

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 561****Iranian Financial 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 Iranian Financial Sanctions Regulations and reissuing them in their entirety, in order to implement section 1245(d) of the National Defense Authorization Act for Fiscal Year 2012, which provides for the imposition of sanctions with respect to the Central Bank of Iran and designated Iranian financial institutions.

DATES: *Effective Date:* February 27, 2012.

FOR FURTHER INFORMATION CONTACT:

Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Assistant Director for Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:**Electronic and Facsimile Availability**

This document and additional information concerning OFAC are available from OFAC's Web site (www.treas.gov/ofac). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

On July 1, 2010, the President signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111-195) (22 U.S.C. 8501-8551) ("CISADA"). Subsection 104(c) of CISADA required the Secretary of the Treasury, not later than 90 days after the date of CISADA's enactment, to prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account for a foreign financial institution that the Secretary finds knowingly engages in specified sanctionable activities, subject to certain waiver authorities provided to the Secretary in subsection 104(f) of

CISADA. Subsection 104(d) of CISADA required the Secretary of the Treasury, not later than 90 days after the date of CISADA's enactment, to prescribe regulations to prohibit any person owned or controlled by a U.S. financial institution from knowingly engaging in transactions with or benefitting Iran's Islamic Revolutionary Guard Corps ("IRGC") or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) ("IEEPA"). On August 16, 2010, the Department of the Treasury's Office of Foreign Assets Control ("OFAC") published the Iranian Financial Sanctions Regulations, 31 CFR Part 561 (the "IFSR"), to implement subsections 104(c) and (d) and other related provisions of CISADA (75 FR 49836).

On September 28, 2010, the President issued Executive Order 13553 (75 FR 60567, October 1, 2010) ("E.O. 13553"), invoking the authority of, *inter alia*, IEEPA and CISADA, and in order to take additional steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995, with respect to Iran.

Section 8 of E.O. 13553 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, as may be necessary to carry out section 104 of CISADA. In addition, section 8 of E.O. 13553 authorizes the Secretary of the Treasury to redelegate these functions to other officers and agencies of the United States Government consistent with applicable law. E.O. 13553 thereby provided IEEPA authority for the IFSR.

On December 31, 2011, the President signed into law the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112-81) ("NDAA"). Section 1245(d)(1) of the NDAA requires the President to prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by a foreign financial institution that the President determines has knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran or another Iranian financial institution designated by the Secretary of the Treasury pursuant to IEEPA. Pursuant to section 1245(d)(2), a foreign financial institution conducting or facilitating a transaction for the sale of food, medicine, or medical devices to Iran will not be subject to sanctions under the NDAA for such transactions.

For a private foreign financial institution, section 1245(d)(1) of the NDAA calls for sanctions beginning 60 days after the date of enactment of the NDAA for transactions other than those for the purchase of petroleum or petroleum products from Iran. For transactions by a private foreign financial institution for the purchase of petroleum or petroleum products from Iran, section 1245(d)(4)(C) calls for sanctions pursuant to section 1245(d)(1) beginning 180 days after the date of enactment of the NDAA (or later, as further described below). For a foreign financial institution owned or controlled by the government of a foreign country, including the central bank of a foreign country, section 1245(d)(3) calls for sanctions pursuant to section 1245(d)(1) beginning 180 days after the date of enactment of the NDAA (or later, as further described below) and only for transactions for the sale or purchase of petroleum or petroleum products to or from Iran.

For all foreign financial institutions, section 1245(d)(4)(C) of the NDAA provides that the sanctions in section 1245(d)(1) shall apply for transactions for the purchase of petroleum or petroleum products from Iran only if the President makes required periodic determinations that there is sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions.

Section 1245(d)(4)(D) of the NDAA provides for an exception to the imposition of sanctions on any foreign financial institution if the President determines and periodically reports to Congress that the country with primary jurisdiction over that foreign financial institution has significantly reduced its volume of crude oil purchases from Iran during a specified period of time preceding the report.

Pursuant to section 1245(d)(5) of the NDAA, the President may waive the imposition of sanctions in section 1245(d)(1) for a period of not more than 120 days, and may renew that waiver for additional periods of not more than 120 days, provided the President determines that such a waiver is in the national security interest of the United States and submits a report to Congress providing justification for the waiver and that includes any concrete cooperation that the President has received or expects to receive as a result of the waiver.

Finally, section 1245(g) of the NDAA provides that the President may exercise all authorities under sections 203 and

205 of IEEPA and may impose the penalties provided in section 206(b) and (c) of IEEPA to implement and enforce section 1245 of the NDAA.

Section 1245(d) of the NDAA does not repeal or amend section 104(c) of CISADA. Though section 1245(d) of the NDAA imposes sanctions on foreign financial institutions similar to the financial sanctions under CISADA and the IFSR prior to this regulatory amendment (i.e., prohibiting and/or imposing strict conditions on opening or maintaining correspondent accounts or payable-through accounts in the United States), there are differences in the underlying financial transactions that serve as the trigger for the imposition of sanctions. Therefore, section 1245(d) of the NDAA and section 104(c) of CISADA, as implemented, respectively, by new § 561.203 and by § 561.201 of the IFSR, are separate from, and independent of, each other.

On February 5, 2012, the President, invoking the authority of, *inter alia*, IEEPA and section 1245 of the NDAA, issued Executive Order 13599 (“Blocking Property of the Government of Iran and Iranian Financial Institutions”) (“E.O. 13599”), in order to take additional steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995, with respect to Iran, particularly in light of the deceptive practices of the Central Bank of Iran and other Iranian banks to conceal transactions of sanctioned parties, the deficiencies in Iran’s anti-money laundering regime and the weaknesses in its implementation, and the continuing and unacceptable risk posed to the international financial system by Iran’s activities.

Section 1 of E.O. 13599 blocks 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, including any overseas branch, of the Government of Iran (including the Central Bank of Iran), any Iranian financial institution, and any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, 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. 13599. The property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

In addition, Section 10 of E.O. 13599 delegates to the Secretary of the

Treasury, in consultation with the Secretary of State, the authority to exercise the relevant functions and authorities conferred upon the President by sections 1245(d)(1)(A) and (g)(1) of the NDAA.

Today, OFAC is amending the IFSR to accomplish several purposes. First, OFAC is amending the IFSR to implement section 1245(d) and other related provisions of section 1245 of the NDAA. Section 561.203 of the IFSR adds the prohibitions and exceptions set forth in section 1245(d) of the NDAA. Sections 561.318 through 561.327 of the IFSR define new key terms used in § 561.203 of the IFSR, and §§ 561.406 and 561.407 of the IFSR contain new interpretive provisions regarding § 561.203 of the IFSR. In particular, §§ 561.318 and 561.319 of the IFSR define the terms *petroleum* and *petroleum products*, and § 561.327 of the IFSR defines the term *food, medicine, and medical devices*. Section 561.406 of the IFSR provides an interpretation of the phrase *country with primary jurisdiction over the foreign financial institution* for purposes of § 561.203 of the IFSR. An amended § 561.404 of the IFSR sets forth the types of factors that, as a general matter, the Secretary of the Treasury will consider in determining whether a transaction is significant, for purposes of both §§ 561.201 and 561.203 of the IFSR.

Second, to implement section 8 of E.O. 13553, OFAC is adding IEEPA to the authority citation for the IFSR. As a related change, OFAC is amending § 561.802 of the IFSR to add a delegation of IEEPA authorities to the Director of OFAC or any other person to whom the Secretary of the Treasury has delegated authority to act. With the amendments to the authority citation and § 561.802 of the IFSR, OFAC is clarifying that it may exercise the same IEEPA authorities that are used in OFAC’s other IEEPA-based sanctions programs—in addition to authorities under section 104 of CISADA—to investigate, regulate, or prohibit transactions under the IFSR.

Third, OFAC is amending § 561.201 of the IFSR to remove references to Appendix A to Part 561 throughout the section. Section 561.201 provided that if, upon a finding by the Secretary of the Treasury that a foreign financial institution knowingly engaged in one or more of the sanctionable activities set forth in paragraph (a) of § 561.201, the Secretary decided to prohibit a U.S. financial institution from opening or maintaining a correspondent account or a payable-through account in the United States for that foreign financial institution, the name of that foreign

financial institution would be added to Appendix A to Part 561. Today’s amendment removes the references to Appendix A throughout § 561.201 and instead provides that the names of the foreign financial institutions sanctioned under either § 561.201 or § 561.203 will be added to the List of Foreign Financial Institutions Subject to Part 561 (the “Part 561 List”), which is a new list to be maintained on the Office of Foreign Assets Control’s Web site (www.treasury.gov/ofac) on its Iran Sanctions page, and published in the **Federal Register**. This list also will state the prohibition or strict condition(s) that apply with respect to each sanctioned foreign financial institution. In addition, OFAC is making conforming amendments to § 561.504 of the IFSR to remove references to Appendix A throughout the section and substitute therefor references to the Part 561 List on OFAC’s Web site, as described below. In a final related amendment, OFAC is removing Appendix A to Part 561, which had been reserved.

Fourth, OFAC is amending the IFSR to add a reporting requirement to the general license in § 561.504, which authorizes transactions related to closing a correspondent account or a payable-through account for a foreign financial institution. OFAC is also amending § 561.504 to make the general license and reporting requirement applicable when correspondent accounts or payable-through accounts for a foreign financial institution are required to be closed pursuant to new § 561.203, as well as § 561.201. As set forth in amended § 561.201 and new § 561.203 of the IFSR, if the Secretary of the Treasury decides to prohibit the opening or maintaining of correspondent accounts or payable-through accounts in the United States for a foreign financial institution, the name of the foreign financial institution will be added to the Part 561 List. Amended paragraph (a) of § 561.504 authorizes transactions related to closing a correspondent account or a payable-through account for a foreign financial institution whose name is added to the Part 561 List during the 10-day period beginning on the effective date of the prohibition in § 561.201(c) or § 561.203(c). Under new paragraph (b) of § 561.504, a U.S. financial institution that maintained a correspondent account or a payable-through account for a foreign financial institution whose name is added to the Part 561 List on OFAC’s Web site must file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. The

report must include complete information on all transactions processed or executed in winding down and closing the account. Former paragraphs (b) and (c) of § 561.504 are being redesignated as paragraphs (c) and (d), respectively.

In connection with the new reporting requirement in § 561.504(b), OFAC also is amending § 561.901 of the IFSR to add a statement that the information collection in § 561.504(b) has been approved by the Office of Management and Budget (“OMB”) and assigned control number 1505–0243 (*see* discussion under Paperwork Reduction Act, below).

Finally, OFAC is amending §§ 561.702(b)(3) and 561.802 of the IFSR to make technical changes or corrections.

Public Participation and Paperwork Reduction Act

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

With respect to section 2 (44 U.S.C. 3507) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the collection of information in § 561.601 of the IFSR is made pursuant to OFAC’s Reporting, Procedures and Penalties Regulations, 31 CFR part 501, and has been approved by OMB under control number 1505–0164. *See* 31 CFR 501.901. The collection of information in § 561.504(b) of the IFSR has been submitted to and approved by OMB pending public comment and has been assigned OMB control number 1505–0243. Section 561.504(b) specifies that a U.S. financial institution that maintained a correspondent account or payable-through account for a foreign financial institution listed on the Part 561 List on OFAC’s Web site (www.treasury.gov/ofac) must file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. This collection of information assists in verifying that U.S. financial institutions are complying with prohibitions on maintaining correspondent accounts or payable-through accounts for foreign financial institutions listed on the Part 561 List, and the information collected will be used to further OFAC’s compliance and enforcement functions.

With respect to all of the foregoing collections of information, 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.

The likely respondents and recordkeepers affected by the new collection of information in § 561.504(b) are U.S. financial institutions operating correspondent accounts or payable-through accounts for foreign financial institutions. Because this is a new collection of information, OFAC cannot predict the response rate for the § 561.504(b) reporting requirement at this time. For future submissions, OFAC will report retrospectively on the response rate during the previous reporting period.

The estimated average reporting/recordkeeping burden is 2 hours per response.

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency’s estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques and other forms of information technology; and (e) the estimated capital or start-up costs of the operation, maintenance, and/or purchase of services to provide information.

Comments concerning the above information and the accuracy of these burden estimates, and suggestions for reducing this burden, should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with a copy to Chief of Records, Attention: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. Any such comments should be submitted not later than April 27, 2012. All comments on the collection of information in § 561.504(b) will be a matter of public record.

List of Subjects in 31 CFR Part 561

Administrative practice and procedure, Banks, Banking, Brokers, Foreign trade, Investments, Loans, Securities, Iran.

For the reasons set forth in the preamble, the Department of the

Treasury’s Office of Foreign Assets Control is revising part 561 of 31 CFR chapter V to read as follows:

PART 561—IRANIAN FINANCIAL SANCTIONS REGULATIONS

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

Sec.

561.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

561.201 CISADA-based sanctions on certain foreign financial institutions.

561.202 Prohibitions on persons owned or controlled by U.S. financial institutions.

561.203 NDAA-based sanctions on certain foreign financial institutions.

Subpart C—General Definitions

561.301 Effective date.

561.302 UNSC Resolution 1737.

561.303 UNSC Resolution 1747.

561.304 UNSC Resolution 1803.

561.305 UNSC Resolution 1929.

561.306 Correspondent account.

561.307 Payable-through account.

561.308 Foreign financial institution.

561.309 U.S. financial institution.

561.310 Money laundering.

561.311 Agent.

561.312 Act of international terrorism.

561.313 Financial services.

561.314 Knowingly.

561.315 Person.

561.316 Entity.

561.317 Money service businesses.

561.318 Petroleum.

561.319 Petroleum products.

561.320 Iranian financial institution.

561.321 Government of Iran.

561.322 Entity owned or controlled by the Government of Iran.

561.323 Foreign financial institution owned or controlled by the government of a foreign country.

561.324 Designated Iranian financial institution.

561.325 Financial transaction.

561.326 Privately owned foreign financial institution.

561.327 Food, medicine, and medical devices.

Subpart D—Interpretations

561.401 Reference to amended sections.

561.402 Effect of amendment.

561.403 Facilitation of certain efforts, activities, or transactions by foreign financial institutions.

561.404 Significant transaction or transactions; significant financial services; significant financial transaction.

561.405 Entities owned by a person whose property and interests in property are blocked.

561.406 Country with primary jurisdiction over the foreign financial institution.

561.407 Conducting or facilitating a financial transaction with the Central Bank of Iran or a designated Iranian financial institution.

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

- 561.501 General and specific licensing procedures.
- 561.502 Effect of license or authorization.
- 561.503 Exclusion from licenses.
- 561.504 Transactions related to closing a correspondent account or payable-through account.

Subpart F—Reports

- 561.601 Records and reports.

Subpart G—Penalties

- 561.701 Penalties.
- 561.702 Pre-Penalty Notice; settlement.
- 561.703 Penalty imposition.
- 561.704 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

- 561.801 Procedures.
- 561.802 Delegation by the Secretary of the Treasury.
- 561.803 Consultations.

Subpart I—Paperwork Reduction Act

- 561.901 Paperwork Reduction Act notice.

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Pub. L. 112–81, 125 Stat. 1298; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 13553, 75 FR 60567, 3 CFR, 2010 Comp., p. 253; E.O. 13599, 77 FR 6659, February 8, 2012.

Subpart A—Relation of This Part to Other Laws and Regulations**§ 561.101 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 or the conditions imposed pursuant to 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**§ 561.201 CISADA-based sanctions on certain foreign financial institutions.**

Upon a finding by the Secretary of the Treasury that a foreign financial institution knowingly engages in one or more of the activities described in paragraphs (a)(1) through (5) of this section, consistent with the Secretary of the Treasury's authorities under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (22 U.S.C. 8501–8551) (“CISADA”), either the Secretary of the Treasury will impose one or more strict conditions, as set forth in paragraph (b) of this section, on the opening or maintaining of a correspondent account or a payable-through account in the United States for that foreign financial institution, or, as set forth in paragraph (c) of this section, the Secretary of the Treasury will prohibit a U.S. financial institution from opening or maintaining a correspondent account or a payable-through account in the United States for that foreign financial institution. The name of the foreign financial institution and the relevant prohibition or strict condition(s) will be added to the List of Foreign Financial Institutions Subject to Part 561 (the “Part 561 List”) on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page and published in the **Federal Register**.

(a) A foreign financial institution engages in an activity described in this paragraph if, in any location or currency, the foreign financial institution knowingly:

(1) Facilitates the efforts of the Government of Iran (including efforts of Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates)—

(i) To acquire or develop weapons of mass destruction or delivery systems for weapons of mass destruction; or

(ii) To provide support for organizations designated as foreign terrorist organizations under section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)) or support for acts of international terrorism, as defined in § 561.312 of this part;

(2) Facilitates the activities of a person subject to financial sanctions pursuant to United Nations Security Council Resolutions 1737, 1747, 1803, or 1929, or any other resolution adopted by the Security Council that imposes sanctions with respect to Iran;

Note to paragraph (a)(2) of § 561.201: Persons subject to financial sanctions pursuant to the United Nations Security Council resolutions listed in § 561.201(a)(2)

include individuals and entities listed in the Annex to UNSC Resolution 1737, Annex I of UNSC Resolution 1747, Annexes I and III of UNSC Resolution 1803, and Annexes I, II, and III of UNSC Resolution 1929; and individuals and entities designated by the Security Council or by the Committee established pursuant to UNSC Resolution 1737 (the “Committee”) as being engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities, or the development of nuclear weapon delivery systems; and individuals and entities acting on behalf of or at the direction of those so listed or designated; and entities owned or controlled by those so listed or designated; and individuals and entities determined by the Security Council or the Committee to have assisted listed or designated individuals or entities in evading sanctions of, or in violating the provisions of, UNSC Resolutions 1737, 1747, 1803, or 1929.

(3) Engages in money laundering to carry out an activity described in paragraphs (a)(1) or (2) of this section;

(4) Facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity described in paragraphs (a)(1) or (2) of this section; or

(5) Facilitates a significant transaction or transactions or provides significant financial services for—

(i) Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (“IEEPA”); or

(ii) A financial institution whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism.

Note to paragraph (a)(5) of § 561.201: The names of persons whose property and interests in property are blocked pursuant to IEEPA are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List (the “SDN List”). The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Agents or affiliates of Iran's Islamic Revolutionary Guard Corps (“IRGC”) whose property and interests in property are blocked pursuant to IEEPA are identified by a special reference to the “IRGC” at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and interests in property are blocked pursuant to

the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544, will have the tag “[NPWMD] [IRGC]” at the end of its entry on the SDN List. Financial institutions whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran’s proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran’s support for international terrorism also are identified by the tag “[IFSR]” in addition to the tag referencing part 544 or part 594, as the case may be, located at the end of their entries on the SDN List (e.g., [NPWMD] [IFSR] or [SDGT] [IFSR]). In addition, see § 561.405 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked.

(b) The Secretary of the Treasury may impose one or more strict conditions on the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary finds engages in one or more of the activities described in paragraph (a) of this section. Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not open or maintain a correspondent account or payable-through account in the United States in a manner that is inconsistent with any strict condition imposed and in effect pursuant to this paragraph. Such conditions may include, but are not limited to, the following:

(1) Prohibiting or restricting any provision of trade finance through the correspondent account or payable-through account of the foreign financial institution;

(2) Restricting the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution to certain types of transactions, such as personal remittances;

(3) Placing monetary limits on, or limiting the volume of, the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution;

(4) Requiring pre-approval from the U.S. financial institution for all transactions processed through the correspondent account or payable-through account of the foreign financial institution; or

(5) Prohibiting or restricting the processing of foreign exchange transactions through the correspondent account or payable-through account of the foreign financial institution.

Note to paragraph (b) of § 561.201: The name of the foreign financial institution,

together with the actual strict condition or conditions to be imposed, will be added to the Part 561 List on the Office of Foreign Assets Control’s Web site (www.treasury.gov/ofac) on the Iran Sanctions page, and published in the **Federal Register**.

(c) If the Secretary of the Treasury does not impose one or more strict conditions, pursuant to paragraph (b) of this section, on the opening or maintaining of a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary finds engages in one or more of the activities described in paragraph (a) of this section, the Secretary, consistent with CISADA, will prohibit the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for that foreign financial institution. Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not open or maintain a correspondent account or a payable-through account in the United States for a foreign financial institution for which the opening or maintaining of such an account is prohibited pursuant to this paragraph.

Note to paragraph (c) of § 561.201: The names of foreign financial institutions for which the opening or maintaining of a correspondent account or a payable-through account in the United States is prohibited will be listed on the Part 561 List on the Office of Foreign Assets Control’s Web site (www.treasury.gov/ofac) on the Iran Sanctions page, and published in the **Federal Register**.

Note to § 561.201: The Part 561 List will specify whether U.S. financial institutions are required to:

(1) Impose strict conditions on the opening or maintaining of a correspondent account or a payable-through account for a particular foreign financial institution pursuant to paragraph (b) of this section;

(2) Prohibit the opening or maintaining of a correspondent account or a payable-through account for a particular foreign financial institution pursuant to paragraph (c) of this section;

(3) Prohibit the opening or maintaining of a correspondent account or a payable-through account for a particular foreign financial institution pursuant to § 561.203(a)(1) and (a)(2)(i); or

(4) Prohibit the opening of a correspondent account or a payable-through account and impose strict conditions on maintaining a preexisting correspondent account or a payable-through account for a particular foreign financial institution pursuant to § 561.203(a)(1) and (a)(2)(ii). Where applicable, the Part 561 List also will specify the strict condition or conditions to be imposed on the correspondent account or the payable-through account.

§ 561.202 Prohibitions on persons owned or controlled by U.S. financial institutions.

Except as otherwise authorized pursuant to this part, any person that is owned or controlled by a U.S. financial institution is prohibited from knowingly engaging in any transaction with or benefitting Iran’s Islamic Revolutionary Guard Corps or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (“IEEPA”).

Note 1 to § 561.202: The names of persons whose property and interests in property are blocked pursuant to IEEPA are published in the **Federal Register** and incorporated into the Office of Foreign Assets Control’s Specially Designated Nationals and Blocked Persons List (the “SDN List”). The SDN List is accessible through the following page on the Office of Foreign Assets Control’s Web site: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in appendix A to this chapter. Agents or affiliates of Iran’s Islamic Revolutionary Guard Corps (“IRGC”) whose property and interests in property are blocked pursuant to IEEPA are identified by a special reference to the “IRGC” at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and interests in property are blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544, will have the tag “[NPWMD] [IRGC]” at the end of its entry on the SDN List. In addition, see § 561.405 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked.

Note 2 to § 561.202: A U.S. financial institution is subject to the civil penalties provided for in section 206(b) of IEEPA if any person that it owns or controls violates the prohibition set forth in this section and the U.S. financial institution knew or should have known of such violation. See § 561.701(a)(2).

§ 561.203 NDAA-based sanctions on certain foreign financial institutions.

(a) *Imposition of sanctions.* Subject to the limitations, exceptions, and conditions set forth in paragraphs (d) through (h) of this section, upon a determination by the Secretary of the Treasury that a foreign financial institution has knowingly conducted or facilitated any significant financial transaction with the Central Bank of Iran or a designated Iranian financial institution, consistent with section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81), the Secretary of the Treasury:

(1) Will prohibit U.S. financial institutions from opening a correspondent account or a payable-through account in the United States for the foreign financial institution with respect to which the determination has been made; and either

(2)(i) Will prohibit U.S. financial institutions from maintaining a correspondent account or a payable-through account in the United States for the foreign financial institution with respect to which the determination has been made; or

(ii) Will impose one or more strict conditions on the maintaining of any correspondent account or payable-through account that had been opened in the United States for the foreign financial institution prior to the Secretary of the Treasury's determination with respect to the foreign financial institution.

Note 1 to paragraph (a) of § 561.203: The names of *designated Iranian financial institutions* are identified on the Specially Designated Nationals and Blocked Persons List (the "SDN List") on the Office of Foreign Assets Control's Web site with the tag "[NDAA]" at the end of their entries, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. The SDN List is accessible through the following page on the Office of Foreign Assets Control's Web site: www.treasury.gov/sdn.

Note 2 to paragraph (a) of § 561.203: The name of any foreign financial institution with respect to which a determination has been made pursuant to this paragraph (a), along with the relevant sanctions to be imposed (prohibition(s) and/or strict condition(s)), will be added to the List of Foreign Financial Institutions Subject to Part 561 (the "Part 561 List"), which is maintained on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page, and published in the **Federal Register**.

(b) *Strict conditions.* The strict conditions that might be imposed on the maintaining of a pre-existing correspondent account or payable-through account for a foreign financial institution pursuant to paragraph (a)(2)(ii) of this section include, but are not limited to, the following:

(1) Prohibiting or restricting any provision of trade finance through the correspondent account or payable-through account of the foreign financial institution;

(2) Restricting the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution to certain types of transactions, such as personal remittances;

(3) Placing monetary limits on, or limiting the volume of, the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution;

(4) Requiring pre-approval from the U.S. financial institution for all transactions processed through the correspondent account or payable-through account of the foreign financial institution; or

(5) Prohibiting or restricting the processing of foreign exchange transactions through the correspondent account or payable-through account of the foreign financial institution.

(c) *Prohibitions.* (1) Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not open a correspondent account or payable-through account in the United States for a foreign financial institution for which the opening of such an account is prohibited pursuant to paragraph (a)(1) of this section.

(2) Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not maintain a correspondent account or payable-through account in the United States for a foreign financial institution for which the maintaining of such an account is prohibited pursuant to paragraph (a)(2)(i) of this section.

(3) Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not maintain a correspondent account or payable-through account in the United States for a foreign financial institution in a manner that is inconsistent with any strict condition imposed and in effect pursuant to paragraph (a)(2)(ii) of this section.

(d) *Privately owned foreign financial institutions.* (1) Subject to the exceptions set forth in paragraphs (f) and (h) of this section, sanctions may be imposed pursuant to paragraph (a) of this section beginning on February 29, 2012, with respect to any significant financial transaction conducted or facilitated by a privately owned foreign financial institution that is not for the purchase of petroleum or petroleum products from Iran.

(2) Subject to the exceptions and conditions set forth in paragraphs (g) and (h) of this section, sanctions may be imposed pursuant to paragraph (a) of this section with respect to any significant financial transaction conducted or facilitated by a privately owned foreign financial institution on or after June 28, 2012, for the purchase of petroleum or petroleum products from Iran.

(e) *Government-owned or -controlled foreign financial institutions, including foreign central banks.* Subject to the exceptions and conditions set forth in paragraphs (g) and (h) of this section, sanctions may be imposed pursuant to paragraph (a) of this section on a foreign financial institution owned or controlled by the government of a foreign country, including a central bank of a foreign country, only insofar as it engages in a significant financial transaction on or after June 28, 2012, for the sale or purchase of petroleum or petroleum products to or from Iran.

(f) Sanctions will not be imposed under paragraph (a) of this section with respect to any foreign financial institution for conducting or facilitating a transaction for the sale of food, medicine, or medical devices to Iran.

(g) The Secretary of the Treasury may impose sanctions pursuant to paragraph (a) of this section with respect to any significant financial transaction conducted or facilitated by a foreign financial institution on or after June 28, 2012, for the purchase of petroleum or petroleum products from Iran only if the President determines, not later than March 30, 2012, and every 180 days thereafter, that there is a sufficient supply of petroleum and petroleum products from countries other than Iran to permit a significant reduction in the volume of petroleum and petroleum products purchased from Iran by or through foreign financial institutions. Such successive sufficiency determinations by the President shall render subject to sanctions under paragraph (a) of this section those financial transactions conducted or facilitated by a foreign financial institution for the purchase of petroleum or petroleum products from Iran during each successive 180-day period beginning 90 days after the President's determination.

Note to paragraph (g) of § 561.203: Under Section 1245(d)(4)(B) of the NDAA, the President is to make a determination, not later than March 30, 2012, and every 180 days thereafter, of whether the price and supply of petroleum and petroleum products produced in countries other than Iran is sufficient to permit purchasers of petroleum and petroleum products from Iran to reduce significantly in volume their purchases from Iran. This determination is to be based on reports on the availability and price of petroleum and petroleum products produced in countries other than Iran that, pursuant to section 1245(d)(4)(A) of the NDAA, the Administrator of the Energy Information Administration, in consultation with the Secretary of the Treasury, the Secretary of State, and the Director of National

Intelligence, is to submit to Congress beginning not later than February 29, 2012, and every 60 days thereafter.

(h) Sanctions will not be imposed under paragraph (a) of this section on a foreign financial institution if the Secretary of State determines and reports to Congress not later than 90 days after the date on which the President makes the initial determination referenced in paragraph (g) of this section, and every 180 days thereafter, that the country with primary jurisdiction over the foreign financial institution has significantly reduced its volume of crude oil purchases from Iran during the period prior to the initial determination, and during successive 180-day periods.

Note to § 561.203: The sanctions regime described in § 561.203 is separate from the sanctions regime described in § 561.201 and applies in addition to, and independently of, the sanctions regime imposed under § 561.201.

Subpart C—General Definitions

§ 561.301 Effective date.

(a) The effective date of a prohibition or condition imposed pursuant to § 561.201 or § 561.203 on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition.

(b) The effective date of the prohibition contained in § 561.202 with respect to Iran's Islamic Revolutionary Guard Corps and any of its agents or affiliates whose property and interests in property are blocked as of August 16, 2010, is August 16, 2010.

(c) The effective date of the prohibition contained in § 561.202 with respect to an agent or affiliate of Iran's Islamic Revolutionary Guard Corps whose property and interests in property become blocked after August 16, 2010, is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 561.302 UNSC Resolution 1737.

The term *UNSC Resolution 1737* means United Nations Security Council Resolution 1737, adopted December 23, 2006.

§ 561.303 UNSC Resolution 1747.

The term *UNSC Resolution 1747* means United Nations Security Council Resolution 1747, adopted March 24, 2007.

§ 561.304 UNSC Resolution 1803.

The term *UNSC Resolution 1803* means United Nations Security Council Resolution 1803, adopted March 3, 2008.

§ 561.305 UNSC Resolution 1929.

The term *UNSC Resolution 1929* means United Nations Security Council Resolution 1929, adopted June 9, 2010.

§ 561.306 Correspondent account.

The term *correspondent account* means an account established by a U.S. financial institution for a foreign financial institution to receive deposits from, or to make payments on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution.

§ 561.307 Payable-through account.

The term *payable-through account* means a correspondent account maintained by a U.S. financial institution for a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

§ 561.308 Foreign financial institution.

The term *foreign financial institution* means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, the North American Development Bank, or any other international financial institution so notified by the Office of Foreign Assets Control.

§ 561.309 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity that is engaged in the business of accepting deposits,

making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, insurance companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 561.310 Money laundering.

The term *money laundering* means engaging in deceptive practices to obscure the nature of transactions involving the movement of illicit cash or illicit cash equivalent proceeds into, out of, or through a country, or into, out of, or through a financial institution, such that the transactions are made to appear legitimate.

§ 561.311 Agent.

The term *agent* includes an entity established by a person for purposes of conducting transactions on behalf of the person in order to conceal the identity of the person.

§ 561.312 Act of international terrorism.

The term *act of international terrorism* has the same definition as that provided under section 14 of the Iran Sanctions Act of 1996 (50 U.S.C. 1701 note). As of February 27, 2012, the term *act of international terrorism* means an act which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or any state and which appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.

§ 561.313 Financial services.

The term *financial services* includes loans, transfers, accounts, insurance, investments, securities, guarantees, foreign exchange, letters of credit, and commodity futures or options.

§ 561.314 Knowingly.

The term *knowingly*, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

§ 561.315 Person.

The term *person* means an individual or entity.

§ 561.316 Entity.

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

§ 561.317 Money service businesses.

The term *money service businesses* means any agent, agency, branch, or office of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed in 31 CFR 103.11(uu)(1) through (5). The term does not include a bank or a person registered with, and regulated or examined by, the Securities and Exchange Commission or the Commodity Futures Trading Commission.

§ 561.318 Petroleum.

A mixture of hydrocarbons that exists in liquid phase in natural underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities. Also known as crude oil.

§ 561.319 Petroleum products.

The term *petroleum products* includes unfinished oils, liquefied petroleum gases, pentanes plus, aviation gasoline, motor gasoline, naphtha-type jet fuel, kerosene-type jet fuel, kerosene, distillate fuel oil, residual fuel oil, petrochemical feedstocks, special naphthas, lubricants, waxes, petroleum coke, asphalt, road oil, still gas, and miscellaneous products obtained from the processing of crude oil (including lease condensate), natural gas, and other hydrocarbon compounds. The term does not include natural gas, liquefied natural gas, biofuels, methanol, and other non-petroleum fuels.

§ 561.320 Iranian financial institution.

The term *Iranian financial institution* means any entity (including foreign branches), wherever located, organized under the laws of Iran or any jurisdiction within Iran, or owned or controlled by the Government of Iran, or in Iran, or owned or controlled by any of the foregoing, that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing

or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, insurance companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and holding companies, affiliates, or subsidiaries of any of the foregoing.

§ 561.321 Government of Iran.

The term *Government of Iran* includes:

- (a) The state and the Government of Iran, as well as any political subdivision, agency, or instrumentality thereof;
- (b) Any entity owned or controlled directly or indirectly by the foregoing;
- (c) Any person to the extent that such person is, or has been, or to the extent that there is reasonable cause to believe that such person is, or has been, acting or purporting to act directly or indirectly on behalf of any of the foregoing; and
- (d) Any person or entity identified by the Secretary of the Treasury to be the Government of Iran under 31 CFR part 560.

§ 561.322 Entity owned or controlled by the Government of Iran.

The phrase *entity owned or controlled by the Government of Iran* means any entity, including a financial institution, in which the Government of Iran owns a 50 percent or greater interest or a controlling interest, and any entity, including a financial institution, which is otherwise controlled by that government.

§ 561.323 Foreign financial institution owned or controlled by the government of a foreign country.

The phrase *foreign financial institution owned or controlled by the government of a foreign country* means any foreign financial institution, including a central bank of a foreign country, in which a government of a foreign country owns a 50 percent or greater interest and any foreign financial institution which is otherwise controlled by a government of a foreign country.

§ 561.324 Designated Iranian financial institution.

The term *designated Iranian financial institution* means any Iranian financial

institution whose property and interests in property are blocked by the Department of the Treasury pursuant to any part of this chapter or any Executive order issued pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and whose name is listed on the Specially Designated Nationals and Blocked Persons List on the Office of Foreign Assets Control's Web site, except for any Iranian financial institution whose property and interests in property are blocked solely pursuant to Executive Order 13599 of February 5, 2012.

Note to § 561.324: Facilitating significant transactions or providing significant financial services for a financial institution whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism has, since the enactment of CISADA on July 1, 2010, constituted an activity that could subject a foreign financial institution to prohibitions or strict conditions on correspondent accounts or payable-through accounts in the United States. See § 561.201.

§ 561.325 Financial transaction.

The term *financial transaction* means any transfer of value involving a financial institution.

§ 561.326 Privately owned foreign financial institution.

The phrase *privately owned foreign financial institution* means any foreign financial institution that is not owned or controlled by the government of a foreign country.

§ 561.327 Food, medicine, and medical devices.

(a) The term *food* means items that are intended to be consumed by and provide nutrition to humans or animals in Iran, including vitamins and minerals, food additives and supplements, and bottled drinking water, and seeds that germinate into items that are intended to be consumed by and provide nutrition to humans or animals in Iran. For purposes of this definition, the term *food* does not include:

(1) Alcoholic beverages, cigarettes, gum, or fertilizer; and

(2) The following excluded food items: castor beans, castor bean seeds, raw eggs, fertilized eggs (other than fish and shrimp roe), dried egg albumin, live animals, Rosary/Jequirity peas, non-food-grade gelatin powder, and peptones and their derivatives.

(b) The term *medicine* has the same meaning given the term "drug" in

section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

(c) The term *medical devices* has the meaning given the term “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) but does not include any item listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified as EAR 99).

Subpart D—Interpretations

§ 561.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 561.402 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 the Office of Foreign Assets Control 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.

§ 561.403 Facilitation of certain efforts, activities, or transactions by foreign financial institutions.

For purposes of §§ 561.201 and 561.203 of this part, the term *facilitate* or *facilitated* used with respect to certain efforts, activities, or transactions refers to the provision of assistance by a foreign financial institution for those efforts, activities, or transactions, including, but not limited to, the provision of currency, financial instruments, securities, or any other transmission of value; purchasing; selling; transporting; swapping; brokering; financing; approving; guaranteeing; or the provision of other services of any kind; or the provision of personnel; or the provision of software, technology, or goods of any kind.

§ 561.404 Significant transaction or transactions; significant financial services; significant financial transaction.

In determining, for purposes of § 561.201(a)(5), whether a transaction is significant, whether transactions are significant, or, for purposes of § 561.203(a), whether a financial transaction is significant, the Secretary of the Treasury may consider the totality of the facts and circumstances. As a general matter, the Secretary may consider some or all of the following factors:

(a) *Size, number, and frequency*: The size, number, and frequency of transactions, financial services, or financial transactions performed over a period of time, including whether the transactions, financial services, or financial transactions are increasing or decreasing over time and the rate of increase or decrease.

(b) *Nature*: The nature of the transaction(s), financial services, or financial transaction, including the type, complexity, and commercial purpose of the transaction(s), financial services, or financial transaction.

(c) *Level of Awareness; Pattern of Conduct*: (1) Whether the transaction(s), financial services, or financial transaction is performed with the involvement or approval of management or only by clerical personnel; and (2) Whether the transaction(s), financial services, or financial transaction is part of a pattern of conduct or the result of a business development strategy.

(d) *Nexus*: The proximity between the foreign financial institution engaging in the transaction(s) or providing the financial services and a blocked person described in § 561.201(a)(5), or between the foreign financial institution conducting or facilitating the financial transaction described in § 561.203 and the Central Bank of Iran or a designated Iranian financial institution, as defined in § 561.324. For example, a transaction or financial service in which a foreign financial institution provides brokerage or clearing services to, or maintains an account or makes payments for a blocked person described in paragraph (a)(5) of § 561.201, the Central Bank of Iran, or a designated Iranian financial institution in a direct customer relationship generally would be of greater significance than a transaction or financial service a foreign financial institution conducts for or provides to a blocked person described in § 561.201(a)(5), the Central Bank of Iran, or a designated Iranian financial institution indirectly or in a tertiary relationship.

(e) *Impact*: The impact of the transaction(s) or financial services on the objectives of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, or of the financial transaction on the objectives of the National Defense Authorization Act for Fiscal Year 2012, including:

(1) The economic or other benefit conferred or attempted to be conferred on a blocked person described in § 561.201(a)(5), or on the Central Bank of Iran or designated Iranian financial institution, as described or defined in §§ 561.203 and 561.324;

(2) Whether and how the transaction(s), financial services, or financial transaction contributes to the proliferation of weapons of mass destruction or delivery systems for such weapons, to support for international terrorism, to the suppression of human rights, to an increase in Iran's crude oil revenues, or to connecting the Central Bank of Iran or a designated Iranian financial institution to the international financial system; and

(3) Whether the transaction(s), financial services, or financial transaction supports humanitarian activity or involves the payment of basic expenses as specified in and authorized pursuant to UNSC Resolution 1737 or the payment of extraordinary expenses that have been authorized by the Sanctions Committee established pursuant to UNSC Resolution 1737, or the payment for the sale of food, medicine, or medical devices to Iran.

(f) *Deceptive practices*: Whether the transaction(s), financial services, or financial transaction involves an attempt to obscure or conceal the actual parties or true nature of the transaction(s), financial services, or financial transaction or to evade sanctions; for example, whether the transaction enabled the Central Bank of Iran to facilitate the evasion of sanctions by a blocked person described in § 561.201(a)(5) or a designated Iranian financial institution, as defined in § 561.324.

(g) *Central Bank of Iran Reserves, Settlement Services, Foreign Currency Exchanges, and Official Development Assistance Repayment*: Other factors involved in making a determination of whether a transaction(s), financial service, or financial transaction is significant are whether the transaction solely involves the passive holding of Central Bank of Iran reserves by a foreign financial institution; whether the Central Bank of Iran's role is limited to providing settlement services or foreign currency exchanges in transactions between a non-designated Iranian financial institution and a

foreign financial institution; and whether the transaction involves only the repayment of official development assistance by the Central Bank of Iran or the transfer of funds required as a condition of Iran's membership in an international financial institution.

(h) *Other relevant factors*: Such other factors that the Secretary deems relevant on a case-by-case basis in determining the significance of a transaction(s), financial services, or financial transaction.

§ 561.405 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), regardless of whether the entity itself is listed on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List.

§ 561.406 Country with primary jurisdiction over the foreign financial institution.

For purposes of § 561.203(h), a country includes any jurisdiction that has its own central bank or contains a separate financial sector authority, and a foreign financial institution (including its foreign branches outside of the United States) is under a country's primary jurisdiction if the foreign financial institution is organized under the laws of the country or any jurisdiction within that country.

§ 561.407 Conducting or facilitating a financial transaction with the Central Bank of Iran or a designated Iranian financial institution.

A foreign financial institution conducts or facilitates a financial transaction with the Central Bank of Iran or a designated Iranian financial institution if it maintains an account for such entities or engages in a financial transaction directly or indirectly with such entities.

Note to § 561.407: See § 561.404 for factors that may be considered in determining whether a financial transaction is significant, as required for the imposition of certain sanctions pursuant to this part.

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

§ 561.501 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 or conditions imposed pursuant to this part are considered actions taken pursuant to this part.

§ 561.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other 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 otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property which would not otherwise exist under ordinary principles of law.

§ 561.503 Exclusion from licenses.

The Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 561.504 Transactions related to closing a correspondent account or payable-through account.

(a) During the 10-day period beginning on the effective date of the prohibition in § 561.201(c) or § 561.203(c)(2) on the maintaining of a correspondent account or a payable-through account for a foreign financial institution whose name is added to the Part 561 List, maintained on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page, U.S. financial institutions that maintain correspondent accounts or payable-through accounts for the foreign financial institution are authorized to:

(1) Process only those transactions through the account, or permit the foreign financial institution to execute only those transactions through the account, that are for the purpose of, and necessary for, closing the account; and

(2) Transfer the funds remaining in the correspondent account or the payable-through account to an account of the foreign financial institution located outside of the United States and close the correspondent account or the payable-through account.

(b) A report must be filed with the Office of Foreign Assets Control within 30 days of the closure of an account, providing full details on the closing of each correspondent account or payable-through account maintained by a U.S. financial institution for a foreign financial institution whose name is added to the Part 561 List, maintained on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page. Such report must include complete information on the closing of the account and on all transactions processed or executed through the account pursuant to this section, including the account outside of the United States to which funds remaining in the account were transferred. Reports should be addressed to the attention of the Sanctions, Compliance & Evaluations Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

(c) Specific licenses may be issued on a case-by-case basis to authorize transactions by a U.S. financial institution with respect to a correspondent account or a payable-through account maintained by the U.S. financial institution for a foreign financial institution whose name is added to the Part 561 List, that are outside the scope of the transactions authorized in paragraph (a) of this section and/or that occur beyond the 10-

day period authorized in that paragraph. License applications should be filed in conformance with § 501.801 of the Reporting, Procedures and Penalties Regulations, 31 CFR part 501.

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

Note to § 561.504: This section does not authorize a U.S. financial institution to unblock property or interests in property, or to engage in any transaction or dealing in property or interests in property, blocked pursuant to any other part of this chapter, in the process of closing a correspondent account or a payable-through account for a foreign financial institution whose name has been added to the Part 561 List, maintained on the Office of Foreign Assets Control's Web site (www.treasury.gov/ofac) on the Iran Sanctions page. See § 561.101.

Subpart F—Reports

§ 561.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter.

Subpart G—Penalties

§ 561.701 Penalties.

(a) *Civil Penalties.* (1) As set forth in section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (“CISADA”) and section 1245(g)(2) of the National Defense Authorization Act for Fiscal Year 2012 (Pub. L. 112–81) (“NDAA”), a civil penalty not to exceed the amount set forth in section 206(b) of the International Emergency Economic Powers Act (“IEEPA”) (50 U.S.C. 1705(b)) may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any prohibition contained in § 561.201 or § 561.203 or of any license set forth in or issued pursuant to this part.

(2) As set forth in section 104(d) of CISADA, a civil penalty not to exceed the amount set forth in section 206(b) of IEEPA may be imposed on a U.S. financial institution if:

(i) A person owned or controlled by the U.S. financial institution violates, attempts to violate, conspires to violate, or causes a violation of the prohibition in § 561.202 or of any order, regulation, or license set forth in or issued pursuant to this part concerning such prohibition; and

(ii) The U.S. financial institution knew or should have known that the person violated, attempted to violate, conspired to violate, or caused a violation of such prohibition.

Note to paragraph (a) of § 561.701: As of February 27, 2012, IEEPA provides for a maximum civil penalty not to exceed the greater of \$250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(b) *Criminal Penalty.* As set forth in section 104(c) of CISADA and section 1245(g)(2) of the NDAA, a person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any prohibition contained in §§ 561.201 or 561.203 shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(c) *Adjustments to penalty amounts.*

(1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that “whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry” shall be fined under title 18, United States Code, imprisoned, or both.

(e) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 561.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA and determines that a civil monetary penalty may be warranted, the Office of Foreign Assets Control may issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be

issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) *Deadline for response.* A response to a Pre-Penalty Notice must be made within 30 days of the date of service of the Pre-Penalty Notice. The failure to submit a response within the applicable time period set forth in this paragraph shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response.* A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to the Office of Foreign Assets Control by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by the Office of Foreign Assets Control, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to the Office of Foreign Assets Control Enforcement Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement.* Settlement discussion may be initiated by the Office of Foreign Assets Control, the alleged violator, or the alleged violator's authorized

representative. For a description of practices with respect to settlement, see Appendix A to part 501 of this chapter.

(d) *Guidelines.* Guidelines for the imposition or settlement of civil penalties by the Office of Foreign Assets Control are contained in Appendix A to part 501 of this chapter.

(e) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 561.703 Penalty imposition.

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

§ 561.704 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, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H—Procedures

§ 561.801 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.

§ 561.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to subsections 104(c), (d), (h), or (i) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (22 U.S.C. 8501–8551), pursuant to section 8 of Executive Order 13553 of September 28, 2010 (3 CFR, 2010 Comp., p. 253), or pursuant to section 10 of Executive Order 13599 of February 5, 2012, and any action of the Secretary of the Treasury described in this part, may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

§ 561.803 Consultations.

In implementing section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (22 U.S.C. 8501–8551), the Secretary of the Treasury shall consult with the Secretary of State and may, in the sole discretion of the Secretary of the Treasury, consult with such other agencies and departments and such other interested parties as the Secretary considers appropriate.

Subpart I—Paperwork Reduction Act

§ 561.901 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 the information collections relating to the recordkeeping and reporting requirements of § 561.601, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, *see* § 501.901 of this chapter. The information collection in § 561.504(b) has been approved by OMB and assigned control number 1505–0243. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: February 21, 2012.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

Approved: February 21, 2012.

David S. Cohen,

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

[FR Doc. 2012–4472 Filed 2–24–12; 8:45 am]

BILLING CODE 4810–AL–P