



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 amending the Weapons of Mass Destruction Proliferators Sanctions Regulations to revise an existing general license authorizing the provision of certain legal services and add a general license authorizing payments for legal services from funds originating outside the United States.

DATES: This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202-622-2480; Assistant Director for Regulatory Affairs, 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available on OFAC’s website: www.treasury.gov/ofac.

Background

On April 13, 2009, OFAC issued the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544 (74 FR 16771, April 13, 2009) (the “Regulations”), to implement Executive Order (E.O.) 13382 of June 28, 2005, “Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters” (70 FR 38567, July 1, 2005). OFAC is

amending the Regulations with respect to payments for legal services as set forth in more detail below.

Section 544.507 of the Regulations authorizes U.S. persons to provide certain legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 544.201(a) provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed. OFAC is revising § 544.507 to remove the requirement that all receipts of payment of professional fees and reimbursement of incurred expenses must only be specifically licensed and to otherwise update language throughout the section so that § 544.507 conforms with the legal services general license in other sanctions programs. OFAC is also redesignating § 544.508 as § 544.509 and adding a new general license at § 544.508 authorizing a permissible payment mechanism for legal services without the need for a specific license. Specifically, new § 544.508 authorizes payments from funds originating outside the United States and that do not come from a U.S. person or any person whose property and interests in property are blocked, other than the person on whose behalf the authorized legal services are provided. This payment mechanism has previously been incorporated into the regulations for a number of other sanctions programs.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of E.O. 12866 of September 30, 1993, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), 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 544

Administrative practice and procedure, Banks, banking, Blocking of assets, Credit, Foreign trade, Legal services, Penalties, Proliferation, Reporting and recordkeeping requirements, Sanctions, Securities, Services, Weapons of mass destruction.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 544 as follows:

PART 544—WEAPONS OF MASS DESTRUCTION PROLIFERATORS SANCTIONS REGULATIONS

1. The authority citation for part 544 continues to read as follows:

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, as amended (28 U.S.C. 2461 note); 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.

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

2. Revise § 544.507 to read as follows:

§ 544.507 Provision of certain legal services.

(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 any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 544.508, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

(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 legal, arbitration, or administrative proceedings before any U.S. Federal, state, or local court or agency;

(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 of any other legal services to or on behalf of 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) U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by paragraph (a) of this section. Additionally, U.S. persons who provide services authorized by paragraph (a) of this section 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. *See* § 544.404.

(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 § 544.201(a) is prohibited unless licensed pursuant to this part.

Note 1 to § 544.507. Pursuant to part 501, subpart E, of 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 (OFAC) to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available.

§ 544.508 [Redesignated as § 544.509]

3. Redesignate § 544.508 as § 544.509.

4. Add new § 544.508 to subpart E to read as follows:

§ 544.508 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* (1) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 544.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 544.201(a) is authorized from funds originating outside the United States, provided that the funds do 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 § 544.507(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

(2) Nothing in paragraph (a) of this section authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 544.201(a), any other part of this chapter, or any Executive order or statute has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year

during which the payments were received providing information on the funds received. Such reports shall specify:

(i) The individual or entity from whom the funds originated and the amount of funds received; and

(ii) If applicable:

(A) 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;

(B) A general description of the services provided; and

(C) The amount of funds paid in connection with such services.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) Email (preferred method): OFACreport@treasury.gov; or

(ii) U.S. mail: OFAC Regulations Reports, Office of Foreign Assets Control, U.S.

Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Freedman's Bank Building, Washington, DC 20220.

Dated: February 11, 2022

Andrea M. Gacki
Director, Office of Foreign Assets Control.

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