protection Form 3461 (Entry/Immediate Delivery) or U.S. Customs and Border Protection Form 7501 (Entry Summary), does not render the trade in or transfer of Iraqi cultural property otherwise consistent with U.S. law for purposes of § 576.208. The trade in or transfer of Iraqi cultural property as described in § 576.208 would violate § 576.208 regardless of whether the U.S. Customs and Border Protection forms were truthfully and accurately completed.

NOTE TO § 576.411: Other laws and regulations potentially applicable to the unlawful trade in or transfer of Iraqi cultural property include, but are not limited to, the transportation of stolen goods, 18 U.S.C. 2314; the receipt of stolen goods, 18 U.S.C. 2315; the importation of goods contrary to law, 18 U.S.C. 545 and 19 U.S.C. 1595a(a), (b), and (c); the exportation of goods contrary to law, 19 U.S.C. 1595a(d); the importation of stolen cultural property, 19 U.S.C. 2607; the importation of cultural property pertaining to the inventory of a museum or religious or secular public monument, 19 CFR 12.104a; and the emergency protection of Iraqi cultural antiquities, 19 CFR 12.104j.

§ 576.412 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 576.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 576.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13315, as amended, or designated pursuant to § 576.201(a)(2) or (3).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 576.501 General and specific licensing procedures.

For provisions relating to licensing procedures, *see* part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 576.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 576.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control

also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 576.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 576.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 576.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 576.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 576.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 576.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 576.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 576.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 576.201(a).

§ 576.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 576.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 576.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 576.201(a) is prohibited unless licensed pursuant to this part.

§ 576.508 Judicial process in legal proceedings involving ecological accidents.

The Office of Foreign Assets Control may issue specific licenses on a case-by-case basis to authorize the attachment, judgment, decree, lien, execution, garnishment, or other judicial process against property and interests in property protected by § 576.206 to satisfy liability for damages assessed in connection with an ecological accident (including an oil spill) that occurred after May 22, 2003.

§ 576.509 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 576.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 576.510 Unblocking certain blocked property.

(a) Except for such property and interests in property described in paragraph (b) of this section, all transactions involving property and interests in property blocked pursuant to § 576.201(b) of this part are authorized.

(b) The authorization in paragraph (a) of this section does not apply to blocked property and interests in property of persons subject to sanctions pursuant to § 576.201(a) of this part or any other part of 31 CFR chapter V.

§ 576.511 Property controlled by the military forces of the United States and their coalition partners in Iraq.

The prohibition in § 576.201(a)(3) that deals with blocked property and interests in property shall not apply to property and interests in property controlled by the military forces of the United States and their coalition partners present in Iraq and acting in their official capacity under the command or operational control of the commander of United States Central Command.

NOTE TO § 576.511: *See* § 576.207 of this part, which exempts property and interests in property that come under the control of the military forces of the United States and their coalition partners present in Iraq and acting in their official capacity from the prohibitions in § 576.201(a)(1) and (2).

§ 576.512 Transactions with certain blocked persons authorized.

(a) All transactions with state bodies, corporations, or agencies of the former Iraqi regime that are otherwise prohibited by § 576.201(a) are authorized.

(b) The authorization in paragraph (a) of this section does not apply to any transactions with state bodies, corporations, or agencies of the former Iraqi regime listed on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List.

[75 FR 55466, Sept. 13, 2010, as amended at 76 FR 38542, June 30, 2011]

Subpart F—Reports

§ 576.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 576.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, or regulation issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 576.701: As of the date of publication in the FEDERAL REGISTER of the final rule adding this part to 31 CFR chapter V September 13, 2010, IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 576.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was

mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see Appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 576.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 576.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 576.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 576.802 Delegation by the Secretary of the Treasury.

(a) Except as provided in paragraph (b) of this section, any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13303 of May 22, 2003, and any subsequent Executive orders relating to the national emergency declared therein,

including but not limited to Executive Order 13315 of August 28, 2003, and Executive Order 13438 of July 17, 2007, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated the authority so to act.

(b) Unless otherwise delegated, the authority provided in section 2 of Executive Order 13315 to confiscate property blocked pursuant to this part and transfer all vested right, title, and interest in such property to the Development Fund for Iraq shall be exercised only by the Secretary of the Treasury, in consultation with the Secretary of State.

Subpart I—Paperwork Reduction Act

§ 576.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 588—WESTERN BALKANS STABILIZATION REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); E.O. 13219, 66 FR 34777, 3 CFR, 2001 Comp., p. 778; E.O. 13304, 68 FR 32315, 3 CFR, 2004 Comp. p. 229.

SOURCE: 76 FR 38004, June 29, 2011, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 588.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 588.201 Prohibited transactions involving blocked property.

(a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13219 of June 26, 2001 (66 FR 34777, 3 CFR, 2001 Comp., p.778), as amended by Executive Order 13304 of May 28, 2003 (68 FR 32315, 3 CFR, 2004 Comp. p. 229); and

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be under open indictment by the International Criminal Tribunal for the former Yugoslavia, unless circumstances warrant otherwise; or

(ii) To have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of threatening the peace in or diminishing the stability or security of any area or state in the Western Balkans region, undermining the authority, efforts, or objectives of international organizations or entities present in the region, or endangering the safety of persons participating in or providing support to the activities of those international organizations or entities; or

(iii) To have actively obstructed, or pose a significant risk of actively obstructing, the Ohrid Framework Agreement of 2001 relating to Macedonia, United Nations Security Council Resolution 1244 relating to Kosovo, or the Dayton Accords or the Conclusions of the Peace Implementation Conference held in London on December 8–9, 1995, including the decisions or conclusions of the High Representative, the Peace Implementation Council or its Steering Board, relating to Bosnia and Herzegovina; or

(iv) To have materially assisted in, sponsored, or provided financial, material, or technological support for, or goods or services in support of, such acts of violence or obstructionism or any person whose property and interests in property are blocked pursuant to this paragraph (a); or

(v) To be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any person whose property and interests in property are blocked pursuant to this paragraph (a).

NOTE 1 TO PARAGRAPH (a) OF § 588.201: The names of persons listed in or designated pursuant to Executive Order 13219, as amended by Executive Order 13304, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[BALKANS].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. *See* § 588.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section.

NOTE 2 TO PARAGRAPH (a) OF § 588.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–BALKANS].''

NOTE 3 TO PARAGRAPH (a) OF § 588.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

(d) The prohibitions in paragraph (a) of this section apply except to the extent transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date.

[76 FR 38004, June 29, 2011, as amended at 76 FR 38543, June 30, 2011]

§ 588.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 588.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 588.201(a), unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 588.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 588.201(a).

§ 588.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraphs (e) or (f) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 588.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the

account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 588.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraphs (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 588.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 588.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 588.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 588.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 588.201(a) may, in the discretion of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 588.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by a U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

Subpart C—General Definitions

§ 588.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 588.201 held in the name of a person whose property and interests in property are blocked pursuant to § 588.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

NOTE TO § 588.301: See § 588.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 588.201(a).

§ 588.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a)(1) With respect to a person whose property and interests in property are

blocked pursuant to § 588.201(a)(1), whose name appeared on the Annex to Executive Order 13219 as originally issued and also appeared on the Annex to Executive Order 13304, 12:01 a.m. eastern daylight time on June 27, 2001;

(2) With respect to a person whose property and interests in property are blocked pursuant to § 588.201(a)(1), whose name first appeared on the Annex to Executive Order 13304, which replaced and superseded the Annex to Executive Order 13219, 12:01 a.m. eastern daylight time on May 29, 2003; and

(b) With respect to a person whose property and interests in property are blocked pursuant to § 588.201(a)(2), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 588.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 588.304 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (*e.g.*, ''an interest in property''), means an interest of any nature whatsoever, direct or indirect.

§ 588.305 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 588.305: See § 501.801 of this chapter on licensing procedures.

§ 588.306 Person.

The term *person* means an individual or entity.

§ 588.307 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 588.308 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any

lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 588.309 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 588.310 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, or commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 588.311 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 588.312 Financial, material, or technological support.

The term *financial, material, or technological support*, as used in § 588.201(a)(2)(iv) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

Subpart D—Interpretations

§ 588.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 588.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment,

modification, or revocation had not been made.

§ 588.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 588.201(a), unless there exists in the property another interest that is blocked pursuant to § 588.201(a), the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 588.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 588.404 Transactions ordinarily incident to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 588.201(a); or

(2) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

(b) *Example.* A license authorizing Company A, whose property and interests in property are blocked pursuant to § 588.201(a), to complete a securities sale also authorizes other parties to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks, provided that such other parties are not themselves persons whose property and interests in property are blocked pursuant to § 588.201(a).

§ 588.405 Provision of services.

(a) Except as provided in § 588.206, the prohibitions on transactions involving blocked property contained in § 588.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 588.201(a); or

(2) With respect to property interests subject to § 588.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 588.201(a).

NOTE TO § 588.405: See §§ 588.507 and 588.508 on licensing policy with regard to the provision of certain legal and medical services.

§ 588.406 Offshore transactions.

The prohibitions in § 588.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 588.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 588.201(a) has or has had an interest since the effective date.

§ 588.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 588.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 588.408 Charitable contributions.

Unless specifically authorized by the Office of Foreign Assets Control pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food,

clothing or medicine, may be made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 588.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 588.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from any such person.

§ 588.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 588.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 588.201(a).

§ 588.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 588.201 if effected after the effective date.

§ 588.411 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to § 588.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 588.201(a), regardless of whether the entity itself is listed in the Annex to Executive Order 13219, as amended by Executive Order 13304, or designated pursuant to § 588.201(a)(2).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 588.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 588.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 588.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, transaction, or class

thereof from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 588.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 588.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 588.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 588.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 588.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 588.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 588.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 588.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (*e.g.*, through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 588.201(a).

§ 588.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 588.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of the United States or any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision by a U.S. person of professional legal services relating to the representation of persons whose property and interests in property are blocked pursuant to § 588.201(a) in matters pending before the International Criminal Tribunal for the former Yugoslavia (the ''ICTY'') is authorized. With respect to such representation, receipt of payment of professional fees and reimbursement of incurred expenses are authorized if such payments and reimbursements are made by the ICTY. Such payments and reimbursements from any other source must be specifically licensed.

(c) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 588.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 588.201(a) is prohibited unless licensed pursuant to this part.

§ 588.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 588.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart F—Reports

§ 588.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 588.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (''IEEPA''), which is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

NOTE TO PARAGRAPH (a)(1) OF § 588.701: As of the date of publication in the FEDERAL REGISTER of the final rule amending this part, *inter alia*, to implement Executive Order 13304 (June 29, 2011), IEEPA provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than $1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is directed to section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (''UNPA''), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $10,000 and, if a natural person, may also be imprisoned for not more than 10 years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(d) Violations involving transactions described at section 203(b)(1), (3), and (4) of IEEPA shall be subject only to the penalties set forth in paragraph (c) of this section.

(e) Attention is also directed to 18 U.S.C. 1001, which provides that ''whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry'' shall be fined under title 18, United States Code, imprisoned, or both.

(f) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 588.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty is warranted, the Office of Foreign Assets Control will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of

Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 588.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in Federal district court.

§ 588.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Office of Foreign Assets Control, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 588.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 588.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13219 of June 26, 2001 (66 FR 34777, June 29, 2001), Executive Order 13304 of May 28, 2003 (68 FR 32315, May 29, 2003), and any further Executive orders relating to the national emergency declared in Executive Order 13219, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§588.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see §501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 592—ROUGH DIAMONDS CONTROL REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); Pub. L. 108–19, 117 Stat. 631 (19 U.S.C. 3901–3913); E.O. 13312, 68 FR 45151 3 CFR, 2003 Comp., p. 246.

SOURCE: 69 FR 56938, Sept. 23, 2004, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§592.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

Subpart B—Prohibitions

§ 592.201 Prohibited importation and exportation of any rough diamond; permitted importation or exportation of any rough diamond.

(a) Except to the extent provided in paragraph (b) of this section, and notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to the effective date, the importation into, or exportation from, the United States on or after July 30, 2003, of any rough diamond, from whatever source, is prohibited, unless the rough diamond has been controlled through the Kimberley Process Certification Scheme.

(b) The prohibitions in paragraph (a) of this section regarding the importation into, or exportation from, the United States of any rough diamond not controlled through the Kimberley Process Certification Scheme do not apply to an importation from, or exportation to, any country with respect to which the Secretary of State has granted a waiver pursuant to section 4(b) of the Clean Diamond Trade Act (Pub. L. 108–19) and section 2(a)(i) of Executive Order 13312.

NOTE TO § 592.201. An importation of any rough diamond from, or an exportation of any rough diamond to, a non-Participant is not controlled through the Kimberley Process Certification Scheme and thus is not permitted, except in the following circumstance. The Secretary of State may, pursuant to section 4(b) of the Clean Diamond Trade Act, waive the prohibitions contained in section 4(a) of that Act with respect to a particular country for periods of not more than one year each. The Secretary of State will publish a notice in the FEDERAL REGISTER identifying any country with respect to which a waiver applies and specifying the relevant time period during which the waiver will apply.

§ 592.202 Evasions; attempts; conspiracies.

(a) Notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to July 30, 2003, any transaction by a United States person anywhere, or any transaction that occurs in whole or in part within the United States, on or after the effective date that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in this part is prohibited.

(b) Notwithstanding the existence of any rights or obligations conferred or imposed by any contract entered into or any license or permit granted prior to July 30, 2003, any conspiracy formed to violate any of the prohibitions of this part is prohibited.

Subpart C—General Definitions

§ 592.301 Controlled through the Kimberley Process Certification Scheme.

(a) Except as otherwise provided in paragraph (b) of this section, the term *controlled through the Kimberley Process Certification Scheme* refers to the following requirements that apply, as appropriate, to the importation into the United States from a Participant, or to the exportation from the United States to a Participant, of any shipment including any rough diamond:

(1) *Kimberley Process Certificate*. A shipment of rough diamonds imported into, or exported from, the United States must be accompanied by an original Kimberley Process Certificate. The certificate must be presented in connection with an importation or exportation of rough diamonds if demanded by United States customs officials. Pursuant to 31 CFR §§ 501.601 and 501.602, the person identified as the ultimate consignee (see Customs Directive 3550–079A) on the Customs Form 7501 Entry Summary or its electronic equivalent filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds must retain the original Kimberley Process Certificate for a period of at least five years from the date of importation and must make such certificate available for examination upon demand.

(2) *Tamper-resistant container*. A shipment of rough diamonds imported into, or exported, from the United States must be sealed in a tamper-resistant container;

(3) *Notification requirements for importations into the United States*. The person identified as the ultimate consignee (see Customs Directive 3550–

079A) on the Customs Form 7501 Entry Summary or its electronic equivalent filed with U.S. Customs and Border Protection in connection with an importation of rough diamonds must report that person's receipt of a shipment of rough diamonds to the relevant foreign exporting authority within 15 calendar days of the date that the shipment arrived at the U.S. port of entry. The report must refer to the relevant Kimberley Process Certificate by its unique identifying number; specify the number of parcels in the shipment; specify the total carat weight of the shipment; and identify the importer and exporter of the shipment. The report need not be in any particular form and may be submitted electronically or by mail or courier; and

(4) *Validation of Kimberley Process Certificate for exportations from the United States*. With respect to the exportation of rough diamonds from the United States and regardless of the destination, the U.S. Census Bureau requires the filing of export information through the Automated Export System. Submission of export information through the Automated Export System must be done in advance and must be confirmed by the return of an Internal Transaction Number. The return to the filer of the Internal Transaction Number shall constitute the validation of the Kimberley Process Certificate for an exportation of rough diamonds from the United States to a Participant. The exporter is required to report the Internal Transaction Number on the Kimberley Process Certificate accompanying any exportation from the United States. The Internal Transaction Number is a unique confirmation number generated by the Automated Export System to the filer who provides in a timely manner the complete commodity shipment data when such data have been accepted by the system.

(b) The Secretary of State, consistent with section 3(2)(B) of the Clean Diamond Trade Act (Pub. L. 108–19), may modify the requirements set forth in paragraph (a) of this section upon making a determination that a Participant has established an alternative system of control for rough diamonds that meets substantially the standards, practices, and procedures of the Kimberley Process Certification Scheme.

NOTE 1 TO § 592.301. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of all Participants and their importing and exporting authorities. Where appropriate, such listing also will describe any modification of the requirements set forth in paragraph (a) of this section.

NOTE 2 TO § 592.301. Pursuant to 31 CFR §§ 501.601 and 501.602, the recordkeeping and reporting requirements imposed by § 592.501 apply to all U.S. persons engaged in the importation into, or exportation from, the United States of any shipment of rough diamonds.

NOTE 3 TO § 592.301. Effective November 1, 2004, customs brokers, importers, and filers making entry of a shipment of rough diamonds must either submit through U.S. Customs' Automated Broker Interface (ABI) system the unique identifying number of the Kimberley Process Certificate accompanying the shipment or, for non-ABI entries, indicate the certificate number on the Customs Form 7501 Entry Summary at each entry line.

NOTE 4 TO § 592.301. As of May 21, 2008, any diamond, regardless of value, that is described in subheadings 7102.10, 7102.21 or 7102.31, Harmonized Tariff Schedule of the United States and is imported into the United States shall not be released from the custody of U.S. Customs and Border Protection (CBP) except by a formal entry for consumption, as defined in § 141.0a(f) of the CBP regulations. See 19 CFR 141.0a(f).

[69 FR 56938, Sept. 23, 2004, as amended at 73 FR 29433, May 21, 2008]

§ 592.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to all provisions of this part except for § 592.301(a)(3), 12:01 a.m., eastern daylight time, July 30, 2003; and

(b) With respect to § 592.301(a)(3), September 23, 2004.

§ 592.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 592.304 Exporting authority.

(a) The term *exporting authority* means one or more entities designated

by a Participant from whose territory a shipment of rough diamonds is being exported as having the authority to validate the Kimberley Process Certificate.

(b) The exporting authority for the United States is the U.S. Bureau of the Census.

NOTE TO § 592.304. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of the exporting authorities of all Participants.

§ 592.305 Importation into the United States.

The term *importation into the United States* means the bringing of goods into the United States.

§ 592.306 Importing authority.

(a) The term *importing authority* means one or more entities designated by a Participant into whose territory a shipment of rough diamonds is being imported as having the authority to enforce the laws and regulations of the Participant regulating imports, including the verification of the Kimberley Process Certificate accompanying the shipment.

(b) The importing authorities for the United States are the U.S. Bureau of Customs and Border Protection or, in the case of a territory or possession of the United States with its own customs administration, analogous officials.

NOTE TO § 592.306. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of the importing authorities of all Participants.

§ 592.307 Kimberley Process Certificate.

The term *Kimberley Process Certificate* means a tamper- and forgery-resistant document that bears the following information in any language, provided that an English translation is incorporated:

(a) The title ''Kimberley Process Certificate'' and the statement: ''The rough diamonds in this shipment have been handled in accordance with the provisions of the Kimberley Process Certification Scheme for rough diamonds'';

(b) Country of origin for shipment of parcels of unmixed (*i.e.*, from the same) origin;

NOTE TO PARAGRAPH (b). A shipment including a parcel of mixed-origin rough diamonds is to be entered into the United States with the Kimberley Process Certificate accompanying the shipment, and the certificate need not indicate the countries of origin of the diamonds. With respect to such a shipment, the country-of-origin field on the certificate must be filled in with asterisks. The shipment must, however, still comply with all other country-of-origin reporting requirements imposed by statute or regulation.

(c) Unique numbering with the Alpha 2 country code, according to ISO 3166–1;

(d) Date of issuance;

(e) Date of expiry;

(f) Name of issuing authority;

(g) Identification of exporter and importer;

(h) Carat weight/mass;

(i) Value in U.S. dollars;

(j) Number of parcels in the shipment;

(k) Relevant Harmonized Commodity Description and Coding System; and

(l) Validation by the exporting authority.

NOTE TO PARAGRAPH (l): See § 592.301(a)(4) for procedures governing the validation of the Kimberley Process Certificate when exporting from the United States.

§ 592.308 Participant.

The term *Participant* means a state, customs territory, or regional economic integration organization identified by the Secretary of State as one for which rough diamonds are controlled through the Kimberley Process Certification Scheme.

NOTE TO § 592.308. The Secretary of State will periodically publish in the FEDERAL REGISTER an up-to-date listing of all Participants.

§ 592.309 Person.

The term *person* means an individual or entity.

§ 592.310 Rough diamond.

The term *rough diamond* means any diamond that is unworked or simply sawn, cleaved, or bruted and classifiable under subheading 7102.10, 7102.21, or 7102.31 of the Harmonized Tariff Schedule of the United States.

§ 592.311 United States.

The term *United States,* when used in the geographic sense, means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

§ 592.312 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen; any alien admitted for permanent residence into the United States; any entity organized under the laws of the United States or any jurisdiction within the United States (including its foreign branches); or any person in the United States.

Subpart D—Interpretations

§ 592.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in this part or chapter or to any other regulation refers to the same as currently amended.

§ 592.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, or instruction issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, or instruction continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 592.403 Transshipment or transit through the United States.

The prohibitions in § 592.201 apply to the importation into, or exportation from, the United States, for transshipment or transit, of any rough diamond intended or destined for any country other than the United States, unless the shipment is sealed in a tamper-resistant container, accompanied by a Kimberley Process Certificate, and leaves the United States in the identical state in which it entered. The validation, recordkeeping, and reporting procedures applicable to importations and exportations do not apply in this case.

§ 592.404 Importation into or release from a bonded warehouse or foreign trade zone.

The requirements of the Kimberley Process Certification Scheme apply to all imported shipments of a rough diamond, regardless of whether they are destined for entry into, or withdrawal from, a bonded warehouse or a foreign trade zone of the United States.

Subpart E—Records and Reports

§ 592.501 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

§ 592.502 Annual reports by rough diamond importers and exporters.

(a) *Requirement for reports.* Reports shall be filed annually, by April 1 of each year, covering the preceding calendar year (January 1–December 31), except the first annual report, covering the period January 1–December 31, 2007, shall be filed by September 1, 2008.

(b) *Who must report; reporting period.* All persons who import rough diamonds into the United States or export rough diamonds from the United States during the reporting period (January 1–December 31).

(c) *What must be reported.* The report need not be in any specified format but must include the following information:

(1) The contact information of the U.S. importer or exporter, including name, address, telephone number, fax number, and e-mail address;

(2) Identification of total import and/or export activity for each of the three Harmonized Tariff Schedule classifications of rough diamonds during the reporting year, including:

(A) Total amount of carats of each classification of rough diamonds imported and/or exported; and

(B) Total of all shipments of each classification of rough diamonds imported and/or exported.

(3) Information on stockpiles of rough diamonds, if any, for each of the three Harmonized Tariff Schedule classifications, as of the end of the reporting year, reported in both total carats and approximate total value. For the purposes of this section, stockpiles are defined as the amount of rough diamonds held unsold at the end of the reporting period.

(d) *Where to send report*. Reports must be filed with the Office of the Special Advisor for Conflict Diamonds, U.S. Department of State via e-mail at *USKimberleyProcess@state.gov*. For further information, please call that office at 202/647–1713.

(e) *Failure to file report*. Any importer or exporter who fails to file a required report shall be subject to the penalties set forth in Subpart F of this part.

[73 FR 29434, May 21, 2008]

Subpart F—Penalties

§ 592.601 Penalties.

(a) Attention is directed to section 8 of the Clean Diamond Trade Act (the ''Act'') (Pub. L. 108–19), which provides that:

(1) A civil penalty not to exceed $10,000 per violation may be imposed on any person who violates, or attempts to violate, any order or regulation issued under the Act;

(2) Whoever willfully violates, or willfully attempts to violate, any order or regulation issued under this Act shall, upon conviction, be fined not more than $50,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who willfully participates in such violation may be punished by a like fine, imprisonment, or both; and

(3) Those customs laws of the United States, both civil and criminal, including those laws relating to seizure and forfeiture, that apply to articles imported in violation of such laws shall apply with respect to any rough diamond imported in violation of the Act.

NOTE TO PARAGRAPH (a). As reflected in paragraphs (a)(1) and (2) of this section, section 8(a) of the Clean Diamond Trade Act (Pub. L. 108–19) establishes penalties with respect to any violation of any regulation issued under the Act. OFAC prepenalty, penalty, and administrative collection procedures relating to such violations are set forth below in §§ 592.602 through 592.605. Section 8(c) of the Act also authorizes the U.S. Bureau of Customs and Border Protection and the U.S. Bureau of Immigration and Customs Enforcement, as appropriate, to enforce the penalty provisions set forth in paragraph (a) of this section and to enforce the laws and regulations governing exports of rough diamonds, including with respect to the validation of the Kimberley Process Certificate by the U.S. Bureau of the Census. The Office of Foreign Assets Control civil penalty procedures set forth below are separate from, and independent of, any penalty procedures that may be followed by the U.S. Bureau of Customs and Border Protection and the U.S. Bureau of Immigration and Customs Enforcement in their exercise of the authorities set forth in section 8(c) of the Clean Diamond Trade Act.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 592.602 Prepenalty notice.

(a) *When required*. If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any regulation or order issued

by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Clean Diamond Trade Act, and the Director determines that further civil proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation*. The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond*. The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 592.603 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice*. At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 592.603 Response to prepenalty notice; informal settlement.

(a) *Deadline for response*. The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director of the Office of Foreign Assets Control may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response*. A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response*. If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response*. The response must be submitted in writing and may be handwritten or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response*. A written response must contain information sufficient to indicate that it is in response to the prepenalty notice and must include the Office of Foreign Assets Control identification number listed on the prepenalty notice.

(1) A written response must include the respondent's full name, address,

telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to respond*. Where the Office of Foreign Assets Control receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement*. In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Representation*. A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 592.604 Penalty imposition or withdrawal.

(a) *No violation*. If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation*. (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of

the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 592.605 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart G—Procedures

§ 592.701 Procedures.

For procedures relating to rulemaking and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 592.702 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13312 (FR vol. 68, No. 147, July 31, 2003) and any further Executive orders relating to the Clean Diamond Trade Act (Pub. L. 108–19) may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart H—Paperwork Reduction Act

§ 592.801 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of the information collections relating to the recordkeeping and reporting requirements of §§ 592.301(a)(1), subpart C, § 592.501, subpart E, and 592.603, subpart F, *see* § 501.901 of this chapter. The information collection requirements in §§ 592.301(a)(3) and (a)(4), subpart C, have been approved by the OMB and assigned control numbers 1505–0198 and 0607–0152, respectively. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 593—FORMER LIBERIAN REGIME OF CHARLES TAYLOR SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13348, 69 FR 44885, 3 CFR, 2004 Comp., p. 189.

SOURCE: 72 FR 28856, May 23, 2007, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 593.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 593.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including

their overseas branches, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) Any person listed in the Annex to Executive Order 13348 of July 22, 2004 (69 FR 44885, July 27, 2004); and

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be or have been an immediate family member of Charles Taylor;

(ii) To have been a senior official of the former Liberian regime headed by Charles Taylor or otherwise to have been or be a close ally or associate of Charles Taylor or the former Liberian regime;

(iii) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the unlawful depletion of Liberian resources, the removal of Liberian resources from that country, and the secreting of Liberian funds and property by any person whose property and interests in property are blocked pursuant to this paragraph (a); or

(iv) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this paragraph (a).

NOTE 1 TO PARAGRAPH (a) OF § 593.201: The names of persons listed in or designated pursuant to Executive Order 13348, whose property and interests in property therefore are blocked pursuant to paragraph (a) of this section, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[LIBERIA].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter.

NOTE 2 TO PARAGRAPH (a) OF § 593.201: The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–LIBERIA].''

NOTE 3 TO PARAGRAPH (a) OF § 593.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The blocking of property and interests in property pursuant to § 593.201(a) includes, but is not limited to, the prohibition of the making or receiving by a United States person of any contribution or provision of funds, goods, or services by, to, or for the benefit of a person whose property and interests in property are blocked pursuant to § 593.201(a).

(c) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, any person whose property and interests in property are blocked pursuant to § 593.201(a) is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any such security on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

[72 FR 28856, May 23, 2007, as amended at 76 FR 38543, June 30, 2011]

§ 593.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part,

and that involves any property or interest in property blocked pursuant to § 593.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 593.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of IEEPA, Executive Order 13348, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained;

(2) The person with whom such property is or was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property is or was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 593.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Except to the extent otherwise provided by law, unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which, on or since the effective date, there existed an interest of a person whose property and interests in property are blocked pursuant to § 593.201(a).

§ 593.203 Holding of blocked funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 593.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 593.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 593.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 593.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 593.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 593.204 Expenses of maintaining blocked physical property; liquidation of blocked account.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 593.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 593.201(a) may, in the discretion of the Director of the Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 593.205 Prohibition on the importation of any round log or timber product originating in Liberia.

Except as otherwise authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this section, the importation into the United States, directly or indirectly, of any round log or timber product originating in Liberia is prohibited.

NOTE TO § 593.205: See section 593.510, which authorizes transactions related to the importation of any round log or timber product originating in Liberia. This general license has been issued in accordance with United Nations Security Council Resolution 1689 of June 20, 2006.

§ 593.206 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or

attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

Subpart C—General Definitions

§ 593.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 593.201 held in the name of a person whose property and interests in property are blocked pursuant to § 593.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 593.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property and interests in property are blocked pursuant to § 593.201(a)(1), or with respect to the prohibitions set forth at § 593.205, 12:01 a.m. eastern daylight time, July 23, 2004;

(b) With respect to a person whose property and interests in property are blocked pursuant to § 593.201(a)(2), the earlier of the date of actual or constructive notice of such person's designation.

§ 593.303 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 593.304 Interest.

Except as otherwise provided in this part, the term interest, when used with respect to property (e.g., ''an *interest* in property''), means an interest of any nature whatsoever, direct or indirect.

§ 593.305 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 593.305: See § 501.801 of this chapter on licensing procedures.

§ 593.306 Originating in Liberia.

The term *originating in Liberia* means:

(a) Any product determined to be a good of Liberian origin pursuant to the rules of origin of U.S. Customs and Border Protection; or

(b) Any product that has entered into Liberian commerce.

§ 593.307 Person.

The term *person* means an individual or entity.

§ 593.308 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations there under, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or

copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 593.309 Round log or timber product.

The term *round log or timber product* means any product classifiable in Chapter 44 of the Harmonized Tariff Schedule of the United States.

§ 593.310 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 593.311 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 593.312 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 593.313 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

Subpart D—Interpretations

§ 593.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 593.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction,

or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 593.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of blocked property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 593.201(a), unless there exists in the property another interest that is blocked pursuant to § 593.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 593.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 593.404 Transactions ordinarily incident to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 593.201(a); or

(b) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 593.405 Provision of services.

(a) The prohibitions on transactions involving blocked property contained in § 593.201 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property and interests in property are blocked pursuant to § 593.201(a); or

(2) With respect to property interests subject to § 593.201.

(b) *Example.* U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a person whose property and interests in property are blocked pursuant to § 593.201(a).

NOTE TO § 593.405. See §§ 593.507 and 593.508, respectively, on licensing policy with regard to the provision of certain legal or medical services.

§ 593.406 Offshore transactions.

The prohibitions in § 593.201 on transactions involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 593.201(a), or property in which a person whose property and interests in property are blocked pursuant to § 593.201(a) has or has had an interest since the effective date.

§ 593.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 593.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

§ 593.408 Charitable contributions.

Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology, including those to relieve human suffering, such as food, clothing or medicine, may be made by, to, or for the

benefit of a person whose property or interests in property are blocked pursuant to Sec. 593.201(a). For purposes of this part, a contribution or donation is made by, to, or for the benefit of a person whose property or interests in property are blocked pursuant to Sec. 593.201(a) if made by, to, or in the name of such a person; if made by, to, or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions or donations by, to, or for such a person.

§ 593.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 593.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 593.201(a).

§ 593.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 593.201 if effected after the effective date.

§ 593.411 Importation into the United States.

With respect to the prohibitions set forth in § 593.205, the term *importation into the United States* generally means the bringing of any such products into the United States. In the case of round logs or timber products originating in Liberia being transported by vessel, *importation into the United States* means the bringing of any such products into the United States with the intent to unlade. See also § 593.413 and § 593.510.

§ 593.412 Release of any round log or timber product originating in Liberia from a bonded warehouse or foreign trade zone.

(a) The prohibitions in § 593.205 apply to importation into a bonded warehouse or a foreign trade zone in the United States.

(b) Section 593.205 does not prohibit the release from a bonded warehouse or foreign trade zone of any round log or timber product originating in Liberia imported into a bonded warehouse or foreign trade zone either prior to the effective date or in a transaction authorized pursuant to this part on or after the effective date.

(c) Notwithstanding paragraph (b) of this section, any round log or timber product originating in Liberia in which persons whose property and interests in property are blocked pursuant to § 593.201(a) have an interest may not be released unless authorized by the Office of Foreign Assets Control.

NOTE TO § 593.412. See § 593.510.

§ 593.413 Transshipment or transit through the United States prohibited.

Except as otherwise specified:

(a) The prohibitions in § 593.205 apply to the importation into the United States, for transshipment or transit to third countries, of any round log or timber product originating in Liberia.

(b) In the case of any round log or timber product originating in Liberia, the prohibitions in § 593.205 apply to the unlading in the United States and the intent to unlade in the United States of such products intended or destined for third countries.

NOTE TO § 593.413. See § 593.510.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 593.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 593.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any

transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 593.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 593.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 593.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

NOTE TO § 593.504: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 593.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 593.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 593.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 593.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 593.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 593.201(a).

§ 593.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 593.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any Federal or State agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of any other legal services to persons whose property and interests in property are blocked pursuant to § 593.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(c) Entry into a settlement agreement affecting property and interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property and interests in property blocked pursuant to § 593.201(a) is prohibited unless specifically licensed in accordance with § 593.202(e).

§ 593.508 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property and interests in property are blocked pursuant to § 593.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 593.509 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between a U.S. person and a person whose property and interests in property are blocked pursuant to § 593.201(a) are authorized, provided the mail is limited to personal communications not involving a transfer of anything of value and not exceeding 12 ounces in weight.

§ 593.510 Transactions related to the importation of any round log or timber product originating in Liberia authorized.

Except as otherwise prohibited by § 593.201, all transactions that are prohibited by § 593.205 with respect to the importation into the United States of any round log or timber product originating in Liberia are authorized.

Subpart F—Reports

§ 593.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 593.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 593.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Violations involving transactions described at section 203(b)(1), (3–4) of IEEPA (50 U.S.C. 1702(b)(1), (3–4)) shall be subject only to the penalties set forth in paragraph (b) of this section.

(d)(1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA and UNPA are subject to increase pursuant to 18 U.S.C. 3571.

(e) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(f) Violations of this part may also be subject to relevant provisions of other applicable laws.

[72 FR 28856, May 23, 2007, as amended at 73 FR 32655, June 10, 2008]

§ 593.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 593.703 as to why a monetary penalty should not be imposed or why, if imposed, the

monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed 60 days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within the Director's discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 593.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at the Director's discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a Federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response need not be in any particular form, but it must be typewritten and signed by the respondent or a representative thereof. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice and must identify the Office of Foreign Assets Control identification number listed on the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Failure to respond.* If the Office of Foreign Assets Control receives no response to a prepenalty notice within the applicable time period set forth in paragraph (a) of this section, a penalty notice generally will be issued, taking

into account the mitigating and/or aggravating factors present in the record. If there are no mitigating factors present in the record, or the record contains a preponderance of aggravating factors, the proposed prepenalty amount generally will be assessed as the final penalty.

(e) *Informal settlement*. In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control's Civil Penalties Division as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (g) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Guidelines*. Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are available on OFAC's Web site (*http://www.treas.gov/ofac*).

(g) *Representation*. A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 593.704 Penalty imposition or withdrawal.

(a) *No violation*. If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation*. (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in Federal district court.

§ 593.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the

Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 593.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 593.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13348 of July 22, 2004 (69 FR 44885, July 27, 2004), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 593.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to record keeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 594—GLOBAL TERRORISM SANCTIONS REGULATIONS

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Subpart H—Procedures

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Subpart I—Paperwork Reduction Act

594.901 Paperwork Reduction Act notice.

AUTHORITY: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13268, 67 FR 44751, 3 CFR, 2002 Comp., p. 240; E.O. 13284, 68 FR 4075, 3 CFR, 2003 Comp., p. 161.

SOURCE: 68 FR 34197, June 6, 2003, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 594.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 594.201 Prohibited transactions involving blocked property.

(a) Except as authorized by statutes, regulations, orders, directives, rulings, instructions, licenses or otherwise, and notwithstanding any contracts entered into or any license or permit granted prior to the effective date, property and interests in property of the following persons that are in the United States, that hereafter come within the United States, or that hereafter come within the possession or control of U.S. persons, including their overseas branches, are blocked and may not be

transferred, paid, exported, withdrawn or otherwise dealt in:

(1) Foreign persons listed in the Annex to Executive Order 13224 of September 23, 2001, as may be amended;

(2) Foreign persons determined by the Secretary of State, in consultation with the Secretary of the Treasury, the Secretary of Homeland Security and the Attorney General, to have committed, or to pose a significant risk of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States;

(3) Persons determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Homeland Security and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any person whose property or interests in property are blocked pursuant to paragraphs (a)(1), (a)(2), (a)(3), or (a)(4)(i) of this section; or

(4) Except as provided in section 5 of Executive Order 13224, any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Homeland Security and the Attorney General:

(i) To assist in, sponsor, or provide financial, material, or technological support for, or financial or other services to or in support of:

(A) Acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States, or

(B) Any person whose property or interests in property are blocked pursuant to paragraph (a) of this section; or

(ii) To be otherwise associated with any person whose property or interests in property are blocked pursuant to paragraphs (a)(1), (a)(2), (a)(3), or (a)(4)(i) of this section.

NOTE 1 TO PARAGRAPH (a): Section 5 of Executive Order 13224, as amended, provides that, with respect to those persons designated pursuant to paragraph (a)(4) of this section, the Secretary of the Treasury, in the exercise of his discretion and in consultation with the Secretary of State, the Secretary of Homeland Security and the Attorney General, may take such other actions than the complete blocking of property or interests in property as the President is authorized to take under the International Emergency Economic Powers Act and the United Nations Participation Act if the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Homeland Security and the Attorney General, deems such other actions to be consistent with the national interests of the United States, considering such factors as he deems appropriate.

NOTE 2 TO PARAGRAPH (a) OF § 594.201: The names of persons whose property and interests in property are blocked pursuant to § 594.201(a) are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[SDGT].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter.

NOTE 3 TO PARAGRAPH (a) OF § 594.201: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property or interests in property are blocked pursuant to § 594.201(a) is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

NOTE 1 TO § 594.201: The International Emergency Economic Powers Act (50 U.S.C.

1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–PA]'' or ''[BPI–SDGT].'' The scope of the property or interests in property blocked during the pendency of an investigation may be more limited than the scope of the blocking set forth in § 594.201(a). Inquiries regarding the scope of any such blocking should be directed to OFAC's Sanctions Compliance & Evaluation Division at 202/622–2490.

NOTE 2 TO § 594.201. The prohibitions set forth in this part are separate from and in addition to other parts of 31 CFR chapter V, including but not limited to the Terrorism Sanctions Regulations (part 595), the Terrorism List Government Sanctions Regulations (part 596), and the Foreign Terrorist Organizations Sanctions Regulations (part 597). The prohibitions set forth in this part also are separate and apart from the criminal prohibition, set forth at 18 U.S.C. 2339B, against providing material support or resources to foreign terrorist organizations designated pursuant to section 219 of the Immigration and Nationality Act, as amended.

[68 FR 34197, June 6, 2003, as amended at 72 FR 4206, Jan. 30, 2007; 76 FR 38544, June 30, 2011]

§ 594.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 594.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 594.201(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d)≤ The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Except to the extent otherwise provided by law or unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date there existed an interest of a person whose property or interests in property are blocked pursuant to § 594.201(a).

§ 594.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 594.201(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 594.201(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 594.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 594.201(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to any person whose property or interests in property are blocked pursuant to § 594.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 594.204 Prohibited transaction or dealing in property; contributions of funds, goods, or services.

Except as otherwise authorized, no U.S. person may engage in any transaction or dealing in property or interests in property of persons whose property or interests in property are blocked pursuant to § 594.201(a), including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of persons whose property or interests

in property are blocked pursuant to § 594.201(a).

§ 594.205 Evasions; attempts; conspiracies.

(a) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

§ 594.206 Expenses of maintaining blocked property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted before the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 594.201(a) shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 594.201(a) may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Subpart C—General Definitions

§ 594.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 594.201 held in the name of a person whose property or interests in property are blocked pursuant to § 594.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 594.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(a) With respect to a person whose property or interests in property are blocked pursuant to § 594.201(a)(1), 12:01 a.m. eastern daylight time, September 24, 2001;

(b) With respect to a person whose property or interests in property are blocked pursuant to § 594.201(a)(2), (a)(3), or (a)(4), the earlier of the date on which is received actual or constructive notice of such person's designation by the Secretary of State or the Secretary of the Treasury.

§ 594.303 Entity.

The term *entity* means a partnership, association, corporation, or other organization, group, or subgroup.

§ 594.304 Foreign person.

The term *foreign person* means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States), or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state.

§ 594.305 Information or informational materials.

(a) For purposes of this part, the term *information or informational materials* includes, but is not limited to, publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

NOTE TO PARAGRAPH (a). To be considered information or informational materials, artworks must be classified under chapter heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to United States exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter became, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (the ''EAA''), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 594.306 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 594.307 Licenses; general and specific.

(a) Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

(b) The term *general license* means any license or authorization the terms of which are set forth in subpart E of this part.

(c) The term *specific license* means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

NOTE TO § 594.307: See § 501.801 of this chapter on licensing procedures.

§ 594.308 Person.

The term *person* means an individual or entity.

§ 594.309 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 594.310 Specially designated global terrorist; SDGT.

The term *specially designated global terrorist* or *SDGT* means any foreign person or person listed in the Annex or designated pursuant to Executive Order 13224 of September 23, 2001.

§ 594.311 Terrorism.

The term *terrorism* means an activity that:

(a) Involves a violent act or an act dangerous to human life, property, or infrastructure; and

(b) Appears to be intended:

(1) To intimidate or coerce a civilian population;

(2) To influence the policy of a government by intimidation or coercion; or

(3) To affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.

§ 594.312 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed

of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 594.313 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 594.314 U.S. financial institution.

The term *U.S. financial institution* means any U.S. person (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 594.315 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.

§ 594.316 Otherwise associated with.

The term ''to be otherwise associated with,'' as used in § 594.201(a)(4)(ii), means:

(a) To own or control; or

(b) To attempt, or to conspire with one or more persons, to act for or on behalf of or to provide financial, material, or technological support, or financial or other services, to.

[72 FR 4207, Jan. 30, 2007]

§ 594.317 Financial, material, or technological support.

The term *financial, material, or technological support,* as used in § 594.201(a)(4)(i) of this part, means any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. ''Technologies'' as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

[74 FR 61037, Nov. 23, 2009]

Subpart D—Interpretations

§ 594.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this

part refers to the same as currently amended.

§ 594.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 594.403 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under §§ 594.201 and 594.204 if effected after the effective date.

§ 594.404 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person, such property shall no longer be deemed to be property blocked pursuant to § 594.201(a), unless there exists in the property another interest that is blocked pursuant to § 594.201(a) or any other part of this chapter, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property or interests in property are blocked pursuant to § 594.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§ 594.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) An incidental transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 594.201(a); or

(b) An incidental transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property.

§ 594.406 Provision of services.

(a) Except as provided in § 594.207, the prohibitions on transactions or dealings involving blocked property contained in §§ 594.201 and 594.204 apply to services performed in the United States or by U.S. persons, wherever located, including by an overseas branch of an entity located in the United States:

(1) On behalf of or for the benefit of a person whose property or interests in property are blocked pursuant to § 594.201(a); or

(2) With respect to property interests subject to §§ 594.201 and 594.204.

(b) Example: U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, educational, or other services to a person whose property or interests in property are blocked pursuant to § 594.201(a).

NOTE TO § 594.406: See §§ 594.506 and 594.507, respectively, on licensing policy with regard to the provision of certain legal or medical services.

§ 594.407 Offshore transactions.

The prohibitions in §§ 594.201 and 594.204 on transactions or dealings involving blocked property apply to transactions or dealings by any U.S. person in a location outside the United States with respect to property that the U.S. person knows, or has reason to know, is held in the name of a person whose property or interests in property are blocked pursuant to § 594.201(a) or in which the U.S. person knows, or has reason to know, a person whose property or interests in property are

blocked pursuant to § 594.201(a) has or has had an interest since the effective date.

§ 594.408 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to §§ 594.201 and 594.204, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized pursuant to this part.

§ 594.409 Charitable contributions.

Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services, or technology, including those to relieve human suffering, such as food, clothing, or medicine, may be made to or for the benefit of a person whose property or interests in property are blocked pursuant to § 594.201(a). For purposes of this part, a contribution or donation is made to or for the benefit of a person whose property or interests in property are blocked pursuant to § 594.201(a) if made to or in the name of such a person; if made to or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade or to avoid the bar on the provision of contributions or donations to such a person.

§ 594.410 Credit extended and cards issued by U.S. financial institutions.

The prohibitions in §§ 594.201 and 594.204 on engaging in transactions or dealings in property subject to those sections prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property or interests in property are blocked pursuant to § 594.201(a).

§ 594.411 Palestinian Authority.

Following the January 2006 Palestinian elections, Hamas, a designated terrorist entity whose property and interests in property are blocked pursuant to § 594.201, has been determined to have a property interest in the transactions of the Palestinian Authority. Accordingly, pursuant to §§ 594.201 and 594.204, U.S. persons are prohibited from engaging in transactions with the Palestinian Authority unless authorized. Certain transactions with the Palestinian Authority may be authorized by license, see subpart E of this part.

[71 FR 27200, May 10, 2006]

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 594.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53660, Sept. 11, 2003]

§ 594.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the

regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 594.503 Exclusion from licenses and other authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 594.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property or interests in property are blocked pursuant to § 594.201(a) has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

NOTE TO § 594.504. Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 594.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 594.505 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 594.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 594.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed or otherwise authorized pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons;

(5) Representation of persons, wherever located, detained within the jurisdiction of the United States or by the United States government, with respect to either such detention or any

charges made against such persons, including, but not limited to, the conduct of military commission prosecutions and the initiation and conduct of federal court proceedings; and

(6) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(b) The provision of legal services not otherwise authorized by paragraph (a) of this section to or on behalf of persons whose property and interests in property are blocked pursuant to § 594.201(a) in connection with the initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

(c) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 594.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 594.201(a) is prohibited except to the extent otherwise provided by law or unless specifically licensed in accordance with § 594.202(e).

[68 FR 34197, June 6, 2003, as amended at 73 FR 78632, Dec. 23, 2008; 75 FR 75906, Dec. 7, 2010]

§ 594.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 594.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

§ 594.508 Transactions related to telecommunications authorized.

All transactions ordinarily incident to the receipt or transmission of telecommunications involving persons whose property or interests in property are blocked pursuant to § 594.201(a) are authorized, provided that any payment owed to any such person is paid into a blocked account in a U.S. financial institution. This section does not authorize the provision, sale, or lease to persons whose property or interests in property are blocked pursuant to § 594.201(a) of telecommunications equipment or technology; nor does it authorize the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity).

§ 594.509 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between a U.S. person and a person whose property or interests in property are blocked pursuant to § 594.201(a) are authorized, provided the mail is limited to personal communications not involving a transfer of anything of value and not exceeding 12 ounces in weight.

§ 594.510 Official activities of certain international organizations; U.S. person employees of certain governments.

(a) Effective April 12, 2006, all transactions and activities with the Palestinian Authority otherwise prohibited under this part that are for the conduct of the official business of the United Nations are authorized, provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) Effective April 12, 2006, U.S. persons who are employees of the governments of states bordering the West Bank or Gaza are authorized to engage in all transactions and activities outside of the United States with the Palestinian Authority that are otherwise prohibited under this part in support of

the U.S. persons' official duties, provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(c) For purposes of this section only, the term ''United Nations'' means its principal organs, including funds, bodies, commissions, agencies, departments and other entities of the Security Council, General Assembly, Economic and Social Council and Secretariat, specifically including, among others, the World Bank, the International Monetary Fund, the World Food Programme, and the World Health Organization.

[71 FR 27200, May 10, 2006]

§ 594.511 Travel, employment, residence and maintenance transactions with the Palestinian Authority.

Effective April 12, 2006, U.S. persons are authorized to engage in all transactions with the Palestinian Authority otherwise prohibited under this part that are ordinarily incident to their travel to or from, or employment, residence or personal maintenance within, the jurisdiction of the Palestinian Authority, including, but not limited to, receipt of salaries, payment of living expenses and acquisition of goods or services for personal use. Nothing in this license authorizes any debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

[71 FR 27200, May 10, 2006]

§ 594.512 Payment of taxes and incidental fees to the Palestinian Authority.

Effective April 12, 2006, U.S. persons are authorized to pay taxes or fees to, and purchase or receive permits or public utility services from, the Palestinian Authority where such transactions are necessary and ordinarily incident to such persons' day-to-day operations. Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

[71 FR 27200, May 10, 2006]

§ 594.513 Transactions with entities under the control of the Palestinian President and certain other entities.

(a) Effective April 12, 2006, U.S. persons are authorized to engage in all transactions otherwise prohibited under this part with the following entities and individuals:

(1) The Palestinian Authority Presidency, including only the Office of the President, Presidential Security, General Intelligence Apparatus, Governors and Governorate staff, the Attorney General's Office, the Palestine Investment Fund (PIF), the Border Crossings Administration, and the Palestine Broadcasting Corporation (including the Voice of Palestine, Wafa News Agency, and the General Public Information Agency/State Information Services);

(2) The Palestinian Judiciary, including the Higher Judicial Council;

(3) Members of the Palestinian Legislative Council (PLC) who were not elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT); and

(4) The following independent agencies: The Central Elections Commission; the Independent Citizens Rights Commission; the General Audit Authority/External Audit Agency; and the Palestinian Monetary Authority.

(b) Effective April 12, 2006, U.S. financial institutions are authorized to reject transactions with members of the Palestinian Legislative Council (PLC) who were elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT), provided that any such individuals are not named on OFAC's list of Specially Designated Nationals and Blocked Persons.

(c) Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S.

financial institution or to any account blocked pursuant to this part.

[71 FR 27200, May 10, 2006]

§ 594.514 Concluding activities with the Palestinian Authority.

Effective April 12, 2006, all transactions and activities with the Palestinian Authority otherwise prohibited under this part are authorized through May 12, 2006, provided that they are necessary to conclude ongoing contracts or programs with the Palestinian Authority, and further provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

[71 FR 27200, May 10, 2006]

§ 594.515 In-kind donations of medicine, medical devices, and medical services.

(a) Effective July 6, 2006, nongovernmental organizations that are U.S. persons are authorized to provide in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For the purposes of this section only, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), including medical supplies, but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1.

NOTE TO PARAGRAPH (b): Nongovernmental organizations that are interested in providing items listed on the Commerce Control List to the Palestinian Authority Ministry of Health must apply for a specific license from the Office of Foreign Assets Control.

[72 FR 58743, Oct. 5, 2006]

§ 594.516 Transactions with the Palestinian Authority authorized.

(a) As of June 20, 2007, U.S. persons are authorized to engage in all transactions otherwise prohibited under this part with the Palestinian Authority.

(b) For purposes of this section only, the term *Palestinian Authority* means the Palestinian Authority government of Prime Minister Salam Fayyad and President Mahmoud Abbas, including all branches, ministries, offices, and agencies (independent or otherwise) thereof.

[72 FR 61518, Oct. 31, 2007]

§ 594.517 Payments from funds originating outside the United States and the formation of legal defense funds authorized.

(a) *Payments from funds originating outside the United States.* Effective December 7, 2010, receipts of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 594.506(a) are authorized from funds originating outside the United States, provided that:

(1) Prior to receiving payment for legal services authorized pursuant to § 594.506(a) rendered to persons whose property and interests in property are blocked pursuant to § 594.201(a), the U.S. person that is an attorney, law firm, or legal services organization provides to the Office of Foreign Assets Control a copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity. The copy of a letter of engagement or a letter of intent to engage, accompanied by correspondence referencing this paragraph (a), is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(2) The funds received by U.S. persons as payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 594.506(a) must not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 594.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order;

NOTE TO PARAGRAPH (a)(2) OF § 594.517: This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 594.506(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 594.201(a) or any other part of this chapter holds an interest.

(3) *Reports.* (i) U.S. persons who receive payments in connection with legal services authorized pursuant to § 594.506(a) must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the payments were received providing information on the funds received. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) If applicable:

(*1*) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(*2*) A general description of the services provided; and

(*3*) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (a), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (a)(3) OF § 594.517: U.S. persons who receive payments in connection with legal services authorized pursuant to § 594.506(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 594.506(a).

(4) Nothing in this paragraph (a) authorizes the receipt of payment of professional fees or reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 594.506(b).

NOTE 1 TO PARAGRAPH (a) OF § 594.517: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph (a) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (a) OF § 594.517: Nothing in this paragraph authorizes the transfer of any blocked property, the debiting of any blocked account, the entry of any judgment or order that effects a transfer of blocked property, or the execution of any judgment against property blocked pursuant to any Executive order or this Chapter. U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from the Office of Foreign Assets Control to authorize the release of a limited amount of blocked funds for the payment of legal fees where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings,* which is available at: *http://www.treas.gov/resource-center/sanctions/Documents/legal_fee_guide.pdf.*

(b) *Legal defense funds.* Effective December 7, 2010, U.S. persons that are attorneys, law firms, or legal services organizations are authorized to form legal defense funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services authorized pursuant to § 594.506(a) may be debited provided that:

(1) The legal defense fund must be held in a savings or checking account at a financial institution located in the United States;

(2) Prior to debiting the legal defense fund, the U.S. person responsible for establishing the legal defense fund must submit the following information to the Office of Foreign Assets Control: A copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity; the name of the individual or entity responsible for establishing the legal defense fund; the name of the financial institution at which the account for the legal defense fund will be held; a point of contact at the financial institution holding the account for the legal defense fund; and the account name and account number for the legal defense fund. The foregoing information must be accompanied by correspondence referencing this paragraph (b) and is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(3) The legal defense fund may not receive funds from a person whose property and interests in property are blocked pursuant to § 594.201(a) or any other part of this chapter;

(4) The U.S. person responsible for establishing the legal defense fund must notify the financial institution at which the account for the legal defense fund is held that the account may only be debited to make payments of professional fees and reimburse expenses incurred in connection with the provision of legal services authorized pursuant to § 594.506(a);

(5) *Reports.* (i) U.S. persons responsible for establishing legal defense funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services authorized pursuant to § 594.506(a) may be debited must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the funds were deposited with or debited from the account of the legal defense fund providing information on the funds received by the legal defense fund and debits made to the legal defense fund during the reporting period. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) Any individual or entity to whom any payments were made, including, if applicable:

(*1*) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(*2*) A general description of the services provided; and

(*3*) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (b), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (b)(5) OF § 594.517: U.S. persons who receive payments in connection with legal services authorized pursuant to § 594.506(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 594.506(a).

(6) Nothing in this paragraph (b) authorizes the formation or debiting of legal defense funds in connection with the provision of legal services authorized pursuant to § 594.506(b).

NOTE 1 TO PARAGRAPH (b) OF § 594.517: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph (b) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (b) OF § 594.517: Any funds remaining in a legal defense fund account after all payments of professional fees and reimbursement of incurred expenses authorized pursuant to this paragraph have been made or upon termination of the legal services for which payment is authorized pursuant to this paragraph are property in

which the person to or on whose behalf the legal services were rendered has an interest and is subject to the prohibitions of this part. Persons in the possession or control of such remaining funds may apply for the unblocking of the funds by following the procedures set forth at § 501.801 of this chapter.

[75 FR 75906, Dec. 7, 2010]

Subpart F—Reports

§ 594.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 594.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 594.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is directed to section 5 of the United Nations Participation Act (22 U.S.C. 287c(b)), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $10,000 and, if a natural person, may also be imprisoned for not more than 10 years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States. The criminal penalties provided in the United Nations Participation Act are subject to increase pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes any materially false, fictitious, or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(e) Violations of this part may also be subject to relevant provisions of other applicable laws.

[68 FR 34197, June 6, 2003, as amended at 71 FR 29253, May 22, 2006; 73 FR 32656, June 10, 2008]

§ 594.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a prepenalty notice. The prepenalty notice shall be in writing. The prepenalty notice may be issued whether or not another agency has taken any action with respect to the matter.

(b) *Contents of notice*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of the respondent's right to make a written presentation within the applicable 30-day period set forth in § 594.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) *Informal settlement prior to issuance of prepenalty notice.* At any time prior to the issuance of a prepenalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the prepenalty notice for the exclusive purpose of effecting settlement of the agency's potential civil monetary penalty claims. In the event the Director grants the request, under terms and conditions within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the prepenalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 594.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent may submit a response to the prepenalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the prepenalty notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(1) *Computation of time for response.* A response to the prepenalty notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the prepenalty notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the prepenalty notice, a response must be postmarked or date-stamped on or before the 30th day after the date on the stamped postal receipt maintained at the Office of Foreign Assets Control. If the prepenalty notice was personally delivered to the respondent by a non-U.S. Postal Service agent authorized by the Director, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) *Form and method of response.* The response must be submitted in writing and may be handwritten or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Civil Penalties Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(c) *Contents of response.* A written response must contain information sufficient to indicate that it is in response to the prepenalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the prepenalty notice and also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation alleged in the prepenalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response also should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(d) *Default.* If the respondent elects not to submit a written response within the time limit set forth in paragraph (a) of this section, the Office of Foreign Assets Control will conclude that the respondent has decided not to respond to the prepenalty notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the prepenalty notice.

(e) *Informal settlement.* In addition to or as an alternative to a written response to a prepenalty notice, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the prepenalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) *Representation.* A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the prepenalty notice must be preceded by a written letter of representation, unless the prepenalty notice was served upon the respondent in care of the representative.

§ 594.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director is authorized to issue a written penalty notice to the respondent of the determination of the violation and the imposition of the monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made

within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in a federal district court.

§ 594.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 594.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[68 FR 53660, Sept. 11, 2003]

§ 594.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13224 of September 23, 2001 (66 FR 49079, September 25, 2001), and any further Executive orders relating to the national emergency declared therein, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 594.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 595—TERRORISM SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 319; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208.

SOURCE: 61 FR 3806, Feb. 2, 1996, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 595.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

[61 FR 3806, Feb. 2, 1996, as amended at 62 FR 45111, Aug. 25, 1997]

Subpart B—Prohibitions

§ 595.201 Prohibited transactions involving blocked property.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no property or interests in property of a

specially designated terrorist, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

[61 FR 3806, Feb. 2, 1996, as amended at 62 FR 45111, Aug. 25, 1997]

§ 595.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date, which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property held in the name of a specially designated terrorist or in which a specially designated terrorist has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property held in the name of a specially designated terrorist or in which a specially designated terrorist has an interest, or has had an interest since such date, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

NOTE: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that

the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property which, on or since the effective date, was held in the name of a specially designated terrorist or in which there existed an interest of a specially designated terrorist.

§ 595.203 Holding of certain types of blocked property in interest-bearing accounts.

(a)(1) Any person, including a U.S. financial institution, currently holding property subject to § 595.201 which, as of the effective date or the date of receipt if subsequent to the effective date, is not being held in an interest-bearing account, or otherwise invested in a manner authorized by the Office of Foreign Assets Control, shall transfer such property to, or hold such property or cause such property to be held in, an interest-bearing account or interest-bearing status in a U.S. financial institution as of the effective date or the date of receipt if subsequent to the effective date of this section, unless otherwise authorized or directed by the Office of Foreign Assets Control.

(2) The requirement set forth in paragraph (a)(1) of this section shall apply to currency, bank deposits, accounts, obligations, and any other financial or economic resources or assets, and any proceeds resulting from the sale of tangible or intangible property. If interest is credited to an account separate from that in which the interest-bearing asset is held, the name of the account party on both accounts must be the same and must clearly indicate the specially designated terrorist having an interest in the accounts. If the account is held in the name of a specially designated terrorist, the name of the account to which interest is credited must be the same.

(b) For purposes of this section, the term *interest-bearing account* means a blocked account in a U.S. financial institution earning interest at rates that are commercially reasonable for the amount of funds in the account. Except as otherwise authorized, the funds may not be invested or held in instruments the maturity of which exceeds 90 days.

(c) This section does not apply to blocked tangible property, such as chattels, nor does it create an affirmative obligation on the part of the holder of such blocked tangible property to sell or liquidate the property and put the proceeds in a blocked account. However, the Office of Foreign Assets Control may issue licenses permitting or directing sales of tangible property in appropriate cases.

§ 595.204 Prohibited dealing in property; contributions of funds, goods, or services.

Except as otherwise authorized, no U.S. person may deal in property or interests in property of a specially designated terrorist, including the making or receiving of any contribution of funds, goods, or services to or for the benefit of a specially designated terrorist.

§ 595.205 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

§ 595.206 Exempt transactions.

(a) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does not involve the transfer of anything of value.

(b) *Information and informational materials.* (1) The importation from any country and the exportation to any country of information or informational materials as defined in § 595.306, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions and regulations of this part.

(2) This section does not authorize transactions related to information and informational materials not fully

created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services by a U.S. person. Such prohibited transactions include, without limitation, payment of advances for informational materials not yet created and completed, provision of services to market, produce or coproduce, create or assist in the creation of information and informational materials, and payment of royalties to a specially designated terrorist with respect to income received for enhancements or alterations made by U.S. persons to information or informational materials imported from a specially designated terrorist.

(3) This section does not authorize transactions incident to the exportation of technical data under restriction as defined in § 779.4 of the Export Administration Regulations, 15 CFR parts 768–799 (1994), or to the exportation of goods for use in the transmission of any data. The exportation of such goods to specially designated terrorists is prohibited, as provided in § 595.201 of this part.

(c) *Travel.* The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel including non scheduled air, sea, or land voyages.

Subpart C—General Definitions

§ 595.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibition in § 595.201 held in the name of a specially designated terrorist or in which a specially designated terrorist has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 595.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EST, January 24, 1995, or, in the case of specially designated terrorists designated after that date, the earlier of the date on which a person receives actual or constructive notice of such designation.

§ 595.303 Entity.

The term *entity* means a partnership, association, corporation, or other organization, group or subgroup.

§ 595.304 Foreign person.

The term *foreign person* means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States), or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state.

§ 595.305 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 595.306 Information and informational materials.

(a)(1) For purposes of this part, the term *information and informational materials* means publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds, and other information and informational articles.

(2) To be considered informational materials, artworks must be classified under chapter subheading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The terms *information* and *informational materials* with respect to U.S. exports do not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (the ''EAA''), or section 6 of the EAA to the extent that

such controls promote nonproliferation or antiterrorism policies of the United States, including ''software'' that is not ''publicly available'' as these terms are defined in 15 CFR Parts 779 and 799.1; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 595.307 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., ''an interest in property'') means an interest of any nature whatsoever, direct or indirect.

§ 595.308 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 595.309 Person.

The term *person* means an individual or entity.

§ 595.310 Property; property interest.

The terms *property* and *property interest* include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 595.311 Specially designated terrorist.

(a) The term *specially designated terrorist* means:

(1) Persons listed in the Annex to Executive Order 12947;

(2) Foreign persons designated by the Secretary of State, in coordination with the Secretary of the Treasury and the Attorney General, because they are found:

(i) To have committed, or to pose a significant risk of committing, acts of violence that have the purpose or effect of disrupting the Middle East peace process, or

(ii) To assist in, sponsor, or provide financial, material, or technological support for, or services in support of, such acts of violence; and

(3) Persons determined by the Secretary of the Treasury, in coordination with the Secretary of State and the Attorney General, to be owned or controlled by, or to act for or on behalf of, any other specially designated terrorist.

(b) [Reserved]

NOTE TO § 595.311: The names of persons determined to fall within this definition, whose property and interests in property therefore are blocked pursuant to this part, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[SDT].'' The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this part also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–SDT].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Section 501.807 of this chapter sets forth the procedures to be followed by

persons seeking administrative reconsideration of their designation, or who wish to assert that the circumstances resulting in the designation are no longer applicable.

[61 FR 3806, Feb. 2, 1996, as amended at 61 FR 32938, June 26, 1996; 62 FR 45111, Aug. 25, 1997; 76 FR 38544, June 30, 2011]

§ 595.312 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 595.313 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 595.314 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 595.315 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches); or any person in the United States.

§ 595.316 U.S. financial institution.

The term *U.S. financial institution* means any U.S. person (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent; including, but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 595.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 595.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under

the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 595.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a specially designated terrorist, such property shall no longer be deemed to be property in which a specially designated terrorist has or has had an interest, or which is held in the name of a specially designated terrorist, unless there exists in the property another interest of a specially designated terrorist, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a specially designated terrorist, including by the making of any contribution of funds, goods, or services to or for the benefit of a specially designated terrorist, such property shall be deemed to be property in which there exists an interest of the specially designated terrorist.

§ 595.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 595.201 if effected after the effective date.

§ 595.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, specially designated terrorist or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license.

§ 595.406 Provision of services.

(a) Except as provided in § 595.206, the prohibitions contained in §§ 595.201 and 595.204 apply to services performed by U.S. persons, wherever located:

(1) On behalf of, or for the benefit of, a specially designated terrorist; or

(2) With respect to property interests of a specially designated terrorist.

(b) *Example:* U.S. persons may not, except as authorized by the Office of Foreign Assets Control by or pursuant to this part, provide legal, accounting, public relations, educational, or other services to a specially designated terrorist. See § 595.506.

§ 595.407 Offshore transactions.

The prohibitions contained in § 595.201 apply to transactions by U.S. persons in locations outside the United States with respect to property which the U.S. person knows, or has reason to know, is held in the name of a specially designated terrorist, or in which the U.S. person knows, or has reason to know, a specially designated terrorist has or has had an interest since the effective date.

§ 595.408 Charitable contributions to specially designated terrorists.

(a) Unless otherwise specifically authorized by the Office of Foreign Assets Control by or pursuant to this part, no charitable contribution or donation of funds, goods, services,or technology to relieve human suffering, such as food, clothing or medicine, may be made to or for the benefit of a specially designated terrorist. For purposes of this part, a contribution or donation is made to or for the benefit of a specially designated terrorist if made to or in the name of a specially designated terrorist; if made to or in the name of an entity or individual acting for or on behalf of, or owned or controlled by, a specially designated terrorist; or if made in an attempt to violate, to evade or to avoid the bar on the provision of contributions or donations to specially designated terrorists.

(b) Individuals and organizations who donate or contribute funds, goods, services or technology without knowledge or reason to know that the donation or contribution is destined to or for the benefit of a specially designated terrorist shall not be subject to penalties for such donation or contribution.

§ 595.409 Palestinian Authority.

Following the January 2006 Palestinian elections, Hamas, a designated terrorist entity whose property and interests in property are blocked pursuant to §§ 595.201 and 595.204, has been determined to have a property interest in the transactions of the Palestinian Authority. Accordingly, pursuant to §§ 595.201 and 595.204, U.S. persons are prohibited from engaging in transactions with the Palestinian Authority unless authorized. Certain transactions with the Palestinian Authority may be authorized by license, see subpart E of this part.

[71 FR 27201, May 10, 2006]

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 595.500 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53660, Sept. 11, 2003]

§ 595.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 595.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 595.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

NOTE TO § 595.503: Please refer to § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers.

[61 FR 3806, Feb. 2, 1996, as amended at 62 FR 45111, Aug. 25, 1997]

§ 595.504 Investment and reinvestment of certain funds.

(a) U.S. financial institutions are hereby authorized and directed to invest and reinvest assets held in blocked accounts in the name of a specially designated terrorist, subject to the following conditions:

(1) The assets representing such investments and reinvestments are credited to a blocked account or sub-account which is in the name of the specially designated terrorist and which is located in the United States or within the possession or control of a U.S. person; and

(2) The proceeds of such investments and reinvestments are not credited to a blocked account or sub-account under any name or designation which differs from the name or designation of the specific blocked account or sub-account in which such funds or securities were held; and

(3) No immediate financial or economic benefit or access accrues (e.g., through pledging or other use) to the specially designated terrorist.

(b)(1) U.S. persons seeking to avail themselves of this authorization must register with the Office of Foreign Assets Control, Blocked Assets Section, before undertaking transactions authorized under this section.

(2) Transactions conducted pursuant to this section must be reported to the Office of Foreign Assets Control, Blocked Assets Division, in a report filed no later than 10 business days following the last business day of the month in which the transactions occurred.

§ 595.505 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charge* shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationary and supplies, check books, and other similar items.

§ 595.506 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 595.201(a) is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed or otherwise authorized pursuant to this part:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling are not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons;

(5) Representation of persons, wherever located, detained within the jurisdiction of the United States or by the United States government, with respect to either such detention or any charges made against such persons, including, but not limited to, the conduct of military commission prosecutions and the initiation and conduct of federal court proceedings; and

(6) Provision of legal services in any other context in which prevailing U.S.

law requires access to legal counsel at public expense.

(b) The provision of legal services not otherwise authorized by paragraph (a) of this section to or on behalf of persons whose property and interests in property are blocked pursuant to § 595.201(a) in connection with the initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

(c) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 595.201(a), not otherwise authorized in this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 595.201(a) is prohibited except to the extent otherwise provided by law or unless specifically licensed in accordance with § 595.202(e).

[73 FR 78632, Dec. 23, 2008, as amended at 75 FR 75907, Dec. 7, 2010]

§ 595.507 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services to a specially designated terrorist located in the United States is authorized, provided that any payment for such services requires prior authorization by specific license.

§ 595.508 Official activities of certain international organizations; U.S. person employees of certain governments.

(a) Effective April 12, 2006, all transactions and activities with the Palestinian Authority otherwise prohibited under this part that are for the conduct of the official business of the United Nations are authorized, provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) Effective April 12, 2006, U.S. persons who are employees of the governments of states bordering the West Bank or Gaza are authorized to engage in all transactions and activities outside of the United States with the Palestinian Authority that are otherwise prohibited under this part in support of the U.S. persons' official duties, provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(c) For purposes of this section only, the term ''United Nations'' means its principal organs, including funds, bodies, commissions, agencies, departments and other entities of the Security Council, General Assembly, Economic and Social Council and Secretariat, specifically including, among others, the World Bank, the International Monetary Fund, the World Food Programme, and the World Health Organization.

[71 FR 27201, May 10, 2006]

§ 595.509 Travel, employment, residence and maintenance transactions with the Palestinian Authority.

Effective April 12, 2006, U.S. persons are authorized to engage in all transactions with the Palestinian Authority otherwise prohibited under this part that are ordinarily incident to their travel to or from, or employment, residence or personal maintenance within, the jurisdiction of the Palestinian Authority, including, but not limited to, receipt of salaries, payment of living expenses and acquisition of goods or services for personal use. Nothing in this license authorizes any debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

[71 FR 27201, May 10, 2006]

§ 595.510 Payment of taxes and incidental fees to the Palestinian Authority.

Effective April 12, 2006, U.S. persons are authorized to pay taxes or fees to, and purchase or receive permits or public utility services from, the Palestinian Authority where such transactions are necessary and ordinarily incident to such persons' day-to-day operations. Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

[71 FR 27201, May 10, 2006]

§ 595.511 Transactions with entities under the control of the Palestinian President and certain other entities.

(a) Effective April 12, 2006, U.S. persons are authorized to engage in all transactions otherwise prohibited under this part with the following entities and individuals:

(1) The Palestinian Authority Presidency, including only the Office of the President, Presidential Security, General Intelligence Apparatus, Governors and Governorate staff, the Attorney General's Office, the Palestine Investment Fund (PIF), the Border Crossings Administration, and the Palestine Broadcasting Corporation (including the Voice of Palestine, Wafa News Agency, and the General Public Information Agency/State Information Services);

(2) The Palestinian Judiciary, including the Higher Judicial Council;

(3) Members of the Palestinian Legislative Council (PLC) who were not elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT); and

(4) The following independent agencies: The Central Elections Commission; the Independent Citizens Rights Commission; the General Audit Authority/External Audit Agency; and the Palestinian Monetary Authority.

(b) Effective April 12, 2006, U.S. financial institutions are authorized to reject transactions with members of the Palestinian Legislative Council (PLC) who were elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT), provided that any such individuals are not named on OFAC's list of Specially Designated Nationals and Blocked Persons.

(c) Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

[71 FR 27201, May 10, 2006]

§ 595.512 Concluding activities with the Palestinian Authority.

Effective April 12, 2006, all transactions and activities with the Palestinian Authority otherwise prohibited under this part are authorized through May 12, 2006, provided that they are necessary to conclude ongoing contracts or programs with the Palestinian Authority, and further provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

[71 FR 27201, May 10, 2006]

§ 595.513 In-kind donations of medicine, medical devices, and medical services.

(a) Effective July 6, 2006, nongovernmental organizations that are U.S. persons are authorized to provide in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For the purposes of this section only, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), including medical supplies, but does not

include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1.

NOTE TO PARAGRAPH (b): Nongovernmental organizations that are interested in providing items listed on the Commerce Control List to the Palestinian Authority Ministry of Health must apply for a specific license from the Office of Foreign Assets Control.

[71 FR 58744, Oct. 5, 2006]

§ 595.514 Transactions with the Palestinian Authority authorized.

(a) As of June 20, 2007, U.S. persons are authorized to engage in all transactions otherwise prohibited under this part with the Palestinian Authority.

(b) For purposes of this section only, the term *Palestinian Authority* means the Palestinian Authority government of Prime Minister Salam Fayyad and President Mahmoud Abbas, including all branches, ministries, offices, and agencies (independent or otherwise) thereof.

[72 FR 61518, Oct. 31, 2007]

§ 595.515 Payments from funds originating outside the United States and the formation of legal defense funds authorized.

(a) *Payments from funds originating outside the United States.* Effective December 7, 2010, receipts of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 595.506(a) are authorized from funds originating outside the United States, provided that:

(1) Prior to receiving payment for legal services authorized pursuant to § 595.506(a) rendered to persons whose property and interests in property are blocked pursuant to § 595.201(a), the U.S. person that is an attorney, law firm, or legal services organization provides to the Office of Foreign Assets Control a copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity. The copy of a letter of engagement or a letter of intent to engage, accompanied by correspondence referencing this paragraph (a), is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(2) The funds received by U.S. persons as payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 595.506(a) must not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 595.506(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order;

NOTE TO PARAGRAPH (a)(2) OF § 595.515: This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 595.506(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 595.201(a) or any other part of this chapter holds an interest.

(3) *Reports.* (i) U.S. persons who receive payments in connection with legal services authorized pursuant to § 595.506(a) must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the payments were received providing information on the funds received. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) If applicable:

(*1*) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(*2*) A general description of the services provided; and

(*3*) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (a), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (a)(3) OF § 595.515: U.S. persons who receive payments in connection with legal services authorized pursuant to § 595.506(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 595.506(a).

(4) Nothing in this paragraph (a) authorizes the receipt of payment of professional fees or reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 595.506(b).

NOTE 1 TO PARAGRAPH (a) OF § 595.515: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph § 595.515(a) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (a) OF § 595.515: Nothing in this paragraph authorizes the transfer of any blocked property, the debiting of any blocked account, the entry of any judgment or order that effects a transfer of blocked property, or the execution of any judgment against property blocked pursuant to any Executive order or this Chapter. U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from the Office of Foreign Assets Control to authorize the release of a limited amount of blocked funds for the payment of legal fees where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings,* which is available at: *http://www.treas.gov/resource-center/sanctions/Documents/legal_fee_guide.pdf.*

(b) *Legal defense funds.* Effective December 7, 2010, U.S. persons that are attorneys, law firms, or legal services organizations are authorized to form legal defense funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services authorized pursuant to § 595.506(a) may be debited provided that:

(1) The legal defense fund must be held in a savings or checking account at a financial institution located in the United States;

(2) Prior to debiting the legal defense fund, the U.S. person responsible for establishing the legal defense fund must submit the following information to the Office of Foreign Assets Control: a copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity; the name of the individual or entity responsible for establishing the legal defense fund; the name of the financial institution at which the account for the legal defense fund will be held; a point of contact at the financial institution holding the account for the legal defense fund; and the account name and account number for the legal defense fund. The foregoing information must be accompanied by correspondence referencing this paragraph § 595.515(b) and is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(3) The legal defense fund may not receive funds from a person whose property and interests in property are blocked pursuant to § 595.201(a) or any other part of this chapter;

(4) The U.S. person responsible for establishing the legal defense fund must notify the financial institution at which the account for the legal defense fund is held that the account may only be debited to make payments of professional fees and reimburse expenses incurred in connection with the provision of legal services authorized pursuant to § 595.506(a);

(5) *Reports.* (i) U.S. persons responsible for establishing legal defense

funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services authorized pursuant to § 595.506(a) may be debited must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the funds were deposited with or debited from the account of the legal defense fund providing information on the funds received by the legal defense fund and debits made to the legal defense fund during the reporting period. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) Any individual or entity to whom any payments were made, including, if applicable:

(*1*) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(*2*) A general description of the services provided; and

(*3*) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (b), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (b)(5) OF § 595.515: U.S. persons who receive payments in connection with legal services authorized pursuant to § 595.506(a) do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 595.506(a).

(6) Nothing in this paragraph (b) authorizes the formation or debiting of legal defense funds in connection with the provision of legal services authorized pursuant to § 595.506(b).

NOTE 1 TO PARAGRAPH (b) OF § 595.515: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph § 595.515(b) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (b) OF § 595.515: Any funds remaining in a legal defense fund account after all payments of professional fees and reimbursement of incurred expenses authorized pursuant to this paragraph have been made or upon termination of the legal services for which payment is authorized pursuant to this paragraph are property in which the person to or on whose behalf the legal services were rendered has an interest and is subject to the prohibitions of this part. Persons in the possession or control of such remaining funds may apply for the unblocking of the funds by following the procedures set forth at § 501.801 of this chapter.

[75 FR 75907, Dec. 7, 2010]

Subpart F—Reports

§ 595.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45111, Aug. 25, 1997]

Subpart G—Penalties

§ 595.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act.

(1) A civil penalty not to exceed the amount set forth in Section 206 of the Act may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under the Act.

NOTE TO PARAGRAPH (a)(1) OF § 595.701: As of June 10, 2008, the Act provides for a maximum civil penalty not to exceed the greater of $250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition shall, upon conviction, be fined not more than $1,000,000, or if a natural person, may be imprisoned for not more than 20 years, or both.

(b) *Adjustments to penalty amounts.* (1) The civil penalties provided in the Act are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in the Act are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statement or representation or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[61 FR 3806, Feb. 2, 1996, as amended at 61 FR 54940, Oct. 23, 1996; 62 FR 45111, Aug. 25, 1997; 71 FR 29253, May 22, 2006; 73 FR 32656, June 10, 2008]

§ 595.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, he shall issue to the person concerned a notice of his intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to make presentation.* The prepenalty notice also shall inform the person of his right to make a written presentation within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 595.703 Presentation responding to prepenalty notice.

(a) *Time within which to respond.* The named person shall have 30 days from the date of mailing of the prepenalty notice to make a written presentation to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written presentation.* The written presentation need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the person believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

§ 595.704 Penalty notice.

(a) *No violation.* If, after considering any presentations made in response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the person named in the prepenalty notice, he promptly shall notify the person in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any presentations made in response to the prepenalty notice, the Director of the Office of Foreign Assets Control determines that there was a violation by the person named in the prepenalty notice,

he promptly shall issue a written notice of the imposition of the monetary penalty to that person.

§ 595.705 Administrative collection; referral to United States Department of Justice.

In the event that the person named does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 595.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 45111, Aug. 25, 1997, as amended at 68 FR 53660, Sept. 11, 2003]

§ 595.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to Executive Order 12947 or any further Executive orders relating to the national emergency declared in Executive Order 12947 may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[61 FR 3806, Feb. 2, 1996. Redesignated at 62 FR 45111, Aug. 25, 1997]

Subpart I—Paperwork Reduction Act

§ 595.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45111, Aug. 25, 1997]

PART 596—TERRORISM LIST GOVERNMENTS SANCTIONS REGULATIONS

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596.901 Paperwork Reduction Act notice.

AUTHORITY: 18 U.S.C. 2332d; 31 U.S.C. 321(b).

SOURCE: 61 FR 43463, Aug. 23, 1996, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 596.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. Except as otherwise authorized in this part, no license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. Except as otherwise authorized in this part, no license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. See § 596.503.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

[61 FR 43463, Aug. 23, 1996, as amended at 62 FR 45112, Aug. 25, 1997]

Subpart B—Prohibitions

§ 596.201 Prohibited financial transactions.

(a) Except as authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, no United States person, on or after the effective date, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, shall engage in a financial transaction with the government of that country.

(b) Countries designated under section 6(j) of the Export Administration Act as of May 18, 2009 are listed in the following schedule.

SCHEDULE

Cuba.
Iran.
Sudan.
Syria.

[74 FR 23112, May 18, 2009]

§ 596.202 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 596.301 Donation.

The term *donation* means a transfer made in the form of a gift or charitable contribution.

§ 596.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. EDT, August 22, 1996.

§ 596.303 Financial institution.

The term *financial institution* shall have the definition given that term in 31 U.S.C. 5312(a)(2) or the regulations promulgated thereunder, as from time to time amended.

NOTE: The breadth of the definition precludes its reproduction in this section.

§ 596.304 Financial transaction.

The term *financial transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(4), as from time to time amended. As of the effective date, this term includes:

(a) A transaction which in any way or degree affects interstate or foreign commerce;

(1) Involving the movement of funds by wire or other means; or

(2) Involving one or more monetary instruments; or

(3) Involving the transfer of title to any real property, vehicle, vessel, or aircraft; or

(b) A transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree.

§ 596.305 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 596.306 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 596.307 Monetary instruments.

The term *monetary instruments* shall have the meaning set forth in 18 U.S.C. 1956(c)(5), as from time to time amended. As of the effective date, this term includes coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery.

§ 596.308 Person; entity.

(a) The term *person* means an individual or entity.

(b) The term *entity* means a partnership, association, corporation, or other organization.

§ 596.309 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 596.310 Terrorism List Government.

The term *Terrorism List Government* includes:

(a) The government of a country designated under section 6(j) of the Export Administration Act, as well as any political subdivision, agency, or instrumentality thereof, including the central bank of such a country;

(b) Any entity owned or controlled by such a government.

§ 596.311 Transaction.

The term *transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(3), as from time to time amended. As of the effective date, this term includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 596.312 United States.

The term *United States* means the United States, including its territories and possessions.

§ 596.313 United States person.

The term *United States person* means any United States citizen or national, permanent resident alien, juridical person organized under the laws of the

United States, or any person in the United States.

Subpart D—Interpretations

§ 596.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 596.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not, unless otherwise specifically provided, affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 596.403 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized.

§ 596.404 Financial transactions transferred through a bank of a Terrorism List Government.

For the purposes of this part only, a financial transaction not originated by a Terrorism List Government, but transferred to the United States through a bank owned or controlled by a Terrorism List Government, shall not be deemed a financial transaction with the government of a country supporting international terrorism pursuant to § 596.201.

Subpart E—Licenses, Authorizations and Statements of Licensing Policy

§ 596.500 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53660, Sept. 11, 2003]

§ 596.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of the license, unless specifically provided in such license or other authorization.

(b) No regulation, ruling, instruction, or license authorizes a transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to a part in 31 CFR chapter V. No regulation, ruling, instruction, or license referring to this part authorizes any transactions prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 596.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action is binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 596.503 Financial transactions with a Terrorism List Government otherwise subject to 31 CFR chapter V.

United States persons are authorized to engage in financial transactions with a Terrorism List Government that is subject to regulations contained in parts of 31 CFR chapter V other than this part to the extent and subject to the conditions stated in such other parts, or in any regulations, orders, directives, rulings, instructions, or licenses issued pursuant thereto.

§ 596.504 Certain financial transactions with Terrorism List Governments authorized.

(a) United States persons are authorized to engage in all financial transactions with a Terrorism List Government that is not otherwise subject to 31 CFR chapter V, except for a transfer from a Terrorism List Government:

(1) Constituting a donation to a United States person; or

(2) With respect to which the United States person knows (including knowledge based on advice from an agent of the United States Government), or has reasonable cause to believe, that the transfer poses a risk of furthering terrorist acts in the United States.

(b) Nothing in this section authorizes the return of a transfer prohibited by paragraph (a)(2) of this section.

§ 596.505 Certain transactions related to stipends and scholarships authorized.

(a) United States persons are authorized to engage in all financial transactions with respect to stipends and scholarships covering tuition and related educational, living and travel expenses provided by the Government of Syria to Syrian nationals or the Government of Sudan to Sudanese nationals who are enrolled as students in an accredited educational institution in the United States. Representations made by an accredited educational institution concerning the status of a student maybe relied upon in determining the applicability of this section.

(b) Nothing in this section authorizes a transaction prohibited by § 596.504(a)(2).

[61 FR 67944, Dec. 26, 1996]

Subpart F—Reports

§ 596.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter.

[62 FR 45112, Aug. 25, 1997]

Subpart G—Penalties

§ 596.701 Penalties.

Attention is directed to 18 U.S.C. 2332d, as added by Public Law 104–132, section 321, which provides that, except as provided in regulations issued by the Secretary of the Treasury, in consultation with the Secretary of State, a United States person, knowing or having reasonable cause to know that a country is designated under section 6(j) of the Export Administration Act, 50 U.S.C. App. 2405, as a country supporting international terrorism, engages in a financial transaction with the government of that country, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

Subpart H—Procedures

§ 596.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C.

552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 45112, Aug. 25, 1997, as amended at 68 FR 53660, Sept. 11, 2003]

§ 596.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to section 321 of the Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. 104–132, 110 Stat. 1214, 1254 (18 U.S.C. 2332d), may be taken by the Director, Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[61 FR 43463, Aug. 23, 1996. Redesignated at 62 FR 45112, Aug. 25, 1997]

Subpart I—Paperwork Reduction Act

§ 596.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[62 FR 45112, Aug. 25, 1997]

PART 597—FOREIGN TERRORIST ORGANIZATIONS SANCTIONS REGULATIONS

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597.101 Relation of this part to other laws and regulations.

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597.309 Foreign terrorist organization.
597.310 Funds.
597.311 General license.
597.312 Interest.
597.313 License.
597.314 Person.
597.315 Specific license.
597.316 Transaction.
597.317 Transfer.
597.318 United States.
597.319 U.S. financial institution.

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597.601 Records and reports.

Subpart G—Penalties

597.701 Penalties.
597.702 Prepenalty notice.
597.703 Response to prepenalty notice.
597.704 Penalty notice.
597.705 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

597.801 Procedures.
597.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

597.901 Paperwork Reduction Act notice.

AUTHORITY: 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–132, 110 Stat. 1214, 1248–53 (8 U.S.C. 1189, 18 U.S.C. 2339B).

SOURCE: 62 FR 52495, Oct. 8, 1997, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 597.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Differing statutory authority and foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations. This part does not implement, construe, or limit the scope of any other part of this chapter, including (but not limited to) the Terrorism Sanctions Regulations, part 595 of this chapter, and does not excuse any person from complying with any other part of this chapter, including (but not limited to) part 595 of this chapter.

(c) This part does not implement, construe, or limit the scope of any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 2339A, and does not excuse any person from complying with any criminal statute, including (but not limited to) 18 U.S.C. 2339B(a)(1) and 18 U.S.C. 2339A.

Subpart B—Prohibitions

§ 597.201 Prohibited transactions involving blocked assets or funds of foreign terrorist organizations or their agents.

(a) Upon notification to Congress of the Secretary of State's intent to designate an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), until the publication in the FEDERAL REGISTER as described in paragraph (c) of this section, any U.S. financial institution receiving notice from the Secretary of the Treasury by means of order, directive, instruction, regulation, ruling, license, or otherwise shall, except as otherwise provided in such notice, block all financial transactions involving any assets of such organization within the possession or control of such U.S. financial institution until further directive from the Secretary of the Treasury, Act of Congress, or order of court.

(b) Except as otherwise authorized by order, directive, instruction, regulation, ruling, license, or otherwise, from and after the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a), any U.S. financial institution that becomes aware that it has possession of or control over any funds in which the designated foreign terrorist organization or its agent has an interest shall:

(1) Retain possession of or maintain control over such funds; and

(2) Report to the Secretary of the Treasury the existence of such funds in

accordance with § 501.603 of this chapter.

(c) Publication in the FEDERAL REGISTER of the designation of an organization as a foreign terrorist organization pursuant to 8 U.S.C. 1189(a) shall be deemed to constitute a further directive from the Secretary of the Treasury for purposes of paragraph (a) of this section, and shall require the actions contained in paragraph (b) of this section.

(d) The requirements of paragraph (b) of this section shall remain in effect until the effective date of an administrative, judicial, or legislative revocation of the designation of an organization as a foreign terrorist organization, or until the designation lapses, pursuant to 8 U.S.C. 1189.

(e) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter. Requests for the unblocking of funds pursuant to § 501.806 must be submitted to the attention of the Compliance Programs Division.

§ 597.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date which is in violation of § 597.201 or any other provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has or has had an interest since such date, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such funds or assets.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any funds or assets held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, or has had an interest since such date, unless the financial institution with whom such funds or assets are held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of funds or assets which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any financial institution with whom such funds or assets were held or maintained (and as to such financial institution only) in cases in which such financial institution is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the financial institution with whom such funds or assets were held or maintained;

(2) The financial institution with which such funds or assets were held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such institution, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) The financial institution with which such funds or assets were held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating

to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder; or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d): The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Except for exercises of judicial authority pursuant to 8 U.S.C. 1189(b), unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any funds or assets which, on or since the effective date, were in the possession or control of a U.S. financial institution and were held in the name of a foreign terrorist organization or its agent or in which there existed an interest of a foreign terrorist organization or its agent.

§ 597.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. financial institution holding funds subject to § 597.201(b) shall hold or place such funds in a blocked interest-bearing account which is in the name of the foreign terrorist organization or its agent and which is located in the United States.

(b)(1) For purposes of this section, the term *interest-bearing account* means a blocked account:

(i) in a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates which are commercially reasonable for the amount of funds in the account or certificate of deposit; or

(ii) with a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury Bills.

(2) Funds held or placed in a blocked interest-bearing account pursuant to this paragraph may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same and must clearly indicate the foreign terrorist organization or agent having an interest in the accounts.

(c) Blocked funds held as of the effective date in the form of stocks, bonds, debentures, letters of credit, or instruments which cannot be negotiated for the purpose of placing the funds in a blocked interest-bearing account pursuant to paragraph (a) may continue to be held in the form of the existing security or instrument until liquidation or maturity, provided that any dividends, interest income, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with the requirements of this section.

(d) Funds subject to this section may not be held, invested, or reinvested in a manner in which an immediate financial or economic benefit or access accrues to the foreign terrorist organization or its agent.

§ 597.204 Evasions; attempts; conspiracies.

Any transaction for the purpose of, or which has the effect of, evading or avoiding, or which facilitates the evasion or avoidance of, any of the prohibitions set forth in this part, is hereby prohibited. Any attempt to violate the prohibitions set forth in this part is hereby prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is hereby prohibited.

Subpart C—General Definitions

§ 597.301 Agent.

(a) The term *agent* means:

(1) Any person owned or controlled by a foreign terrorist organization; or

(2) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of a foreign terrorist organization.

(b) The term *agent* includes, but is not limited to, any person determined by the Director of the Office of Foreign Assets Control to be an agent as defined in paragraph (a) of this section.

NOTE TO § 597.301: The names of persons designated as foreign terrorist organizations or determined to fall within this definition, whose property and interests in property therefore are blocked pursuant to this part, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[FTO].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Section 501.807 of this chapter sets forth the procedures to be followed by a person seeking administrative reconsideration of a designation as an agent, or who wishes to assert that the circumstances resulting in the designation as an agent are no longer applicable.

[62 FR 52495, Oct. 8, 1997, as amended at 76 FR 38544, June 30, 2011]

§ 597.302 Assets.

The term *assets* includes, but is not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§ 597.303 Blocked account; blocked funds.

The terms *blocked account* and *blocked funds* shall mean any account or funds subject to the prohibitions in § 597.201 held in the name of a foreign terrorist organization or its agent or in which a foreign terrorist organization or its agent has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 597.304 Designation.

The term *designation* includes both the designation and redesignation of a foreign terrorist organization pursuant to 8 U.S.C. 1189.

§ 597.305 Effective date.

Except as that term is used in § 597.201(d), the term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part which is October 6, 1997, or, in the case of foreign terrorist organizations designated after that date and their agents, the earlier of the date on which a financial institution receives actual or constructive notice of such designation or of the Secretary of Treasury's exercise of his authority to block financial transactions pursuant to 8 U.S.C. 1189(a)(2)(C) and § 597.201(a).

§ 597.306 Entity.

The term *entity* includes a partnership, association, corporation, or other organization, group, or subgroup.

§ 597.307 Financial institution.

The term *financial institution* shall have the definition given that term in 31 U.S.C. 5312(a)(2) as from time to time

amended, notwithstanding the definition of that term in 31 CFR part 103.

NOTE: The breadth of the statutory definition of *financial institution* precludes its reproduction in this section. Among the types of businesses covered are insured banks (as defined in 12 U.S.C. 1813(h)), commercial banks or trust companies, private bankers, agencies or branches of a foreign bank in the United States, insured institutions (as defined in 12 U.S.C. 1724(a)), thrift institutions, brokers or dealers registered with the Securities and Exchange Commission under 15 U.S.C. 78a et seq., securities or commodities brokers and dealers, investment bankers or investment companies, currency exchanges, issuers, redeemers, or cashiers of traveler's checks, checks, money orders, or similar instruments, credit card system operators, insurance companies, dealers in precious metals, stones or jewels, pawnbrokers, loan or finance companies, travel agencies, licensed senders of money, telegraph companies, businesses engaged in vehicle sales, including automobile, airplane or boat sales, persons involved in real estate closings and settlements, the United States Postal Service, a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than $1,000,000 as further described in 31 U.S.C. 5312(a)(2), or agencies of the United States Government or of a State or local government carrying out a duty or power of any of the businesses described in 31 U.S.C. 5312(a)(2).

§ 597.308 Financial transaction.

The term *financial transaction* means a transactioninvolving the transfer or movement of funds, whether by wire or other means.

§ 597.309 Foreign terrorist organization.

The term *foreign terrorist organization* means an organization designated or redesignated as a foreign terrorist organization, or with respect to which the Secretary of State has notified Congress of the intention to designate as a foreign terrorist organization, under 8 U.S.C. 1189(a).

§ 597.310 Funds.

The term *funds* includes coin or currency of the United States or any other country, traveler's checks, personal checks, bank checks, money orders, stocks, bonds, debentures, drafts, letters of credit, any other negotiable instrument, and any electronic representation of any of the foregoing. An electronic representation of any of the foregoing includes any form of digital or electronic cash, coin, or currency in use currently or placed in use in the future.

§ 597.311 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 597.312 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to funds or assets (e.g., ''an interest in funds'') means an interest of any nature whatsoever, direct or indirect.

§ 597.313 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 597.314 Person.

The term *person* means an individual or entity.

§ 597.315 Specific license.

The term *specific license* means any license or authorization not set forth in this part but issued pursuant to this part.

§ 597.316 Transaction.

The term *transaction* shall have the meaning set forth in 18 U.S.C. 1956(c)(3), as from time to time amended. As of the effective date, this term includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition of any asset, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected.

§ 597.317 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and

whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 597.318 United States.

The term *United States* means the United States, its territories, states, commonwealths, districts, and possessions, and all areas under the jurisdiction or authority thereof.

§ 597.319 U.S. financial institution.

The term *U.S. financial institution* means:

(a) Any financial institution organized under the laws of the United States, including such financial institution's foreign branches;

(b) Any financial institution operating or doing business in the United States; or

(c) Those branches, offices and agencies of foreign financial institutions which are located in the United States, but not such foreign financial institutions' other foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 597.401 Reference to amended sections.

Except as otherwise specified, reference to any section of this part or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part shall be deemed to refer to the same as currently amended.

§ 597.402 Effect of amendment.

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control shall not, unless otherwise specifically provided, be deemed to affect any act done or omitted to be done, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license shall continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 597.403 Termination and acquisition of an interest in blocked funds.

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of funds (including any interest in funds) away from a foreign terrorist organization or its agent, such funds shall no longer be deemed to be funds in which the foreign terrorist organization or its agent has or has had an interest, or which are held in the name of a foreign terrorist organization or its agent, unless there exists in the funds another interest of a foreign terrorist organization or its agent, the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if funds (including any interest in funds) are or at any time since the effective date have been held by a foreign terrorist organization or its agent, or at any time thereafter are transferred or attempted to be transferred to a foreign

terrorist organization or its agent, including by the making of any contribution to or for the benefit of a foreign terrorist organization or its agent, such funds shall be deemed to be funds in which there exists an interest of the foreign terrorist organization or its agent.

§ 597.404 Setoffs prohibited.

A setoff against blocked funds (including a blocked account) by a U.S. financial institution is a prohibited transaction under § 597.201 if effected after the effective date.

§ 597.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except a transaction by an unlicensed, foreign terrorist organization or its agent or involving a debit to a blocked account or a transfer of blocked funds not explicitly authorized within the terms of the license.

§ 597.406 Offshore transactions.

The prohibitions contained in § 597.201 apply to transactions by U.S. financial institutions in locations outside the United States with respect to funds or assets which the U.S. financial institution knows, or becomes aware, are held in the name of a foreign terrorist organization or its agent, or in which the U.S. financial institution knows, or becomes aware that, a foreign terrorist organization or its agent has or has had an interest since the effective date.

§ 597.407 Palestinian Authority.

Following the January 2006 Palestinian elections, Hamas, a designated terrorist entity whose property and interests in property are blocked pursuant to § 597.201, has been determined to have a property interest in the transactions of the Palestinian Authority. Accordingly, pursuant to § 597.201, U.S. persons are prohibited from engaging in transactions with the Palestinian Authority unless authorized. Certain transactions with the Palestinian Authority may be authorized by license, see subpart E of this part.

[71 FR 27202, May 10, 2006]

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 597.500 Licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[68 FR 53660, Sept. 11, 2003]

§ 597.501 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control, shall be deemed to authorize or validate any transaction effected prior to the issuance of the license, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 597.502 Exclusion from licenses and authorizations.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license, or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons, property, transactions, or classes thereof. Such action shall be binding upon all persons receiving actual or constructive notice of such exclusion or restriction.

§ 597.503 Payments and transfers to blocked accounts in U.S. financial institutions.

(a) Any payment of funds or transfer of credit or other financial or economic resources or assets by a financial institution into a blocked account in a U.S. financial institution is authorized, provided that a transfer from a blocked account pursuant to this authorization may only be made to another blocked account held in the same name on the books of the same U.S. financial institution.

(b) This section does not authorize any transfer from a blocked account within the United States to an account held outside the United States.

NOTE TO § 597.503: Please refer to §§ 501.603 and 597.601 of this chapter for mandatory reporting requirements regarding financial transfers.

§ 597.504 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term normal service charge shall include charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photostats, credit reports, transcripts of statements, registered mail insurance, stationery and supplies, check books, and other similar items.

§ 597.505 Payment for certain legal services.

Except as otherwise authorized, specific licenses may be issued, on a case-by-case basis, authorizing receipt of payment of professional fees and reimbursement of incurred expenses through a U.S. financial institution for the following legal services by U.S. persons:

(a) Provision of legal advice and counseling to a foreign terrorist organization or an agent thereof on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of any of the prohibitions of this part;

(b) Representation of a foreign terrorist organization or an agent thereof when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(c) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings on behalf of a foreign terrorist organization or an agent thereof;

(d) Representation of a foreign terrorist organization or an agent thereof before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against a foreign terrorist organization or an agent thereof;

(e) Representation of an agent of a foreign terrorist organization, wherever located, detained within the jurisdiction of the United States or by the United States government, with respect to either such detention or any charges made against such agent, including, but not limited to, the conduct of military commission prosecutions and the initiation and conduct of federal court proceedings;

(f) Provision of legal services to a foreign terrorist organization or an agent thereof in any other context in which prevailing U.S. law requires access to legal counsel at public expense; and

(g) Representation of a foreign terrorist organization seeking judicial review of a designation before the United States Court of Appeals for the District of Columbia Circuit pursuant to 8 U.S.C. 1189(b)(1).

NOTE TO § 597.505: *See* § 597.513 of this part for authorized mechanisms for payment through a U.S. financial institution of professional fees and reimbursement of incurred expenses for legal services specified in this section provided by a U.S. person to or on behalf of a foreign terrorist organization or an agent thereof.

[62 FR 52495, Oct. 8, 1997, as amended at 73 FR 78633, Dec. 23, 2008; 75 FR 75909, Dec. 7, 2010]

§ 597.506 Official activities of certain international organizations; U.S. person employees of certain governments.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to engage in all financial transactions with the Palestinian Authority otherwise prohibited by this part that are for the conduct of the official business of the United Nations, provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For purposes of this section only, the term ''United Nations'' means its principal organs, including funds, bodies, commissions, agencies, departments and other entities of the Security Council, General Assembly, Economic and Social Council and Secretariat, specifically including, among others, the World Bank, the International Monetary Fund, the World Food Programme, and the World Health Organization.

(c) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.507 Travel, employment, residence and maintenance transactions with the Palestinian Authority.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to engage in all transactions that are ordinarily incident to U.S. persons' travel to or from, or employment, residence or personal maintenance within, the jurisdiction of the Palestinian Authority, including, but not limited to, receipt of salaries, payment of living expenses and acquisition of goods or services for personal use. Nothing in this license authorizes any debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.508 Payment of taxes and incidental fees to the Palestinian Authority.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the following activities by U.S. persons: the payment of taxes or fees to, or the purchase or receipt of permits or public utility services from, the Palestinian Authority where such transactions are necessary and ordinarily incident to such persons' day-to-day operations. Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.509 Transactions with entities under the control of the Palestinian President and certain other entities.

(a) Effective April 12, 2006, U.S. financial institutions are authorized to engage in all transactions otherwise prohibited under this part with the following entities and individuals:

(1) The Palestinian Authority Presidency, including only the Office of the President, Presidential Security, General Intelligence Apparatus, Governors and Governorate staff, the Attorney General's Office, the Palestine Investment Fund (PIF), the Border Crossings Administration, and the Palestine

Broadcasting Corporation (including the Voice of Palestine, Wafa News Agency, and the General Public Information Agency/State Information Services);

(2) The Palestinian Judiciary, including the Higher Judicial Council;

(3) Members of the Palestinian Legislative Council (PLC) who were not elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT); and

(4) The following independent agencies: The Central Elections Commission; the Independent Citizens Rights Commission; the General Audit Authority/External Audit Agency; and the Palestinian Monetary Authority.

(b) Effective April 12, 2006, U.S. financial institutions are authorized to reject transactions with members of the Palestinian Legislative Council (PLC) who were elected to the PLC on the party slate of Hamas or any other Foreign Terrorist Organization (FTO), Specially Designated Terrorist (SDT), or Specially Designated Global Terrorist (SDGT), provided that any such individuals are not named on OFAC's list of Specially Designated Nationals and Blocked Persons.

(c) Nothing in this license authorizes a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(d) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section. The retention provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (b) of this section.

[71 FR 27202, May 10, 2006]

§ 597.510 Concluding activities with the Palestinian Authority.

(a) Effective April 12, 2006, all transactions and activities with the Palestinian Authority otherwise prohibited under this part are authorized through May 12, 2006, provided that they are necessary to conclude ongoing contracts or programs with the Palestinian Authority, and further provided that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) The retention and reporting provisions of § 597.201 shall not apply with respect to transactions authorized by paragraph (a) of this section.

[71 FR 27202, May 10, 2006]

§ 597.511 In-kind donations of medicine, medical devices, and medical services.

(a) Effective July 6, 2006, U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the provision by nongovernmental organizations that are U.S. persons of in-kind donations of medicine, medical devices, and medical services to the Palestinian Authority Ministry of Health, provided that such donations are strictly for distribution in the West Bank or Gaza and not intended for resale, and provided further that no payment pursuant to this license may involve a debit to an account of the Palestinian Authority on the books of a U.S. financial institution or to any account blocked pursuant to this part.

(b) For the purposes of this section only, the term medical device has the meaning given the term ''device'' in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321), including medical supplies, but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1.

(c) U.S. financial institutions are authorized to conduct all transactions ordinarily incident to the provision by nongovernmental organizations that are U.S. persons of in-kind donations of medical devices listed on the Commerce Control List to the Palestinian Authority Ministry of Health, provided that

(1) Such donation is licensed by OFAC; and

(2) Such donation is authorized under or pursuant to the Export Administration Regulations.

(d) The retention and reporting provisions of § 597.201 shall not apply with

respect to transactions authorized by paragraphs (a) and (c) of this section.

[71 FR 58744, Oct. 5, 2006]

§ 597.512 Transactions with the Palestinian Authority authorized.

(a) As of June 20, 2007, U.S. persons are authorized to engage in all transactions otherwise prohibited under this part with the Palestinian Authority.

(b) For purposes of this section only, the term *Palestinian Authority* means the Palestinian Authority government of Prime Minister Salam Fayyad and President Mahmoud Abbas, including all branches, ministries, offices, and agencies (independent or otherwise) thereof.

[72 FR 61518, Oct. 31, 2007]

§ 597.513 Payments from funds originating outside the United States and the formation of legal defense funds authorized.

(a) *Payments from funds originating outside the United States.* Effective December 7, 2010, receipts of payment through a U.S. financial institution of professional fees and reimbursement of incurred expenses for the provision of legal services specified in § 597.505 are authorized from funds originating outside the United States, provided that:

(1) Prior to receiving payment through a U.S. financial institution for legal services specified in § 597.505 rendered to a foreign terrorist organization or agent thereof, the U.S. person that is an attorney, law firm, or legal services organization provides to the Office of Foreign Assets Control a copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity. The copy of a letter of engagement or a letter of intent to engage, accompanied by correspondence referencing this paragraph § 597.513(a), is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(2) The funds received by U.S. persons through a U.S. financial institution as payment of professional fees and reimbursement of incurred expenses for the provision of legal services specified in § 597.505 must not originate from:

(i) A source within the United States;

(ii) Any source, wherever located, within the possession or control of a U.S. person; or

(iii) Any individual or entity, other than the person on whose behalf the legal services specified in § 597.505 are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order;

NOTE TO PARAGRAPH (a)(2) OF § 597.513: This paragraph authorizes the person on whose behalf the legal services specified in § 597.505 are to be provided to make payments for specified legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose assets and funds are subject to the prohibitions in § 597.201(a) or whose property and interests in property are blocked pursuant to any other part of this chapter holds an interest.

(3) *Reports.* (i) U.S. persons who receive payments in connection with legal services specified in § 597.505 must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the payments were received providing information on the funds received. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) If applicable:

(*1*) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with specified legal services, such as private investigators or expert witnesses;

(*2*) A general description of the services provided; and

(*3*) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (a), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the

Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (a)(3) OF §597.513: U.S. persons who receive payments in connection with legal services specified in §597.505 do not need to obtain specific authorization to make payments through a U.S. financial institution for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses.

(4) Nothing in this paragraph (a) authorizes the receipt of payment through a U.S. financial institution of professional fees or reimbursement of incurred expenses for the provision of legal services not specified in §597.505.

NOTE 1 TO PARAGRAPH (a) OF §597.513: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph (a) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (a) OF §597.513: Nothing in this paragraph authorizes the transfer of any blocked property, the debiting of any blocked account, the entry of any judgment or order that effects a transfer of blocked property, or the execution of any judgment against property blocked pursuant to any Executive order or this chapter. U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from the Office of Foreign Assets Control to authorize the release of a limited amount of blocked funds for the payment of legal fees where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings*, which is available at: *http://www.treas.gov/resource-center/sanctions/Documents/legal_fee_guide.pdf*.

(b) *Legal defense funds*. Effective December 7, 2010, U.S. persons that are attorneys, law firms, or legal services organizations are authorized to form legal defense funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services specified in §597.505 may be debited provided that:

(1) The legal defense fund must be held in a savings or checking account at a financial institution located in the United States;

(2) Prior to debiting the legal defense fund, the U.S. person responsible for establishing the legal defense fund must submit the following information to the Office of Foreign Assets Control: A copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity; the name of the individual or entity responsible for establishing the legal defense fund; the name of the financial institution at which the account for the legal defense fund will be held; a point of contact at the financial institution holding the account for the legal defense fund; and the account name and account number for the legal defense fund. The foregoing information must be accompanied by correspondence referencing this paragraph (b) and is to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220;

(3) The legal defense fund may not receive funds from a person whose assets and funds are subject to the prohibitions in §597.201(a) or whose property and interests in property are blocked pursuant to any other part of this chapter;

(4) The U.S. person responsible for establishing the legal defense fund must notify the financial institution at which the account for the legal defense fund is held that the account may only be debited to make payments of professional fees and reimburse expenses incurred in connection with the provision of legal services specified in §597.505;

(5) *Reports*. (i) U.S. persons responsible for establishing legal defense funds from which payments of professional fees and reimbursement for expenses incurred in connection with the provision of legal services specified in §597.505 may be debited must submit quarterly reports no later than 30 days following the end of the calendar quarter during which the funds were deposited with or debited from the account of the legal defense fund providing information on the funds received by the legal defense fund and debits made to

the legal defense fund during the reporting period. Such reports shall specify:

(A) The individual or entity from whom the funds originated and the amount of funds received; and

(B) Any individual or entity to whom any payments were made, including, if applicable:

(*1*) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with specified legal services, such as private investigators or expert witnesses;

(*2*) A general description of the services provided; and

(*3*) The amount of funds paid in connection with such services.

(ii) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect.

(iii) Reports, which must reference this paragraph (b), are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20220; and

NOTE TO PARAGRAPH (b)(5) OF § 597.513: U.S. persons who receive payments in connection with legal services specified in § 597.505 do not need to obtain specific authorization to make payments through a U.S. financial institution for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses.

(6) Nothing in this paragraph (b) authorizes the formation or debiting of legal defense funds in connection with the provision of legal services not specified in § 597.505.

NOTE 1 TO PARAGRAPH (b) OF § 597.513: Any payment authorized in or pursuant to this paragraph that is routed through the U.S. financial system should reference this paragraph (b) to avoid the blocking of the transfer.

NOTE 2 TO PARAGRAPH (b) OF § 597.513: Any funds remaining in a legal defense fund account after all payments of professional fees and reimbursement of incurred expenses authorized pursuant to this paragraph have been made or upon termination of the legal services for which payment is authorized pursuant to this paragraph are deemed to be funds of the foreign terrorist organization or agent thereof to or on whose behalf the legal services were rendered and subject to the prohibitions of this part. U.S. financial institutions in the possession or control of such remaining funds may apply for the unblocking of the funds by following the procedures set forth at § 501.801 of this chapter.

[75 FR 75909, Dec. 7, 2010]

Subpart F—Reports

§ 597.601 Records and reports.

For provisions relating to records and reports, see subpart C of part 501 of this chapter; provided, however, that all of the powers afforded the Director pursuant to the first 3 sentences of § 501.602 of this chapter may also be exercised by the Attorney General in conducting administrative investigations pursuant to 18 U.S.C. 2339B(e); provided further, that the investigative authority of the Director pursuant to § 501.602 of this chapter shall be exercised in accordance with 18 U.S.C. 2339B(e); and provided further, that for purposes of this part no person other than a U.S. financial institution and its directors, officers, employees, and agents shall be required to maintain records or to file any reports or furnish any information under §§ 501.601, 501.602, or 501.603 of this chapter.

Subpart G—Penalties

§ 597.701 Penalties.

(a) Attention is directed to 18 U.S.C. 2339B(a)(1), as added by Public Law 104–132, 110 Stat. 1250–1253, section 303, which provides that whoever, within the United States or subject to the jurisdiction of the United States, knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under title 18, United States Code, or imprisoned for not more than 10 years, or both.

(b) Attention is directed to 18 U.S.C. 2339B(b), as added by Public Law 104–132, 110 Stat. 1250–1253, section 303, which, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), provides that, except as authorized by the Secretary of the Treasury, any financial institution that knowingly fails to retain possession of or maintain control over funds in which a foreign terrorist

organization or its agent has an interest, or to report the existence of such funds in accordance with these regulations, shall be subject to a civil penalty in an amount that is the greater of $55,000 per violation, or twice the amount of which the financial institution was required to retain possession or control.

NOTE TO PARAGRAPH (b). The current $55,000 civil penalty cap may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious or fraudulent statement or entry, shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(d) Conduct covered by this part may also be subject to relevant provisions of other applicable laws.

[62 FR 52495, Oct. 8, 1997, as amended at 68 FR 61361, Oct. 28, 2003]

§ 597.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part, and the Director, acting in coordination with the Attorney General, determines that civil penalty proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. The prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to respond within 30 days of mailing of the notice as to why a monetary penalty should not be imposed, or, if imposed, why it should be in a lesser amount than proposed.

§ 597.703 Response to prepenalty notice.

(a) *Time within which to respond.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to respond in writing to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of written response.* The written response need not be in any particular form, but shall contain information sufficient to indicate that it is in response to the prepenalty notice. It should respond to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or, if imposed, why it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the prepenalty notice will be withdrawn, the respondent is not required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30–day period specified in paragraph (a) of this

section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 597.704 Penalty notice.

(a) *No violation.* If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* (1) If, after considering any written response to the prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent, the Director promptly shall issue a written notice of the imposition of the monetary penalty on the respondent. The issuance of a written notice of the imposition of a monetary penalty shall constitute final agency action.

(2) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the mailing of the penalty notice.

(3) The penalty notice shall inform the respondent of the requirement to furnish respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that the Department intends to use such number for the purposes of collecting and reporting on any delinquent penalty amount in the event of a failure to pay the penalty imposed.

§ 597.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the mailing of the written notice of the imposition of the penalty, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 597.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

[62 FR 52495, Oct. 8, 1997, as amended at 68 FR 53660, Sept. 11, 2003]

§ 597.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to 8 U.S.C. 1189 or 18 U.S.C. 2339B, as added by Public Law 104–132, 110 Stat. 1248–1253, sections 302 and 303, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 597.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of information collections relating to recordkeeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

PART 598—FOREIGN NARCOTICS KINGPIN SANCTIONS REGULATIONS

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AUTHORITY: 3 U.S.C. 301; 21 U.S.C. 1901–1908; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note).

SOURCE: 65 FR 41336, July 5, 2000, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§598.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, including part 536 of this chapter, ''Narcotics Trafficking Sanctions Regulations,'' with the exception of part 501 of this chapter, the provisions of which apply to this part. Actions

taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 598.201 Applicability of sanctions.

A specially designated narcotics trafficker is subject to any and all sanctions authorized by the Foreign Narcotics Kingpin Designation Act and implemented in this part. The application of sanctions on any specially designated narcotics trafficker will remain in effect until revoked by the President pursuant to section 804(h)(2) of the Foreign Narcotics Kingpin Designation Act, waived by the President pursuant to section 804(g)(1) of that Act, or revoked by the Secretary of the Treasury pursuant to section 805(e)(1)(A) of that Act.

§ 598.202 Blocking of assets.

Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, there are blocked as of the effective date, and any date thereafter, all such property and interests in property within the United States, or within the possession or control of any United States person, which are owned or controlled by a specially designated narcotics trafficker.

§ 598.203 Prohibited transactions involving blocked property.

(a) Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction or dealing by a United States person, or within the United States, in property or interests in property of a specially designated narcotics trafficker is prohibited.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any specially designated narcotics trafficker is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security.

(c) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

§ 598.204 Evasions; attempts; conspiracies.

Except to the extent provided in regulations, orders, instructions, licenses, or directives issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction or dealing by any United States person, or within the United States, that evades or avoids, or has the effect of evading or avoiding, and any endeavor, attempt, or conspiracy to violate any of the prohibitions set forth in this part is prohibited.

§ 598.205 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property of a specially designated narcotics trafficker is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property of a specially designated narcotics trafficker, unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the Foreign Narcotics Kingpin Designation Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Property transfers that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license issued pursuant to this part and was not so licensed, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, direction, or license issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

NOTE TO PARAGRAPH (d) OF § 598.205: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date there existed an interest of a specially designated narcotics trafficker.

§ 598.206 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 598.202 shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

(i) In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub-account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 598.202 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 598.202 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 598.202. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to specially designated narcotics traffickers, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

NOTE TO § 598.206: Please refer to § 598.505 for authorized investment and reinvestment of certain funds held in blocked accounts.

Subpart C—General Definitions

§ 598.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* mean any account or property subject to § 598.202 held in the name of a specially designated narcotics trafficker, or in which a specially designated narcotics trafficker has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control authorizing such action.

§ 598.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives of this part, which is December 3, 1999, or, in the case of specially designated narcotics traffickers designated after that date, the earlier of the date on which actual or constructive notice of such designation is received.

§ 598.303 Entity.

The term *entity* means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any form of business collaboration.

§ 598.304 Foreign Narcotics Kingpin Designation Act.

The term *Foreign Narcotics Kingpin Designation Act* means the Foreign Narcotics Kingpin Designation Act, Pub. L. 106–120, title 8, 113 Stat. 1606, 1626–1636 (codified at 21 U.S.C. 1901–1908, 8 U.S.C. 1182(a)(2)(C)).

§ 598.305 Foreign person.

The term *foreign person* means any citizen or national of a foreign state or

any entity not organized under the laws of the United States, but does not include a foreign state.

§ 598.306 General license.

The term *general license* means any license or authorization the terms of which are set forth in this part.

§ 598.307 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., an interest in property) means an interest of any nature whatsoever, direct or indirect.

§ 598.308 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 598.309 Narcotic drug; controlled substance; listed chemical.

The terms *narcotic drug*, *controlled substance*, and *listed chemical* have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

§ 598.310 Narcotics trafficking.

The term *narcotics trafficking* means any illicit activity to cultivate, produce, manufacture, distribute, sell, finance, or transport narcotic drugs, controlled substances, or listed chemicals, or otherwise endeavor or attempt to do so, or to assist, abet, conspire, or collude with others to do so.

§ 598.311 Person.

The term *person* means an individual or entity.

§ 598.312 Property; property interest.

The terms *property* and *property interest* include but are not limited to money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, whether present, future, or contingent.

§ 598.313 Significant foreign narcotics trafficker.

The term *significant foreign narcotics trafficker* means any foreign person that plays a significant role in international narcotics trafficking that the President has determined to be appropriate for sanctions and has publicly identified under section 804(b) or section 804(h)(1) of the Foreign Narcotics Kingpin Designation Act.

§ 598.314 Specially designated narcotics trafficker.

The term *specially designated narcotics trafficker* means:

(a) Significant foreign narcotics traffickers; and

(b) Foreign persons designated by the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, because they are found to be:

(1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a specially designated narcotics trafficker;

(2) Owned, controlled, or directed by, or acting for or on behalf of, a specially designated narcotics trafficker; or

(3) Playing a significant role in international narcotics trafficking.

NOTE 1 TO § 598.314: The names of persons determined to fall within this definition, whose property and interests in property therefore are blocked pursuant to this part, are published in the FEDERAL REGISTER and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') with the identifier ''[SDNTK].'' The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: *http://www.treasury.gov/sdn*. Additional information pertaining to the SDN List can be found in appendix A to this chapter.

NOTE 2 TO § 598.314: The Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908, 8 U.S.C. 1182), in Section 806 (21 U.S.C. 1905), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this part also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier ''[BPI–SDNTK].''

NOTE 3 TO § 598.314: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this part.

[65 FR 41336, July 5, 2000, as amended at 76 FR 38545, June 30, 2011]

§ 598.315 Specific license.

The term *specific license* means any license not set forth in this part but issued pursuant to this part.

§ 598.316 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation upon the foregoing, the term *transfer* includes the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order; the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 598.317 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 598.318 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen or national, permanent resident alien, an entity organized under the laws of the United States (including its foreign branches), or any person within the United States.

§ 598.319 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including a foreign branch) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, as principal or agent. This terms includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates,

or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

Subpart D—Interpretations

§ 598.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 598.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 598.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed pursuant to this part results in the transfer of property (including any property interest) away from a specially designated narcotics trafficker, the transferred property will no longer be considered property in which that person has or has had an interest. Provided no other specially designated narcotics trafficker has any interest in the transferred property following the transfer, the transferred property will no longer be considered property blocked pursuant to § 598.202.

(b) Unless otherwise specifically provided in a license issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a specially designated narcotics trafficker, such property shall be deemed to be property in which that person has an interest, and such property is therefore blocked pursuant to § 598.202.

§ 598.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. financial institution or other U.S. person, is a prohibited transfer under § 598.203 if effected after the effective date.

§ 598.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect to the licensed transaction is also authorized by the license. Except as specifically authorized by the terms of a license, prohibited transactions by specially designated narcotics traffickers and debits to accounts blocked pursuant to § 598.202 are not considered incidental to a licensed transaction and therefore remain prohibited.

§ 598.406 Provision of services.

(a) The prohibitions contained in § 598.203 apply to services performed by U.S. persons, wherever located:

(1) On behalf of or for the benefit of a specially designated narcotics trafficker; or

(2) With respect to property interests of a specially designated narcotics trafficker.

(b) Example: U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to a specially designated narcotics trafficker. See § 598.507 on licensing policy with regard to the provision of certain legal services.

§ 598.407 Offshore transactions.

The prohibitions contained in § 598.203 apply to transactions by any U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has

reason to know, that a specially designated narcotics trafficker has or has had an interest since the effective date.

§ 598.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.

(a) A change or alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker shall not be the basis for removal of that entity from the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') unless, upon investigation by the Office of Foreign Control and submission of evidence by the entity, it is demonstrated to the satisfaction of the Director of the Office of Foreign Assets Control that the transfer to a bona fide purchaser at arm's length, or other means of changing ownership or control, is legitimate and that the entity no longer meets the criteria for designation under § 598.314. Evidence submitted must conclusively demonstrate that all ties with other specially designated narcotics traffickers have been completely severed, and may include, but is not limited to, articles of incorporation; identification of new directors, officers, shareholders, and sources of capital; and contracts evidencing the sale of the entity to its new owners.

(b) Any continuing substantial financial obligations on the part of the new owners to any specially designated narcotics traffickers, including long-term payment plans, leases, or rents, will be considered as evidence of continuing control of the entity by the specially designated narcotics trafficker. Purchase of a designated entity without ongoing substantial financial obligations to a specially designated narcotics trafficker may nonetheless be a basis for subsequent designation of the purchaser, if the transaction is determined materially to assist in or provide financial support for the international narcotics trafficking activities of specially designated narcotics traffickers for purposes of § 598.314(b)(1). For example, any acquisition transaction resulting in a direct cash transfer to or other enrichment of a specially designated narcotics trafficker could lead to designation of the purchaser. Mere change in name of an entity will not be considered as constituting a change of the entity's status.

[65 FR 41336, July 5, 2000, as amended at 76 FR 38545, June 30, 2011]

§ 598.409 Credit extended and cards issued by U.S. financial institutions.

The prohibition in § 598.203 on dealing in property in which a specially designated narcotics trafficker has an interest prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a specially designated narcotics trafficker.

§ 598.410 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods or services exported prior to the effective date of the blocking, except as authorized pursuant to this part.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 598.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

[65 FR 41336, July 5, 2000, as amended at 68 FR 53660, Sept. 11, 2003]

§ 598.502 Effect of license.

(a) No license contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control pursuant to this part, authorizes or validates any transaction effected prior to the issuance of the license, unless the prior transaction is specifically authorized in such license.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited by this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part authorizes any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited by this part has the effect of removing from the transaction a prohibition or prohibitions contained in this part, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest that would not otherwise exist under ordinary principles of law in or with respect to any property.

§ 598.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 598.504 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a specially designated narcotics trafficker has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

NOTE TO § 598.504: Please refer to part 501, subpart C of this chapter for mandatory reporting requirements regarding financial transfers. See also § 598.206 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 598.505 Investment and reinvestment of certain funds.

Subject to the requirements of § 598.206, U.S. financial institutions are authorized to invest and reinvest assets held in blocked accounts in the name of a specially designated narcotics trafficker, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but in no case may funds be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments are not credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to the specially designated narcotics trafficker.

§ 598.506 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charges* includes but is not limited to charges in payment or reimbursement for interest due; cable,

telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; minimum balance charges; notary and protest fees; and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 598.507 Provision of certain legal services authorized.

(a) The provision to or on behalf of a specially designated narcotics trafficker of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment for such services must be specifically licensed.

(b) Specific licenses may be issued on a case-by-case basis authorizing receipt from unblocked sources of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to a specially designated narcotics trafficker:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions that would violate any prohibition contained in this chapter;

(2) Representation of a specially designated narcotics trafficker when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction of a specially designated narcotics trafficker;

(4) Representation of a specially designated narcotics trafficker before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such person; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) The provision of any other legal services to a specially designated narcotics trafficker, not otherwise authorized in this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property of a specially designated narcotics trafficker or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property of a specially designated narcotics trafficker is prohibited unless specifically licensed in accordance with § 598.205(e).

Subpart F—Reports

§ 598.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 598.701 Penalties.

(a) Attention is directed to section 807 of the Foreign Narcotics Kingpin Designation Act, which is applicable to violations of the provisions of any license, rule, or regulation issued by or pursuant to the direction or authorization of the Secretary of Treasury pursuant to this part or otherwise under that Act. Section 807 of the Foreign Narcotics Kingpin Designation Act, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) Whoever willfully violates the provisions of the Foreign Narcotics Kingpin Designation Act, or any license, rule, or regulation issued pursuant to that Act, or willfully neglects or refuses to comply with any order of the President issued under that Act, shall be imprisoned for not more than 10 years, fined in the amount provided in title 18, United States Code, or both, or, in the case of an entity, fined not more than $10,000,000;

(2) Any officer, director, or agent of any entity who knowingly participates

in a violation of the provisions of the Foreign Narcotics Kingpin Designation Act, shall be imprisoned for not more than 30 years, fined not more than $5,000,000, or both;

(3) A civil penalty not to exceed $1,075,000 per violation may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of the Foreign Narcotics Kingpin Designation Act.

NOTE TO PARAGRAPH (a)(3). The current $1,075,000 civil penalty cap may be adjusted for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

(b) The criminal penalties provided in this part are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(d) Violations of this part may also be subject to relevant provisions of other applicable laws.

[65 FR 41336, July 5, 2000, as amended at 68 FR 61361, Oct. 28, 2003]

§ 598.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Foreign Narcotics Kingpin Designation Act, and the Director determines that further proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. This prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation.* The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within 30 days of the date of mailing of the notice as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

§ 598.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to make a written response to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of response.* The written response need not be in any particular form, but must contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice issued pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a

violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30-day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 598.704 Penalty imposition or withdrawal.

(a) *No violation*. If, after considering any response to a prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation*. If, after considering any response to a prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition of the monetary penalty to the respondent. The issuance of a written notice of the imposition of a monetary penalty shall constitute final agency action.

(1) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice.

(2) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

§ 598.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay a penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of a penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

§ 598.706 Judicial review of civil penalty.

A civil penalty imposed pursuant to this subpart G is subject to judicial review only to the extent provided in 5 U.S.C. 702.

Subpart H—Procedures

§ 598.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Privacy Act (5 U.S.C. 552a), see part 501, subpart E of this chapter.

[65 FR 41336, July 5, 2000, as amended at 68 FR 53660, Sept. 11, 2003]

§ 598.802 Availability of information pursuant to the Freedom of Information Act.

Any record or information obtained or created in the implementation of this part is not subject to disclosure under section 552(a)(3) of the Freedom of Information Act. Information required to be made available to the public under other provisions of the Freedom of Information Act (5 U.S.C. 552) will be made available in accordance with § 501.805(a) of this chapter.

§ 598.803 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to the Foreign Narcotics Kingpin Designation Act may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 598.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

APPENDIX A TO CHAPTER V—INFORMATION PERTAINING TO THE SPECIALLY DESIGNATED NATIONALS AND BLOCKED PERSONS LIST

AUTHORITY: 3 U.S.C. 301; 8 U.S.C. 1182, 1189; 18 U.S.C. 2339B; 21 U.S.C. 1901–1908; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 50 U.S.C. App. 1–44; Pub. L. 110–286, 122 Stat. 2632; Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551).

The Office of Foreign Assets Control (''OFAC'') maintains on its Web site a list of blocked persons, blocked vessels, specially designated nationals, specially designated terrorists, specially designated global terrorists, foreign terrorist organizations, and specially designated narcotics traffickers whose property and interests in property are blocked pursuant to the various economic sanctions programs administered by OFAC. This Specially Designated Nationals and Blocked Persons List (''SDN List'') is updated frequently and at irregular intervals to incorporate changes reflected in notices of blocking, designation, identification, and delisting actions, all of which are published in the FEDERAL REGISTER. The SDN List is available in a variety of formats for review on, or download from, the following location on OFAC's Web site: *http://www.treasury.gov/sdn*. Members of the public may also sign up through OFAC's Web site to receive e-mail notifications of changes to the SDN List.

In addition to accessing information through OFAC's Web site, the public may contact OFAC's Sanctions Compliance & Evaluation Division, at 202/622–2490 or 800/540–6322 (toll-free), for information on blocking, designation, identification, and delisting actions. The public also may contact OFAC in writing at the following address: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Finally, the public may obtain information on blocking, designation, identification, and delisting actions through OFAC's fax-on-demand service, at 202/622–0077.

NOTES: The SDN List provides the following information (to the extent known) concerning blocked persons, specially designated nationals, specially designated terrorists, specially designated global terrorists, foreign terrorist organizations, specially designated narcotics traffickers and blocked vessels:

1. For blocked individuals: Name and title (known aliases); address(es); other identifying information, such as date of birth, place of birth, nationality, and passport or national identification number; the notation ''(individual)''; and [sanctions program under which the individual is blocked].

2. For blocked entities: Name (known former or alternate names); address(es); other identifying information, such as national tax identification number(s); and [sanctions program under which the entity is blocked].

3. For blocked vessels: Name (known former or alternate names); other identifying information, such as International Maritime Organization number, country of registration or flag, vessel type, size in dead weight and/or gross tons, call sign, vessel owner; the notation ''(vessel)''; and [sanctions program under which the vessel is blocked].

4. Abbreviations. ''a.k.a.'' means ''also known as''; ''d.b.a.'' means ''doing business as''; ''f.k.a.'' means ''formerly known as''; ''IMO'' means ''International Maritime Organization''; ''n.k.a.'' means ''now known as''; ''DOB'' means ''date of birth''; ''DWT'' means ''deadweight''; ''GRT'' means ''Gross Registered Tonnage''; ''POB'' means ''place of birth''.

5. Notices of blocking, designation, identification, and delisting actions are published in the FEDERAL REGISTER frequently and at irregular intervals. Updated information on OFAC blocking, designation, identification, and delisting actions is provided on OFAC's Web site (*http://www.treasury.gov/ofac*). In addition, such information is incorporated on an ongoing basis into OFAC's SDN List, which is available for review on, or download from, the following location on OFAC's Web site: *http://www.treasury.gov/sdn*. Please call OFAC's Sanctions Compliance & Evaluation Division with questions about OFAC-administered sanctions programs, including current electronic sources of OFAC information: 202/622–2490 or 800/540–6322 (toll-free). Information also is available by fax through OFAC's fax-on-demand service, at 202/622–0077. Updated information on OFAC designations and other OFAC actions should be consulted before engaging in transactions that

may be prohibited by the economic sanctions programs in chapter V.

6. Specific licenses previously issued by OFAC may include references to appendix A or appendix B to 31 CFR chapter V. OFAC hereby notifies persons who have been issued specific licenses by OFAC that any reference to appendix A to 31 CFR chapter V or Appendix B to 31 CFR chapter V in an outstanding specific license shall be read to refer to the SDN List. The SDN List is available for review on or download from the following location on OFAC's Web site: *http://www.treasury.gov/sdn*.

7. The SDN List incorporates the names of vessels owned by blocked persons, which are themselves blocked. SDN List entries for blocked vessels, which include the notation ''(vessel),'' are incorporated in alphabetical order into the SDN List. In addition, these entries are segregated into a separate subsection of the SDN List under the heading ''(vessels).'' Except in limited circumstances, financial institutions are instructed to reject any funds transfer referencing a blocked vessel and must notify OFAC, preferably via facsimile at 202/622–2426 with a copy of the payment instructions, that funds have been returned to remitter due to the possible involvement of a blocked vessel in the underlying transaction. *See* §501.604(b)(1) of this chapter. Financial institutions should contact OFAC's Sanctions Compliance & Evaluation Division, at 202/622–2490 or 800/540–6322 (toll-free), for further instructions should the name of a blocked vessel appear in shipping documents presented under a letter of credit or if noticed in a documentary collection. Blocked vessels must themselves be physically blocked should they enter U.S. jurisdiction. Freight forwarders and shippers may not charter, book cargo on, or otherwise deal with blocked vessels.

8. The SDN List includes the names of persons identified in Appendix A to Part 560 as persons determined to be the Government of Iran. The SDN List entries for such persons include the identifier ''[IRAN].'' U.S. persons are advised to review 31 CFR part 560 prior to engaging in transactions involving the persons included on the SDN List with the identifier ''[IRAN].'' U.S. persons are further cautioned that persons identified as persons determined to be the Government of Iran also may be designated or blocked pursuant to other sanctions programs administered by OFAC. The SDN List entry for a person listed in Appendix A to Part 560 may include—in addition to the identifier ''[IRAN]''—identifier(s) for the other sanctions program(s) pursuant to which the person is listed on the SDN List. Moreover, the compliance obligations with respect to persons who fall within the definition of the Government of Iran in §560.304 of the Iranian Transactions Regulations, 31 CFR part 560, apply regardless of whether such persons are identified in appendix A to part 560 or the SDN List.

9. Unless otherwise specifically provided, any amendment, modification, or revocation of any entry on the SDN List does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation.

[76 FR 38545, June 30, 2011]