

(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;