

§ 561.504

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), § 561.203(c)(2), or § 561.204(c)(2) on the maintaining of a correspondent account or a payable-through account for a foreign financial institution whose name is added to the Part 561 List, which is maintained on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page, 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) A report must be filed with the Office of Foreign Assets Control within 30 days of the closure of an account, providing full details on the closing of each correspondent account or payable-through account maintained by a U.S. financial institution for a foreign financial institution whose name is added to the Part 561 List, maintained on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page. Such report must include complete information on the closing of the account and on all transactions processed or executed through the account pursuant to this section, including the account outside of the United States to which

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funds remaining in the account were transferred. Reports should be addressed to the attention of the Sanctions, Compliance & Evaluations Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

(c) 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 whose name is added to the Part 561 List, 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. License applications should be filed in conformance with § 501.801 of the Reporting, Procedures and Penalties Regulations, 31 CFR part 501.

(d) Nothing in this section authorizes the opening of a correspondent account or a payable-through account for a foreign financial institution whose name appears on the Part 561 List.

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 whose name has been added to the Part 561 List, maintained on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page. See § 561.101.

[77 FR 11726, Feb. 27, 2012, as amended at 78 FR 16409, Mar. 15, 2013]

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) (22 U.S.C. 8501-8551) (“CISADA”) and section 1245(g)(2) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81) (22 U.S.C. 8513a) (“2012 NDAA”), 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 prohibition contained in § 561.201 or § 561.203 or of any order, regulation, or license set forth in or issued pursuant to this part concerning such prohibitions.

(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.

(3) Pursuant to section 206 of IEEPA (50 U.S.C. 1705), 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 under IEEPA, a civil penalty not to exceed the amount set forth in section 206(b) of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any prohibition contained in § 561.204 or of any order, regulation, or license set forth in or issued pursuant to this part concerning such prohibition.

NOTE TO PARAGRAPH (a) OF § 561.701: As of the date of publication in the FEDERAL REGISTER of the final rule amending this part to implement sections 503 and 504 of the Iran Threat Reduction and Syria Human Rights Act of 2012 and section 1 and other related

provisions of Executive Order 13622 of July 30, 2012 (March 15, 2013), 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.* (1) As set forth in section 104(c) of CISADA and section 1245(g)(2) of the 2012 NDAA, 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 prohibition contained in §§ 561.201 or 561.203 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.

(2) Pursuant to section 206 of IEEPA (50 U.S.C. 1705), 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 prohibition contained in § 561.204 or of any order, regulation, or license set forth in or issued pursuant to this part concerning such 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.

(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.

[77 FR 11726, Feb. 27, 2012, as amended at 78 FR 16410, Mar. 15, 2013]

§ 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 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 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.