

## § 560.417

### **§ 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.

### **§ 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.

NOTE 1 TO § 560.418: The release of technology or software in the United States, or the release of U.S. origin technology or software in a third country, to a foreign national may require a license from the U.S. Department of Commerce's Bureau of Industry and Security under the Export Administration Regulations, 15 CFR parts 730 through 774 (the "EAR"). The EAR require a license for

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such release if both of the following conditions are met:

(a) That technology or software 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. Sec. 1324(b)(a)(3)). See 15 CFR 734.2(b)(2)(ii) and 734.2(b)(5).

NOTE 2 TO § 560.418: 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.

### **§ 560.419 U.S. employment of persons ordinarily resident in Iran.**

The prohibitions in § 560.201 make it unlawful to hire an Iranian national ordinarily resident 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 authorized pursuant to § 560.505. See also § 560.418 with respect to the release of technology and software.

### **§ 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 total value 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 total value 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 total value 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.

NOTE 1 TO § 560.420: 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).

NOTE 2 TO § 560.420: 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.

NOTE 3 TO § 560.420: The provisions of § 560.205 and this section apply only to persons other than United States persons.

**§ 560.421 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 § 560.211 if effected after the effective date.

**§ 560.422 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 Iran, an Iranian financial institution, or any other person whose property and interests in property are blocked pursuant to § 560.211, such property shall no longer be deemed to be property blocked pursuant to § 560.211, unless there exists in the property another interest that is blocked pursuant to § 560.211, 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 Iran, an Iranian financial institution, or any other person whose property and interests in property are blocked pursuant to § 560.211, such property shall be

deemed to be property in which the Government of Iran, an Iranian financial institution, or that person has an interest and therefore blocked.

**§ 560.423 Offshore transactions involving blocked property.**

The prohibitions in § 560.211 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 the Government of Iran, an Iranian financial institution, or any other person whose property and interests in property are blocked pursuant to § 560.211, or property in which the Government of Iran, an Iranian financial institution, or any other person whose property and interests in property are blocked pursuant to § 560.211 has or has had an interest since the effective date.

**§ 560.424 Payments from blocked accounts to satisfy obligations prohibited.**

Pursuant to § 560.211, 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.

NOTE TO § 560.424: See also § 560.502(f), which provides that no license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

**§ 560.425 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 § 560.211 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 § 560.211, regardless of whether the entity itself is designated pursuant to § 560.211.