



## Office of Foreign Assets Control

### 31 CFR Part 501

#### Amendment of Applicable Schedule Amount

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

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**SUMMARY:** The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is issuing this final rule to make a technical amendment to the definition of the term “applicable schedule amount” in its regulations. In recent years, OFAC has adjusted its civil monetary penalties (CMPs) as required by the Federal Civil Penalties Inflation Adjustment Act, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. While OFAC’s “applicable schedule amount” values are not civil monetary penalties that are required to be adjusted pursuant to such statute, OFAC is updating the definition of the term “applicable schedule amount” so that it will automatically rise with OFAC’s CMPs, removing the necessity of updating the applicable schedule amount on an annual basis.

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

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

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Availability**

This document and additional information concerning OFAC are available on OFAC’s website: [www.treas.gov/ofac](http://www.treas.gov/ofac).

##### **Background**

On September 8, 2008, OFAC issued as an interim final rule the “Economic Sanctions Enforcement Guidelines” (Enforcement Guidelines) as appendix A to the Reporting, Procedures and Penalties Regulations at 31 CFR part 501 (73 FR 51933, September 8, 2008). On November 9, 2009, OFAC re-issued as a final rule the Enforcement Guidelines (74 FR 57593, November 9, 2009). OFAC’s Enforcement Guidelines provide a general framework for the enforcement of all economic sanctions programs administered by OFAC. Section V.B.2.a.ii. of the Enforcement Guidelines states that the base amount of a proposed civil penalty in a Pre-Penalty Notice shall be the “applicable schedule amount,” subject to certain caps noted in that section, where the case is deemed non-egregious and the apparent violation has come to OFAC’s attention by means other than a voluntary self-disclosure. Section I.B. of the Enforcement Guidelines provides a definition of “applicable schedule amount.”

Separately, as required by the Federal Civil Penalties Inflation Adjustment Act (1990 Pub. L. 101-410, 104 Stat. 890; 28 U.S.C. 2461 note), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74, 129 Stat. 599, 28 U.S.C. 2461 note) (the FCPIA Act), OFAC has adjusted its CMPs seven times since the FCPIA Act went into effect on November 2, 2015: an initial catch-up adjustment on August 1, 2016 (81 FR 43070, July 1, 2016); an additional initial catch-up adjustment related to CMPs for failure to comply with a requirement to furnish information, the late filing of a required report, and failure to maintain records that were inadvertently omitted from the August 1, 2016 initial catch-up adjustment on October 5, 2020 (85 FR 54911, September 3, 2020); and annual adjustments on February 10, 2017 (82 FR 10434, February 10, 2017); March 19, 2018 (83 FR 11876, March 19, 2018); June 14, 2019 (84 FR 27714, June 14, 2019); April 9, 2020 (85 FR 19884, April 9, 2020); and March 17, 2021 (86 FR 14534, March 17, 2021).

OFAC’s applicable schedule amount values in the Enforcement Guidelines, while not required to be adjusted pursuant to the FCPIA Act, correspond in certain ways with OFAC’s

CMPs. As a result, OFAC issued final rules on August 11, 2020 (85 FR 48474, August 11, 2020) and April 12, 2021 (86 FR 18895, April 12, 2021) amending the definition of “applicable schedule amount” in section I.B. of appendix A to 31 CFR part 501 to adjust applicable schedule amount values for transactions valued at \$200,000 or more to correspond with recent CMP adjustments required by the FCPIA Act.

By a separate rule, OFAC will publish its annual adjustment of CMPs pursuant to the FCPIA Act for 2022. Today, OFAC is amending the definition of “applicable schedule amount” in section I.B. of appendix A to 31 CFR part 501 to automatically adjust the applicable schedule amount value for transactions valued at \$200,000 or more as new CMP adjustments are published. Specifically, OFAC is amending section I.B.7. such that in the case of transactions valued at \$200,000 or more, the applicable schedule amount is equivalent to the statutory maximum civil penalty per violation of the International Emergency Economic Powers Act (50 U.S.C. 1701–1706, at 1705) listed in section V.B.2.a.v of appendix A to 31 CFR part 501. This change is not required pursuant to the FCPIA Act; however, OFAC is making this change to ensure the applicable schedule amount value continues to correspond appropriately to OFAC’s CMPs as the CMPs are adjusted annually pursuant to the FCPIA Act. In addition, OFAC is making technical edits to the authority citation to conform to *Federal Register* guidance.

### **Public Participation**

Because this final rule imposes no obligations on any person, but only amends OFAC’s enforcement policy and procedures based on existing substantive rules, provisions of 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. Further, this final rule is not a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993).

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 Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

### **List of Subjects in 31 CFR Part 501**

Administrative practice and procedure, Banks, banking, Blocking of assets, Exports, Foreign trade, Licensing, Penalties, Sanctions.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 501 as follows:

### **PART 501—REPORTING, PROCEDURES AND PENALTIES REGULATIONS**

1. The authority citation for part 501 is revised to read as follows:

**Authority:** 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901–3913; 21 U.S.C. 1901–1908; 22 U.S.C. 287c, 2370(a), 6009, 6032, 7205, 8501–8551; 31 U.S.C. 321(b); 50 U.S.C. 1701–1706, 4301–4341; Pub. L. 101-410, 104 Stat. 890, as amended (28 U.S.C. 2461 note).

2. In appendix A to part 501, revise section I.B.7. to read as follows:

#### **Appendix A to Part 501--Economic Sanctions Enforcement Guidelines.**

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#### **1. Definitions**

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B. \* \* \*

7. The statutory maximum civil penalty per violation of IEEPA listed in section V.B.2.a.v. of this appendix with respect to a transaction valued at \$200,000 or more.

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