



Office of Foreign Assets Control

31 CFR Part 551

Somalia 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 Somalia Sanctions Regulations and reissuing them in their entirety to further implement an April 12, 2010 Somalia-related Executive order, and to implement a July 20, 2012 Somalia-related Executive order. This final rule replaces the regulations that were published in abbreviated form on May 5, 2010 and includes additional interpretive and definitional guidance, general licenses, statements of licensing policy, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is reissuing the Somalia Sanctions Regulations in their entirety.

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 May 5, 2010, OFAC issued the Somalia Sanctions Regulations, 31 CFR part 551 (75 FR 24394, May 5, 2010) (the “Regulations”), to implement Executive Order (E.O.) 13536 of April 12, 2010, “Blocking Property of Certain Persons Contributing to the Conflict in Somalia” (75 FR 19869, April 15, 2010), pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13536. The Regulations were initially issued in abbreviated form for the purpose of providing immediate guidance to the public. OFAC is revising the Regulations to further implement E.O. 13536 and to implement E.O. 13620 of July 20, 2012, “Taking Additional Steps to Address the National Emergency With Respect to Somalia” (77 FR 43483, July 24, 2012), which amended E.O. 13536. OFAC is amending and reissuing the Regulations as a more comprehensive set of regulations that includes additional interpretive and definitional guidance, general licenses, statements of licensing policy, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is reissuing the Regulations in their entirety.

E.O. 13536

On April 12, 2010, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) (IEEPA) and the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA), issued E.O. 13536. In E.O. 13536, the President found that the deterioration of the security situation and the persistence of violence in Somalia, and acts of piracy and armed robbery at sea off the coast of Somalia, and violations of a United Nations arms embargo, constitute 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.

Section 1(a) of E.O. 13536 blocked, 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 any U.S. person of: (i) the persons listed in the Annex to E.O. 13536; and (ii) any person determined by the Secretary of the Treasury, in consultation with the

Secretary of State: (A) to have engaged in acts that directly or indirectly threaten the peace, security, or stability of Somalia, including: (1) acts that threaten the Djibouti Agreement of August 18, 2008, or the political process; or (2) acts that threaten the Transitional Federal Institutions, the African Union Mission in Somalia (AMISOM), or other international peacekeeping operations related to Somalia; (B) to have obstructed the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia; (C) to have directly or indirectly supplied, sold, or transferred to Somalia, or to have been the recipient in the territory of Somalia of, arms or any related materiel, or any technical advice, training, or assistance, including financing and financial assistance, related to military activities; (D) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the activities described above or any person whose property and interests in property are blocked pursuant to E.O. 13536; or (E) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to E.O. 13536. The property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in. As discussed further below, section 1(a) of E.O. 13536 was amended by E.O. 13620.

In Section 1(b) of E.O. 13536, the President determined that acts of piracy or armed robbery at sea off the coast of Somalia threaten the peace, security, or stability of Somalia.

In Section 1(c) of E.O. 13536, the President further 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. 13536 would seriously impair his ability to deal with the national emergency declared in E.O. 13536. The President therefore prohibited the provision of such donations unless authorized by OFAC.

Section 1(d) of E.O. 13536 provides that the prohibition on any transaction or dealing in blocked property or interests in property includes 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. 13536, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 2 of E.O. 13536 prohibits any transaction by a U.S. person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in E.O. 13536, as well as any conspiracy formed to violate such prohibitions.

Section 3 of E.O. 13536 provides definitions for certain terms used in the order.

Section 5 of E.O. 13536 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA, as may be necessary to carry out the purposes of E.O. 13536. Section 5 also provides that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. Government.

E.O. 13620

On July 20, 2012, pursuant to, *inter alia*, IEEPA and the UNPA, the President issued E.O. 13620. In E.O. 13620, the President took additional steps regarding the national emergency with respect to the situation in Somalia declared in E.O. 13536, in view of United Nations Security Council Resolution 2036 of February 22, 2012, and Resolution 2002 of July 29, 2011, and to address: exports of charcoal from Somalia, which generate significant revenue for al-Shabaab; the misappropriation of Somali public assets; and certain acts of violence committed against civilians in Somalia, all of which contribute to the deterioration of the security situation and the persistence of violence in Somalia. E.O. 13620 amends E.O. 13536, by replacing subsection (1)(a) of E.O. 13536 in its entirety but does not amend the Annex to E.O. 13536 as originally issued, and imposes new prohibitions.

New section 1(a) of E.O. 13536 as amended by E.O. 13620 (“amended E.O. 13536”) 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 any United States person of: (i) the persons listed in the Annex to amended E.O. 13536; and (ii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State: (A) to have engaged in acts that directly or indirectly threaten the peace, security, or stability of Somalia, including: (1) acts that threaten the Djibouti Agreement of August 18, 2008, or the political process; or (2) acts that threaten the Transitional Federal Institutions or future Somali governing institutions, AMISOM, or other future international peacekeeping operations related to Somalia; or (3) acts to misappropriate Somali public assets; (B) to have obstructed the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia; (C), to have directly or indirectly supplied, sold, or transferred to Somalia, or to have been the recipient in the territory of Somalia of, arms or any related material, or any technical advice, training or assistance, including financing and financial assistance, related to military activities; (D) to be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of acts of violence targeting civilians in Somalia, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals, taking hostages, and forced displacement; (E) to be a political or military leader recruiting or using children in armed conflict in Somalia; (F) to have engaged, directly or indirectly, in the import or export of charcoal from Somalia on or after February 22, 2012; (G) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the activities described above or any person whose property and interests in property are blocked pursuant to amended E.O. 13536; or (H) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to amended E.O. 13536. The property and interests in property of the persons described

above may not be transferred, paid, exported, withdrawn, or otherwise dealt in. Because E.O. 13620 did not amend the Annex to E.O. 13536, the term “Annex to amended E.O. 13536” refers to the Annex to E.O. 13536 as originally issued.

Section 2 of E.O. 13620 prohibits the importation into the United States, directly or indirectly, of charcoal from Somalia.

Section 3 of E.O. 13620 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in E.O. 13620, as well as any conspiracy formed to violate such prohibitions.

Section 4 of E.O. 13620 provides definitions for certain terms used in the order.

Section 5 of E.O. 13620 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA and the UNPA, as may be necessary to carry out the purposes of E.O. 13620. Section 5 of E.O. 13620 also provides that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. Government.

Current Regulatory Action

In furtherance of the purposes of E.O. 13536 and E.O. 13620, OFAC is amending and reissuing the Regulations. The Regulations implement targeted sanctions that are directed at persons determined to meet the criteria set forth in § 551.201 of the Regulations, as well as sanctions that may be set forth in any further Executive orders issued pursuant to the national emergency declared in E.O. 13536. The sanctions in amended E.O. 13536 and E.O. 13620 do not generally prohibit trade or the provision of banking or other financial services to the country of Somalia. Instead, the sanctions in amended E.O. 13536 and E.O. 13620 apply where the transaction or service in question involves property or interests in property that are blocked

pursuant to these sanctions, and prohibit the importation into the United States, directly or indirectly, of charcoal from Somalia.

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in Sections 1 and 2 of amended E.O. 13536 and sections 2 and 3 of E.O. 13620, as well as the prohibitions that may be set forth in any further Executive orders issued pursuant to the national emergency declared in E.O. 13536. *See, e.g.*, §§ 551.201 and 551.205. Persons identified in the Annex to amended E.O. 13536, designated by or under the authority of the Secretary of the Treasury pursuant to amended E.O. 13536, or otherwise subject to the blocking provisions of amended E.O. 13536, as well as persons who are blocked pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 13536, are referred to throughout the Regulations as “persons whose property and interests in property are blocked pursuant to § 551.201.” The names of persons listed in, designated, or identified pursuant to amended E.O. 13536, or listed in, designated, or identified pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 13536, are published on OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List), which is accessible via OFAC’s website. Those names also are published in the *Federal Register* as they are added to the SDN List.

Sections 551.202 and 551.203 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 551.204 of subpart B provides that all expenses incident to the maintenance of blocked tangible property shall be the responsibility of the owners and 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 551.205 of subpart B prohibits any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in § 551.201 of the Regulations, and any conspiracy formed to violate such prohibitions.

Section 551.206 of subpart B details transactions that are exempt from the prohibitions of the Regulations pursuant to section 203(b)(1) of IEEPA (50 U.S.C. 1702(b)(1)), which relates to personal communications. Section 551.207 of subpart B sets out the prohibition on the importation into the United States, directly or indirectly, of charcoal from Somalia.

In subpart C of the Regulations, new definitions are being added to other key terms used throughout the Regulations. Because these new definitions were inserted in alphabetical order, the definitions that were in the prior abbreviated set of regulations have been renumbered. Similarly, in subpart D, which contains interpretive sections regarding the Regulations, certain provisions have been added to those in the prior abbreviated set of regulations. Section 551.411 explains that the property and interests in property of an entity are blocked if the entity is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked, whether or not the entity itself is incorporated into OFAC's SDN List.

Transactions otherwise prohibited by the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. Subpart E of the Regulations also contains certain statements of specific licensing policy in addition to the general licenses. General licenses and statements of licensing policy relating to this part also may be available through the Somalia sanctions page on OFAC's website: www.treasury.gov/ofac.

OFAC is also incorporating several new general licenses into the Regulations, making technical edits to certain existing general licenses, and renumbering existing general licenses. Sections 551.506, 551.508, 551.510, and 551.511 authorize, respectively, certain transactions relating to the investment of certain funds, payments for legal services from funds originating outside the United States, official business of the United States Government, and official activities of international organizations. Section 551.506 was renumbered as § 551.507 and § 551.507 was renumbered as § 551.509. In § 551.509, OFAC has removed the requirement that payment for emergency medical services be specifically licensed.

Subpart F of the Regulations refers to subpart C of part 501 for recordkeeping and reporting requirements. Subpart G of the Regulations 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 or issuance of a Finding of Violation. Subpart G also refers to appendix A of part 501 for a more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of certain authorities of 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 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 551

Administrative practice and procedure, Banks, banking, Blocking of assets, Charcoal, Foreign trade, Penalties, Reporting and recordkeeping requirements, Sanctions, Securities, Services, Somalia.

For the reasons set forth in the preamble, the Department of the Treasury’s Office of Foreign Assets Control revises 31 CFR part 551 to read as follows:

PART 551—SOMALIA SANCTIONS REGULATIONS

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

Sec.

551.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

551.201 Prohibited transactions.

551.202 Effect of transfers violating the provisions of this part.

551.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

551.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

551.205 Evasions; attempts; causing violations; conspiracies.

551.206 Exempt transactions.

551.207 Prohibited importation of charcoal from Somalia.

Subpart C—General Definitions

551.300 Applicability of definitions.

551.301 African Union Mission in Somalia; AMISOM.

551.302 Arms or any related materiel.

551.303 Blocked account; blocked property.

551.304 Charcoal.

551.305 Effective date.

551.306 Entity.

551.307 Financial, material, or technical support.
551.308 [Reserved]
551.309 Interest.
551.310 Licenses; general and specific.
551.311 OFAC.
551.312 Person.
551.313 Property; property interest.
551.314 Transfer.
551.315 Transitional Federal Institutions.
551.316 United States.
551.317 United States person; U.S. person.
551.318 U.S. financial institution.

Subpart D—Interpretations

551.401 Reference to amended sections.
551.402 Effect of amendment.
551.403 Termination and acquisition of an interest in blocked property.
551.404 Transactions ordinarily incident to a licensed transaction.
551.405 Provision of services.
551.406 Offshore transactions involving blocked property.
551.407 Payments from blocked accounts to satisfy obligations prohibited.
551.408 Charitable contributions.
551.409 Credit extended and cards issued by financial institutions to a person whose property and interests in property are blocked.
551.410 Setoffs prohibited.
551.411 Entities owned by one or more persons whose property and interests in property are blocked.

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

551.501 General and specific licensing procedures.
551.502 Effect of license or other authorization.
551.503 Exclusion from licenses.
551.504 Payments and transfers to blocked accounts in U.S. financial institutions.
551.505 Entries in certain accounts for normal service charges.
551.506 Investment and reinvestment of certain funds.
551.507 Provision of certain legal services.
551.508 Payments for legal services from funds originating outside the United States.
551.509 Emergency medical services.
551.510 Official business of the United States Government.
551.511 Official activities of international organizations.

Subpart F—Reports

551.601 Records and reports.

Subpart G—Penalties and Findings of Violation

551.701 Penalties.
551.702 Pre-Penalty Notice; settlement.
551.703 Penalty imposition.

551.704 Administrative collection; referral to United States Department of Justice.
551.705 Findings of Violation.

Subpart H—Procedures

551.801 Procedures.
551.802 Delegation of certain authorities of the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

551.901 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, as amended (28 U.S.C. 2461 note); E.O. 13536, 75 FR 19869, 3 CFR, 2010 Comp., p. 203; E.O. 13620, 77 FR 43483, 3 CFR, 2012 Comp., p. 281.

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

§ 551.101 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

§ 551.201 Prohibited transactions.

(a) 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 any U.S. person of the

following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) The persons listed in the Annex to Executive Order (E.O.) 13536 of April 12, 2010;

and

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State to:

(i) Have engaged in acts that directly or indirectly threaten the peace, security, or stability of Somalia, including:

(A) Acts that threaten the Djibouti Agreement of August 18, 2008, or the political process;

(B) Acts that threaten the Transitional Federal Institutions or future Somali governing institutions, the African Union Mission in Somalia (AMISOM), or other future international peacekeeping operations related to Somalia;

(C) Acts to misappropriate Somali public assets; or

(D) Acts of piracy or armed robbery at sea off the coast of Somalia;

(ii) Have obstructed the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;

(iii) Have directly or indirectly supplied, sold, or transferred to Somalia, or to have been the recipient in the territory of Somalia of, arms or any related materiel, or any technical advice, training, or assistance, including financing and financial assistance, related to military activities;

(iv) Be responsible for or complicit in, or responsible for ordering, controlling, or otherwise directing, or to have participated in, the commission of acts of violence targeting civilians in Somalia, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals, taking hostages, and forced displacement;

(v) Be a political or military leader recruiting or using children in armed conflict in Somalia;

(vi) Have engaged, directly or indirectly, in the import or export of charcoal from Somalia on or after February 22, 2012;

(vii) Have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the activities described in subsections (a)(2)(i) through (vi) of this section or any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; or

(viii) Be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person 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 prohibitions on the following transactions:

(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 authorized by this part or by a specific license expressly referring to this part, any dealing in securities (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 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 securities 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 securities

may have or might appear to have assigned, transferred, or otherwise disposed of the securities.

(d) The prohibitions in paragraph (a) of this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(e) All transactions prohibited pursuant to any E.O. issued after July 20, 2012, pursuant to the national emergency declared in E.O. 13536 of April 12, 2010, are prohibited pursuant to this part.

Note 1 to § 551.201. The names of persons listed in or designated or identified pursuant to amended E.O. 13536, or listed in or designated or identified pursuant to any further Executive orders issued pursuant to the national emergency declared in E.O. 13536, whose property and interests in property therefore are blocked pursuant to this section, are published in the *Federal Register* and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) using the following identifiers: For amended E.O. 13536: “[SOMALIA]” and for any further Executive orders issued pursuant to the national emergency declared in amended E.O. 13536: Using the identifier formulation “[SOMALIA-E.O.[E.O. number pursuant to which the person's property and interests in property are blocked]]”. The SDN List is accessible through the following page on OFAC's website: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in appendix A to this chapter. See § 551.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

Note 2 to § 551.201. The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), 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 section also are published in the *Federal Register* and incorporated into the SDN List using the following

identifiers: For amended E.O. 13536: “[BPI-SOMALIA]” and for any further Executive orders issued pursuant to the national emergency declared in E.O. 13536: Using the identifier formulation “[BPI-SOMALIA-E.O.[E.O. number pursuant to which the person’s property and interests in property are blocked pending investigation]].”

Note 3 to § 551.201. Sections 501.806 and 501.807 of this chapter 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 this section.

§ 551.202 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 § 551.201, 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 interest in property.

(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 § 551.201, 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, a license or other authorization issued by OFAC 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 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 OFAC 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 OFAC 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 OFAC; 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.

(e) 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 (2) of this section have been satisfied.

(f) 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 or interest in property blocked pursuant to § 551.201.

§ 551.203 Holding of funds in interest-bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 551.201 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) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) 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.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 551.201 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 paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 551.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as real or personal property, or of other blocked property, such as debt or

equity securities, to sell or liquidate such property. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 551.201, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 551.204 Expenses of maintaining blocked tangible 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 tangible property blocked pursuant to § 551.201 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 § 551.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 551.205 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§ 551.206 Exempt transactions.

(a) *United Nations Participation Act.* The exemption described in this section does not apply to transactions involving property or interests in property of persons whose property and interests in property are blocked pursuant to the authority of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (UNPA).

Note 1 to paragraph (a). Persons whose property and interests in property are blocked pursuant to the authority of the UNPA include those listed on *both* OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) and the Consolidated United Nations Security Council Sanctions List (UN List) (see <https://www.un.org>), as well as persons listed on the SDN List for being owned or controlled by, or acting for or on behalf of, persons listed on *both* the SDN List and the UN List.

(b) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

§ 551.207 Prohibited importation of charcoal from Somalia.

(a) The importation into the United States, directly or indirectly, of charcoal from Somalia is prohibited.

(b) The prohibition in paragraph (a) of this section applies except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

Subpart C—General Definitions

§ 551.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 551.301 African Union Mission in Somalia; AMISOM

The term *African Union Mission in Somalia* or *AMISOM* means the mission authorized by the United Nations Security Council in Resolution 1744 of February 20, 2007, and reauthorized in subsequent resolutions, and includes its agencies, instrumentalities, and controlled entities.

§ 551.302 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, transferred in violation of the United Nations arms embargo on Somalia.

§ 551.303 Blocked account; blocked property.

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibitions in § 551.201 held in the name of a person whose property and interests in property are blocked pursuant to § 551.201, 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 a license or other authorization from OFAC expressly authorizing such action.

Note 1 to § 551.303. See § 551.411 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 551.201.

§ 551.304 Charcoal.

The term *charcoal* means any product classifiable in heading 3802 or 4402 of the Harmonized Tariff Schedule of the United States.

§ 551.305 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(1) With respect to a person listed in the Annex to E.O. 13536, as amended by E.O. 13620, 12:01 a.m. eastern daylight time, April 13, 2010;

(2) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 551.201, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked; and

(3) With respect to the prohibition set forth in § 551.207, 2:00 p.m. eastern daylight time, July 20, 2012.

(b) For the purposes of this section, *constructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property is published in the *Federal Register*.

§ 551.306 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 551.307 Financial, material, logistical, or technical support.

The term *financial, material, logistical, or technical support*, as used in this part, means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. "Technologies" as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

§ 551.308 [Reserved]

§ 551.309 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.

§ 551.310 Licenses; general and specific.

(a) Except as otherwise provided in this part, 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 or made available on OFAC's website: www.treasury.gov/ofac.

(c) The term *specific license* means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's website: www.treasury.gov/ofac.

Note 1 to § 551.310. See § 501.801 of this chapter on licensing procedures.

§ 551.311 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§ 551.312 Person.

The term *person* means an individual or entity.

§ 551.313 Property; property interest.

The terms *property* and *property interest* include 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.

§ 551.314 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. Without limitation on the foregoing, it 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.

§ 551.315 Transitional Federal Institutions.

The term *Transitional Federal Institutions* means the Transitional Federal Charter of the Somali Republic adopted in February 2004 and the Somali federal institutions established pursuant to such charter, and includes their agencies, instrumentalities, and controlled entities.

§ § 551.316 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 551.317 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.

§ 551.318 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 other extensions of credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, trust companies, securities brokers and dealers, 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.

Subpart D—Interpretations

§ 551.401 Reference to amended sections.

(a) Reference to any section in this part is a reference to the same as currently amended, unless the reference includes a specific date. *See* 44 U.S.C. 1510.

(b) Reference to any ruling, order, instruction, direction, or license issued pursuant to this part is a reference to the same as currently amended unless otherwise so specified.

§ 551.402 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 OFAC does not affect any act done or omitted, or any civil or criminal 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.

§ 551.403 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 whose property and interests in property are blocked pursuant to § 551.201, such property shall no longer be deemed to be property blocked pursuant to § 551.201, unless there exists in the property another interest that is blocked pursuant to § 551.201, 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 § 551.201, such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 551.404 Transactions ordinarily incident to a licensed transaction.

(a) Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(1) 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 § 551.201; or

(2) 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.

(b) For example, a license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 551.201, also authorizes other persons to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks, provided that such other persons are not themselves persons whose property and interests in property are blocked pursuant to § 551.201.

§ 551.405 Provision of services.

(a) The prohibitions on transactions contained in § 551.201 apply to services performed in the United States or by U.S. persons, wherever located, including by a foreign 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 § 551.201; or

(2) With respect to property interests of any person whose property and interests in property are blocked pursuant to § 551.201.

(b) For 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 § 551.201.

Note 1 to § 551.405. *See* §§ 551.507 and 551.509 on licensing policy with regard to the provision of certain legal and emergency medical services.

§ 551.406 Offshore transactions involving blocked property.

The prohibitions in § 551.201 on transactions or dealings involving blocked property, as defined in § 551.303, apply to transactions by any U.S. person in a location outside the United States.

§ 551.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 551.201, 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.

Note 1 to § 551.407. *See also* § 551.502(e), 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.

§ 551.408 Charitable contributions.

Unless specifically authorized by OFAC 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, or received from, a person whose property and interests in property are blocked pursuant to § 551.201. For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 551.201 if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from 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, or the receipt of contributions from such a person.

§ 551.409 Credit extended and cards issued by financial institutions to a person whose property and interests in property are blocked.

The prohibition in § 551.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including charge cards, debit cards, or other credit facilities issued by a financial institution to a person whose property and interests in property are blocked pursuant to § 551.201.

§ 551.410 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 § 551.201 if effected after the effective date.

§ 551.411 Entities owned by one or more persons whose property and interests in property are blocked.

Persons whose property and interests in property are blocked pursuant to § 551.201 have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, 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 § 551.201, regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

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

§ 551.501 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. General licenses and statements of licensing policy relating to this part also may be available through the Somalia Sanctions page on OFAC's website: *www.treasury.gov/ofac*.

§ 551.502 Effect of license or other authorization.

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, 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 OFAC 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 part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction 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.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data that are not prohibited by this part or that do not require a license by OFAC nevertheless may require authorization by the U.S. Department of Commerce, the U.S. Department of State, or other agencies of the U.S. Government.

(e) 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.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

§ 551.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC 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.

§ 551.504 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 § 551.201 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 1 to § 551.504. See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 551.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 551.505 Entries in certain accounts for normal service charges.

(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.

§ 551.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 551.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 551.201, 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 § 551.201.

§ 551.507 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 § 551.201 is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 551.508, 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 § 551.201 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* § 551.404.

(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 § 551.201 is prohibited unless licensed pursuant to this part.

Note 1 to § 551.507. 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 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.

§ 551.508 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 § 551.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 551.201 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 § 551.507(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 § 551.201, 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): OFAC.Regulations.Reports@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.

§ 551.509 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are prohibited by this part are authorized.

§ 551.510 Official business of the United States Government.

All transactions prohibited by this part that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof are authorized.

§ 551.511 Official activities of international organizations.

All transactions and activities prohibited by this part that are for the conduct of the official business of the United Nations and its Specialized Agencies, Programmes, Funds, and Related Organizations by employees, contractors, or grantees thereof are authorized.

Note 1 to § 551.511. For an organizational chart listing the Specialized Agencies, Programmes, Funds, and Related Organizations of the United Nations, see the following page on the United Nations website: *<http://www.unsceb.org/directory>*.

Subpart F—Reports

§ 551.601 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 and Findings of Violation

§ 551.701 Penalties.

(a) Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) 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.

(2) IEEPA provides for a maximum civil penalty not to exceed the greater of \$311,562 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.

(3) A person who willfully commits, willfully attempts to commit, 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)(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) Pursuant to 18 U.S.C. 1001, 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, or both.

(d) Section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (UNPA), 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 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.

(e) Violations involving transactions described at section 203(b)(1) of IEEPA shall be subject only to the penalties set forth in paragraph (d) of this section.

(f) Violations of this part may also be subject to other applicable laws.

§ 551.702 Pre-Penalty Notice; settlement.

(a) *When required.* If OFAC 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, 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 the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) and determines that a civil monetary penalty is warranted, OFAC 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) *Response—(1) Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to OFAC. 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 as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days 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 OFAC by courier), or dated if sent by email,

on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed or date the Pre-Penalty Notice was emailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, 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 OFAC, only upon specific request to OFAC.

(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, contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and include the OFAC 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 OFAC's Office of Compliance and Enforcement by mail or courier or email and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by OFAC, 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 OFAC 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 OFAC 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.

§ 551.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a 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.

§ 551.704 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 OFAC, 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.

§ 551.705 Findings of Violation.

(a) *When issued.* (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation 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 the International Emergency Economic Powers Act (50 U.S.C. 1701–1706);

(ii) Considers it important to document the occurrence of a violation; and

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond*. An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; Default determination*. A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(i) *Computation of time for response*. A response to an initial Finding of Violation 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 OFAC by courier), or dated if sent by email, on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served or date the Finding of Violation was sent by email. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, 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 OFAC, only upon specific request to OFAC.

(3) *Form and method of response*. A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient to indicate that it is in response to the initial Finding of Violation, and include the OFAC identification number listed on the initial Finding of

Violation. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier or email and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response.* Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501 of this chapter. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c) *Determination—(1) Determination that a Finding of Violation is warranted.* If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(2) *Determination that a Finding of Violation is not warranted.* If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

Note 1 to paragraph (c)(2). A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

Subpart H—Procedures

§ 551.801 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.

§ 551.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order (E.O.) 13536 of April 12, 2010, E.O. 13620 of July 20, 2012, and any further Executive orders relating to the national emergency declared in E.O. 13536, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 551.901 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, 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.

Bradley T. Smith
Acting Director, Office of Foreign Assets Control.

BILLING CODE 4810-AL

[FR Doc. 2021-08836 Filed: 4/27/2021 8:45 am; Publication Date: 4/28/2021]