From	To	Changeover points	
		Distance	From
V20 IS AMENDED TO ADD CHANGEOVER POINT			
PALACIOS, TX VORTAC	HOBBY TX VOR/DME	41	Palacios
V166 IS AMENDED TO ADD CHANGEOVER POINT			
WESTMINSTER, MD VORTAC	DUPONT, DE VORTAC	40	Westminster

[FR Doc. E9–8365 Filed 4–10–09; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 543

Persons Contributing to the Conflict in Côte d'Ivoire Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is adding a new part to the Code of Federal Regulations to implement Executive Order 13396 of February 7, 2006, ''Blocking Property of Certain Persons Contributing to the Conflict in Côte d'Ivoire.''

DATES: *Effective Date:* April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

On February 7, 2006, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA'') and section 5 of the United Nations Participation Act (22 U.S.C. 287c), issued Executive Order 13396 (71 FR 7389, February 10, 2006) (''E.O. 13396''), effective at 12:01 a.m. eastern standard time on February 8, 2006. In E.O. 13396, the President determined that the situation in Côte d'Ivoire, which has resulted in the massacre of large numbers of civilians, widespread human rights abuses, significant political violence and unrest, and attacks against international peacekeeping forces leading to fatalities, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States, and declared a national emergency to deal with that threat. E.O. 13396 also noted United Nations Security Council Resolution 1572 of November 15, 2004, which, *inter alia*, called on member states to impose an asset freeze on certain persons contributing to the conflict in Côte d'Ivoire.

Section 1(a) of E.O. 13396 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of United States persons, of: (1) The persons listed in the Annex to E.O. 13396; and (2) any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

- 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;
- To be responsible for serious violations of international law in Côte d'Ivoire;
- 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;
- To have publicly incited violence and hatred contributing to the conflict in Côte d'Ivoire;
- To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the activities described above or any person listed in or designated pursuant to E.O. 13396; or
- To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person listed in or designated pursuant to E.O. 13396.

In Section 1(b) of E.O. 13396, the President determined that the making of donations of certain articles, such as food, clothing, and medicine intended to be used to relieve human suffering, as 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 E.O. 13396 would seriously impair his ability to deal with the national emergency declared in E.O. 13396, and the President therefore prohibited such donations. Accordingly, the donation of such items is prohibited, unless authorized by OFAC.

Section 1(c) of E.O. 13396 provides that the prohibition on any transaction or dealing by a United States person or within the United States in blocked property or interests in property includes, but is not limited to, 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 E.O. 13396, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 2 of E.O. 13396 prohibits any transaction by a 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 E.O. 13396, as well as any conspiracy formed to violate such prohibitions.

Section 5 of E.O. 13396 authorizes the Secretary of the Treasury, after consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of E.O. 13396. In furtherance of these purposes, OFAC is promulgating these Persons Contributing to the Conflict in Côte d'Ivoire Sanctions Regulations, 31 CFR Part 543 (the ''Regulations''). As

described above, these sanctions are targeted sanctions directed at certain persons who contribute to the conflict in Côte d'Ivoire. The sanctions are not directed against the country of Côte d'Ivoire or the Government of Côte d'Ivoire. They do not generally prohibit trade or the provision of banking or other financial services to the country of Côte d'Ivoire, unless the transaction or service in question involves a person whose property and interests in property are blocked pursuant to § 543.201(a).

Subpart B of the Regulations implements the prohibitions contained in sections 1 and 2 of E.O. 13396. *See, e.g.,* §§ 543.201 and 543.205. Persons identified in the Annex to E.O. 13396, designated by or under the authority of the Secretary of the Treasury pursuant to E.O. 13396, or otherwise subject to the blocking provisions of E.O. 13396 are referred to throughout the Regulations as ''persons whose property and interests in property are blocked pursuant to § 543.201(a).'' The names of persons listed in or designated pursuant to E.O. 13396 are or will be published on OFAC's Specially Designated Nationals and Blocked Persons List, which is accessible via OFAC's Web site and can be found at Appendix A to 31 CFR chapter V. Those names also have been or will be published in the **Federal Register**.

Sections 543.202 and 543.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 543.204 of subpart B provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners or operators of such property, and that such expenses shall not be met from blocked funds, unless otherwise authorized. The section further provides that blocked property may, in OFAC's discretion, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 543.205 implements the prohibitions of E.O. 13396 on 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 E.O. 13396, and on any conspiracy formed to violate such prohibitions.

Subpart C of part 543 defines key terms used throughout the Regulations, and subpart D sets forth interpretive sections regarding the general prohibitions contained in subpart B. Section 543.411 sets out the rule that the property and interests in property of an entity are blocked if the entity is 50 percent or more owned by a person whose property and interests in property are blocked, whether or not the entity itself is listed in or designated pursuant to E.O. 13396.

Transactions otherwise prohibited under part 543 but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E or by a specific license issued pursuant to the procedures described in subpart E of part 501 of 31 CFR chapter V. Subpart E of part 543 also contains certain statements of licensing policy in addition to the general licenses.

Subpart F of part 543 refers to subpart C of part 501 for applicable recordkeeping and reporting requirements. Subpart G describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty. Subpart G also refers to Appendix A of part 501 for a more complete description of these procedures.

Subpart H of part 543 refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of authority by the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under 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 the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 543

Administrative practice and procedure, Banks, Banking, Blocking of assets, Côte d'Ivoire, Credit, Foreign Trade, Penalties, Reporting and recordkeeping requirements, Securities, Services.

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 543 to 31 CFR Chapter V to read as follows:

PART 543—PERSONS CONTRIBUTING TO THE CONFLICT IN CÔTE D'IVOIRE SANCTIONS REGULATIONS

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

Sec.

543.101 Relation of this part to other laws and regulations.

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543.901 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. 13396, 71 FR 7389, 3 CFR, 2006 Comp., p. 209.

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 to paragraph (a) of § 543.201: 1. The names of persons listed in or designated pursuant to Executive Order 13396, whose property and interests in property are blocked pursuant to paragraph (a) of this section, are published on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (''SDN List'') (which is accessible via the Office of Foreign Assets Control's Web site), published in the **Federal Register**, and incorporated into Appendix A to this chapter with the identifier ''[COTED].'' 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.

2. Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (''IEEPA'') explicitly 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 on the SDN List, published in the **Federal Register** and incorporated into Appendix A to this chapter with the identifier ''[BPI–COTED].''

3. 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.

§ 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.

Dated: March 31, 2009.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

Approved: April 3, 2009.

Stuart A. Levey

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. E9–8338 Filed 4–10–09; 8:45 am]

BILLING CODE 4811–45–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 544

Weapons of Mass Destruction Proliferators Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (''OFAC'') is adding a new part to the Code of Federal Regulations to carry out the purposes of Executive Order 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters.''

DATES: *Effective Date:* April 13, 2009.

FOR FURTHER INFORMATION CONTACT: Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Assistant Director for Policy, tel.: 202/622–4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: 202/622–0077.