PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE TALIBAN IN AFGHANISTAN

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A 6-MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE TALIBAN IN AFGHANISTAN THAT WAS DECLARED IN EXECUTIVE ORDER 13129 OF JULY 4, 1999, PURSUANT TO 50 U.S.C. 1703(c)

JULY 16, 2001.—Referred to the Committee on International Relations and ordered to be printed
THE WHITE HOUSE,

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to the Taliban that was declared in Executive Order 13129 of July 4, 1999.

Sincerely,

GEORGE W. BUSH.
I hereby report to the Congress on developments over the course of the past 6 months concerning the national emergency with respect to the actions and policies of the Taliban in Afghanistan that was declared in Executive Order 13129 of July 4, 1999. This report is submitted pursuant to section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), (“IEEPA”).


2. During the past 6 months, OFAC has authorized one non-governmental organization to conduct humanitarian relief operations in the territory of Afghanistan controlled by the Taliban, bringing the total of such authorizations to 24. In addition, OFAC issued six licenses to authorize certain payments in connection with overflights of Taliban-controlled territory and to unblock funds in which there is no interest of the Taliban.

OFAC continues to emphasize to the international banking community in the United States the importance of identifying and blocking payments made by or on behalf of the Taliban and has worked closely with the banks to assure the effectiveness of interdiction software systems used to identify such payments. As of May 9, 2001, 18 transactions totaling approximately $2.56 million were blocked during this period. This brings the total assets blocked since the inception of the program to more than $252 million. Under the Regulations, transactions in violation of the sanctions where there is no blockable interest of the Taliban must be returned to remitters (i.e., “rejected”). During the reporting period, 42 transactions were rejected by U.S. banks causing a disruption of nearly $1.4 million in financial dealings involving the territory of Afghanistan controlled by the Taliban.

On March 1, 2001, OFAC, in consultation with the Department of State, issued a Blocking Order and Notice of Office Closure to the New York representative of the Taliban Islamic Movement of Afghanistan. This action served effectively to close the Taliban’s New York office under the authority of Executive Order 13129, consistent with UN Security Council Resolution 1333. In connection with this action, OFAC issued an order to a New York bank blocking two accounts maintained by the Taliban’s New York office.

Various other enforcement actions and investigations are being aggressively pursued. Reports of new violations are also being scrutinized. Since the last report, OFAC has collected two civil pen-
alties totaling nearly $5,100 for violations of IEEPA and the Regulations by a US bank and a U.S. company.

3. The expenses incurred by the Federal Government in the 6-month period from January 4 through July 3, 2001, that are directly attributable to the exercise of powers and authorities conferred by the declaration of the national emergency with respect to the Taliban in Afghanistan, are estimated at approximately $300,000. Personnel costs were largely centered in the Department of the Treasury (particularly in the Office of Foreign Assets Control, the Office of the General Counsel, and the U.S. Customs Service), the Department of State, and components of the Department of Justice.

4. The Taliban continues to provide Usama bin Laden and the al-Qaida organization with a safe haven and base of operations, despite repeated efforts by the United States to persuade the Taliban to expel bin Laden to a third country where he can be brought to justice. The Taliban also allows Usama bin Laden to make repeated public threats against the United States, to operate a network of terrorist training camps, and to use Afghanistan as a base from which to sponsor terrorist acts abroad. Available information confirms that bin Laden’s organization, working with other terrorist groups, continues actively to plan attacks on Americans and others. Reliable information also indicates that the bin Laden network seeks to acquire weapons of mass destruction, including chemical weapons.

The international community recognized that the Taliban’s actions pose an unusual threat to international security and the need to take action against the Taliban for its harboring of Usama bin Laden by the unanimous adoption of UN Security Council Resolution 1267, which freezes funds and other financial resources of the Taliban and prohibits Taliban-associated flights. The seriousness of this threat was underscored by the Security Council’s subsequent adoption of further sanctions in Resolution 1333.

I shall continue to exercise the powers at my disposal to apply economic sanctions against the Taliban in Afghanistan as long as these measures are appropriate, and will continue to report periodically to the Congress on significant developments pursuant to 50 U.S.C. 1703(c).
Thursday,
January 11, 2001

Part IV

Department of the Treasury
Office of Foreign Assets Control

31 CFR Parts 501, 538, 545
Reporting and Procedures Regulations; Sudanese Sanctions Regulations; Taliban (Afghanistan) Sanctions Regulations; Final Rules
DEPARTMENT OF THE TREASURY
Office of Foreign Assets Control
31 CFR Parts 501, 530, 545

Reporting and Procedures
Regulations: Sudanese Sanctions Regulations; Taliban (Afghanistan)
Sanctions Regulations

AGENCY: Office of Foreign Assets
Control, Treasury.

ACTION: Interim rule amendments.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending provisions relating to the registration of nongovernmental organizations in the Reporting and Procedures Regulations and Sudanese Sanctions Regulations and is issuing the Taliban (Afghanistan) Sanctions Regulations to implement the President's declaration of a national emergency and imposition of sanctions against the Taliban in Executive Order 13129 of July 4, 1999.

DATE: Effective Date: January 11, 2001.

Comments: Written comments must be received no later than February 12, 2001. Comments may be submitted either via regular mail or the attention of David W. Milia, Chief, Policy Planning and Program Management Division, no. 2170 Main Treasury
Avenue, 1500 Pennsylvania Ave, NW., Washington, DC 20222 or via OPAC's website (http://www.treas.gov/opa).


SUPPLEMENTARY INFORMATION:

Electronic Availability
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Background
The Treasury Department is issuing paragraphs (a) to 530.601-4 of the Reporting and Procedures Regulations, 31 CFR Part 501, to require registration of nongovernmental organizations seeking permission to perform humanitarian and religious activities otherwise prohibited in geographic areas subject to economic sanctions.

As a consequence of this change, OPAC is amending the nongovernmental organization registration provision contained in $530.31-1 of the Sudanese Sanctions Regulations, 31 CFR Part 530, to reference the new paragraph in §530.201.

On July 4, 1999, the President issued Executive Order 13129 (94 FR 26739, July 7, 1999), declaring a national emergency with respect to the actions and policies of the Taliban in Afghanistan and invoking the authority of, inter alia, the International Emergency Economic Powers Act, 50 U.S.C. 1701-1709 (IEEPA). The order blocks all property and interests in property of the Taliban that are in the United States or that are otherwise blocked pursuant to Executive Order 13129 (the "Executive Order") by blocking all property and interests in property of the Taliban that are in the United States, that are otherwise blocked pursuant to Executive Order 530.201(b) (the "Executive Order") by blocking all property and interests in property of the Taliban that are in the United States, that are otherwise blocked pursuant to Executive Order 530.201(b). The order also blocks all property and interests in property of persons determined by the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, to be owned or controlled by, to be acting for or on behalf of, or to provide financial, material, or technological support for, or services in support of, the Taliban and those associated with the Taliban. Persons owning or controlling property or interests in property are blocked pursuant to §530.201 of these Regulations. Sections 545.201(b)(2) implements section 2(a) of the Executive Order by prohibiting U.S. persons from transferring, paying, exporting, importing, giving, or otherwise dealing in property and interests in property blocked pursuant to the Executive Order.

Section 545.204 implements section 2(b) of the Executive Order by prohibiting the exportation, transportation, sale, or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods, software, or technology (including technical data), or services to the Taliban in Afghanistan controlled by the Taliban, or to the Taliban or persons whose property or interests in property are blocked pursuant to $545.201(a).

Section 545.205 implements section 2(c) of the Executive Order by prohibiting the importation into the United States of goods, software, or technology, or services owned or controlled by the Taliban or persons whose property or interests in property are blocked pursuant to §545.201. Sections 545.206 of the Regulations implements section 2(d) of the Executive Order by prohibiting actions that evade, avoid, or attempt to violate the Regulations. Sections 545.207(a) of the Regulations implements section 2(e) of the Executive Order by prohibiting actions that evade, avoid, or attempt to violate the Regulations. Section 545.208 details those types of transactions that are exempt from these Regulations. Exception to transactions related to nonhumanitarian, information and informational materials, travel, or electronic U.S.
government business, journalistic activity, and donations of articles to achieve human suffering. Those exemptions derive from the exemptions set out in section 202(b) of EISA (19 U.S.C. 1702(b)).

The provisions set forth in subpart C and interpretive provisions in subpart D of the financial transactions sanctions regulations are contained in Part 267. Paragraph 267.407 of subpart D pertains to the prohibitions set forth in §§545.203 through 545.204, which extend to U.S. persons wherever they may be located. Consequently, §545.407 makes clear that even while outside the United States, U.S. persons are prohibited from dealing in property in which the Taliban or persons whose property or interests in property are blocked pursuant to §545.203 have an interest, including dealing in goods, software, technology, or services owned or controlled by the Taliban or by persons whose property or interests in property are blocked pursuant to §545.201. Similarly, U.S. persons may not participate in the exportation or importation of goods, software, technology, or services into or out of the territory of Afghanistan controlled by the Taliban.

Transactions otherwise prohibited under part 545 but found to be consistent with U.S. policy as determined by the Secretary of State and the Secretary of Defense may be authorized by one of the general licenses contained in subpart E or by a specific license issued pursuant to the procedures described in subparts D and E of part 545. Chapter V. Paragraph 545.511 permits the importation of certain goods, services, software, technology, or services into or out of the territory of Afghanistan controlled by the Taliban.

Section 545.510 permits the importation and exportation of household and personal effects. Section 545.511 authorizes the registration of non-governmental organizations involved in humanitarian or religious activities intended to relieve human suffering. Registration numbers authorize non-governmental organizations to engage in transactions otherwise prohibited by the Taliban (Afghanistan) Sanctions Regulations, including the exportation of goods, software, technology, and services to the territory of Afghanistan controlled by the Taliban, and the transfer of funds to and from the territory of Afghanistan controlled by the Taliban. Section 545.511 permits the importation of goods, services, software, technology, or services for diplomatic missions.

In light of the recent passage of the Trade Sanctions Reform and Export Enhancement Act of 2000, Title IX of Public Law 106–287 (October 29, 2000) (the “Act”), requiring the President to terminate unilateral sanctions on the exportation of agricultural commodities and medicines and medical devices, section 3 of that Act directs the head of the Executive Office, the Secretary of the Treasury, and the Secretary of State to prepare a report to Congress, which includes a determination of the effectiveness of the sanctions and a proposal for the possible lifting or modification of the sanctions. This report is due by January 31, 2001. These regulations implementing the Act will be issued separately.

The Regulations involve a foreign affairs function, the provisions of Executive Order 13186 and the Administrative Procedure Act (U.S.C. 553) (the “APA”) regarding notice and comment procedures. For purposes of this notice, the term “proposed rulemaking” includes the entire rulemaking process, including the publication of proposed rules and the consideration of comments, if any.

However, because of the importance of the issues raised by the proposed regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department requests comments. Comments received before the effective date of this rule will be considered in the development of final regulations. Comments received after the effective date of this rule will be considered in the development of the final regulations. Comments received after the effective date of this rule will be considered in the development of the final regulations.
considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the submission be treated confidentially because of its inherently proprietary nature or for any other reason. The Department will return such comments and materials when submitted by regular mail to the person submitting the comments and will not consider them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form.

All public comments on these regulations will be a matter of public record. Copies of the public record concerning these regulations will be made available, not sooner than March 12, 2001, and will be obtainable from OFAC's website (http://www.treas.gov/ofac). If that service is unavailable, written requests for copies may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW, Washington, DC 20222, Attn: Misuse Division.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 091-092) does not apply.

Paperwork Reduction Act
The collections of information related to the regulations are contained in 31 CFR part 501 (the “Reporting and Recordkeeping Requirements”). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), these collections of information have been previously approved by the Office of Management and Budget (OMB) under control number 1505-0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number.

List of Subjects
31 CFR Part 501
Administrative practice and procedure, Agricultural commodities, Bank, banking, Banking of assets, Foreign trade, Reporting and recordkeeping requirements.
31 CFR Part 638
Administrative practice and procedure, Agricultural commodities, Bank, banking, Banking of assets, Drugs, Exports, Foreign trade, Humanitarian aid, Imports, Medical devices, Penalties, Reporting and recordkeeping requirements, Specially designated nationals, Satan, Terrorism, Transportation.

31 CFR Part 545
Administrative practice and procedure, Afghanistan, Agricultural commodities, Bank, banking, Blocking of assets, Drugs, Exports, Foreign trade, Humanitarian aid, Imports, Medical devices, Penalties, reporting and recordkeeping requirements, Specially designated nationals, Satan, Terrorism.

For the reasons set forth in the preamble, 31 CFR parts 501 and 538 are amended and part 945 is added to read as follows:

PART 501—REPORTING AND RECORDKEEPING REQUIREMENTS

1. The authority for part 501 continues to read as follows:
   Subpart D—Procedures
   2. Section 501.801 is amended by adding paragraph (c) to read as follows:

   §501.801 Licensing
   (c) Registration of nongovernmental organizations—(1) Purpose of registration. For those parts of this chapter specifically authorizing the registration of nongovernmental organizations (NGOs), registration numbers may be issued on a case-by-case basis to NGOs involved in humanitarian or religious activities in countries or geographic areas subject to economic sanctions pursuant to this chapter. A registration number authorizes certain transactions by or on behalf of the registered NGO otherwise prohibited by the specific part with respect to which the registration number is issued, including the exportation of goods, services, and funds to the country or geographic area subject to such part for the purpose of relieving humanitarian suffering. The transactions authorized for registered NGOs either will be specified by the extension of licensing policy in the part under which the registration number is issued or by the Office of Foreign Assets Control letter sending the registration number.

   (2) Application information to be supplied. Applications for registration numbers should be submitted to the Compliance Program Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Annex, Washington, DC 20222, or by facsimile to (202) 622-1426, and must include:
   (i) The organization’s name in English, in the language of origin, and any acronyms or other names used to identify the organization;
   (ii) Address and phone number of the organization’s headquarters location;
   (iii) Full name in English, in the language of origin, and any acronyms or other names used, as well as nationality, citizenship, current country of residence, place of birth for key staff at the organization’s headquarters, such as the chairman and board members, president, director, etc.;
   (iv) Identification of field offices or partner offices elsewhere, including addresses, phone numbers, and organizational names used, as well as the identification of the senior officer at those locations, including the person’s name, position, nationality, citizenship, and date of birth (name of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronyms or other names used to identify the individuals or organizations);
   (v) Identification of subrecipient organizations, if any, to the extent known or contemplated at the time of the application;
   (vi) Existing sources of income, such as official grants, private endowments, commercial activities;
   (vii) Financial institutions that hold deposits on behalf of or extend lines of credit to the organization (name of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronyms or other names used to identify the individuals or organizations);
   (viii) Identification of foreign firms, if employed in the production of the organization’s financial statements (names of individuals and organizations shall be provided in English, in the language of origin, and shall include any acronyms or other names used to identify the individuals or organizations);
   (ix) A detailed description of the organization’s humanitarian or religious activities and projects in countries or geographic areas subject to economic sanctions pursuant to this chapter;
   (x) Most recent official demand documents, annual reports, and recent filings with the pertinent government, as applicable;
   (xi) Names and addresses of organizations to which the applicant currently provides or proposes to provide funding, services or material support, to the extent known at the time of the vetting, as applicable;

   (2) Use of registration number. Registered NGOs conducting transactions authorized by their registrations to support their humanitarian or religious activities.
1. Part 345 is added to read as follows:

PART 345—TALIBAN (AFGHANISTAN) SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations
Sec. 345.311 Relation of this part to other laws and regulations.

Subpart B—Prohibitions
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345.203 Holding funds in interest-bearing accounts and reinvestment.
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Subpart C—General Definitions
345.301 Blocked account; blocked property.
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345.312 Tornado.
345.313 United States.
345.314 U.S. financial institution.
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345.405 [Reserved.]
345.406 [Reserved.]
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345.409 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.
345.410 Acquisitions of instruments and securities.
345.411 Exports to Taliban countries, transiting.
345.412 Release of goods originating in the territory of Afghanistan controlled by the Taliban from a bonded warehouse or foreign trade zone.
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345.414 Loans or extensions of credit.
345.415 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.
345.416 Translation and acquisition of an interest in blocked property.
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Subpart E—Licenses, Authorizations, and Statements of Licensing Policy
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345.502 Prohibition on sales, license, or authorization.
345.503 Payment for services rendered.
345.504 Prohibition on sales, license, or authorization.
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Subpart G—Penalties
345.701 Penalties.
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345.703 Penalties.
345.704 Penalties.
345.705 Penalties.
§457.804 Penalty Imposition or withdrawal. 

§457.805 Administration collection referred to United States Department of Justice.

Subpart H—Procedures

§457.801 Procedures.

§457.802 Delegation of the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

§457.803 Paperwork Reduction Act notice. 


Subpart A—Relation of this Part to other laws and regulations

§457.101 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 409 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 907 of this chapter will be in accordance with the procedures contained in this part and the procedures contained in other paragraphs of this chapter. The recordkeeping and reporting requirements are contained in the other parts of this chapter. No license or authorization is contained in this part or issued pursuant to this part. Any transaction prohibited by this part, no license or authorization contained in or issued pursuant to this part, any transaction prohibited by the other parts of this chapter.

Subpart B—Prohibitions

§457.201 Prohibited transactions involving blocked property.

(a) Except as otherwise authorized by regulations, orders, directives, rulings, instructions, licenses, or other acts, no transaction entered into or any license or permit granted pursuant to the effective date, property or property interests of the following persons, or any other entity, person or other act, that such property or person is blocked under section 409 of this chapter, will be transferred, paid, paid, delivered, or otherwise dealt in: 

(1) The Taliban; and 

(2) Persons determined by the Secretary of the Treasury.

In cooperation with the Secretary of State and the Attorney General.

(b) To be in compliance with this section, and the regulations, orders, directives, rulings, instructions, licenses, or other acts, no transaction entered into or any license or permit granted pursuant to the effective date, property or property interests of the following persons, or any other entity, person or other act, that such property or person is blocked under section 409 of this chapter, will be transferred, paid, paid, delivered, or otherwise dealt in: 

(1) The Taliban; and 

(2) Persons determined by the Secretary of the Treasury.

In cooperation with the Secretary of State and the Attorney General.

(c) To be in compliance with this section, and the regulations, orders, directives, rulings, instructions, licenses, or other acts, no transaction entered into or any license or permit granted pursuant to the effective date, property or property interests of the following persons, or any other entity, person or other act, that such property or person is blocked under section 409 of this chapter, will be transferred, paid, paid, delivered, or otherwise dealt in: 

(1) The Taliban; and 

(2) Persons determined by the Secretary of the Treasury.

In cooperation with the Secretary of State and the Attorney General.

(d) To be in compliance with this section, and the regulations, orders, directives, rulings, instructions, licenses, or other acts, no transaction entered into or any license or permit granted pursuant to the effective date, property or property interests of the following persons, or any other entity, person or other act, that such property or person is blocked under section 409 of this chapter, will be transferred, paid, paid, delivered, or otherwise dealt in: 

(1) The Taliban; and 

(2) Persons determined by the Secretary of the Treasury.

In cooperation with the Secretary of State and the Attorney General.

§457.302 Effect of transfers violating the provisions of this part. 

(a) Any transaction of transfers that are in violation of any provision of this part or any regulation, order, directives, rulings, instructions, or license issued pursuant to this part, and that involve any property or interest in property blocked pursuant to §457.601(a), is null and void and shall not be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to such property or property interests. 

(b) No transfer of blocked property prior to the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to any interest in, any property or interest in property blocked pursuant to §457.601(a), wherein the person with whom such property is held or maintained, in violation of any provision of this part or any regulation, order, directives, rulings, instructions, or license issued pursuant to this part, and that involve any property or interest in property blocked pursuant to §457.601(a), is null and void and shall not be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to such property or property interests. 

(c) Unless otherwise provided, no appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the extent that it would be valid or enforceable for the purpose of any of the International Emergency Economic Powers Act, this part, and any regulation, order, directives, rulings, instructions, or license issued pursuant to this part. 

(d) Transfers of property that otherwise would be valid or valid and enforceable by virtue of the provisions of this section shall not be deemed to be valid or enforceable to the extent that it would be valid or enforceable for the purpose of any of the International Emergency Economic Powers Act, this part, and any regulation, order, directives, rulings, instructions, or license issued pursuant to this part.

(e) In cases in which a person with whom property was held or maintained is a transferee, the ability to establish the validity of the Director of the Office of Foreign Assets Control each of the following: 

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained; 

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in the light of all the facts and circumstances known or available to such person, that such transfer represented a violation of any provision of this part; 

(3) Such transfer was made for a good faith purpose, and there was no knowledge of or reason to have known of any violation of any provision of this part, and that involve any property or interest in property blocked pursuant to §457.601(a), is null and void and shall not be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to such property or property interests. 

(4) The person with whom such property was held or maintained is a transferee, the ability to establish the validity of the Director of the Office of Foreign Assets Control each of the following: 

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained; 

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in the light of all the facts and circumstances known or available to such person, that such transfer represented a violation of any provision of this part; 

(3) Such transfer was made for a good faith purpose, and there was no knowledge of or reason to have known of any violation of any provision of this part, and that involve any property or interest in property blocked pursuant to §457.601(a), is null and void and shall not be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to such property or property interests.
circumstances relating to such transfer promptly upon discovery that: (a) such transferee was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization issued pursuant to this part; (b) such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or (c) if a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (b) of §453.201: The filing of a report in accordance with the provisions of paragraph (d)(2) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(3) of this section have been satisfied.

(d) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void, with respect to any property in which an interest exists under §453.201(a), unless the owner of such property has delivered funds or other property to the account party on such account account must be the same.

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

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds or any deposits in, or obligations of, a blocked person or any subsidiary, agency, or instrumentality of a blocked person, shall be permitted to hold such funds or such deposits in a blocked-interest-bearing account located in the United States.

(b) Except as provided in this section, the term blocked-interest-bearing account means a blocked account

1. In a federally-insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable.

2. With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury bills.

3. For purposes of this section, a rate is commercially reasonable if it is the rate currently charged to other depositors or deposit accounts paying comparable rates and maturities.

4. Funds held or placed in a blocked account pursuant to this paragraph (c) may not be invested or reinvested in the instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or subaccount, the name of the account party on such account must be the same.

5. Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to §453.201(a) may continue to be held until maturity to the original instrument, provided any interest, earnings, or other profits derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (c) or (d) of this section.

6. Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to §453.201(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

7. This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to §453.201(a).

8. However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

9. Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to persons whose property or interests in property are blocked pursuant to §310.201(a).

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any transaction by any U.S. person or within the United States or any transfer of any interest in such property, which exposures shall not be met from blocked funds.

(c) Property blocked pursuant to §310.201 may, in the discretion of the Director, Office of Foreign Assets Control, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§454.308 Exempt transactions.

(a) Personal communications. The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication, which does or involves the transfer of anything of value to the extent of any country, or to any country or any person which is a赀able in information or informational materials as defined in §453.305, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of this part.
(2) This section does not exempt from regulation or authorize transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of mass- and business-consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information and informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodicals published); provision of services to market, produce or reproduce, create, or assist in the creation of information or informational materials; and, with respect to information or informational materials imported from persons whose property and interests in property are blocked pursuant to § 545.204 or from the territory of Afghanistan controlled by the Taliban, payment of royalties with respect to licenses received for enhancements or situations made by U.S. persons to such information or informational materials.

(ii) This section does not exempt from regulation or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730–774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of communication transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity as facilities to a person whose property or interests in property are blocked pursuant to § 545.204 are prohibited.

(b) Prohibited activity. The prohibitions contained in this part do not apply to transactions in the territory of Afghanistan controlled by the Taliban for journalistic activity by persons regularly employed in such capacity by a news-gathering organization.

(i) Humanitarian donations. The prohibitions contained in this part do not apply to donations by U.S. persons of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering.

Subpart C—General Definitions

§ 546.201 Blocked account; blocked property.

The terms blocked account and blocked property, shall mean any account or property subject to the prohibitions in § 545.201 held in the name of the Taliban or persons whose property or interests in property are blocked pursuant to § 545.201, or in which the Taliban or persons whose property or interests in property are blocked pursuant to § 545.201 have an interest, and with respect to which payments, transfers, exportation, reexportation, withdrawal, or other dealings may not be made or effected except pursuant to an authorization or license from the Office of Foreign Assets Control expressly authorizing such action.

§ 545.302 Effective date.

The term effective date refers to the effective date of the applicable prohibitions and directives contained in this part which is 12:01 a.m. Eastern Daylight Time, on July 6, 1999.

§ 545.203 Entity.

The term entity means a partnership, association, corporation, or other organization, group, or subgroup.

§ 545.304 Importation into the United States.

With respect to goods, software, or technology, the term importation into the United States means the bringing of any goods, software, or technology into the United States. However, with respect to goods, software, or technology being transported by vessel, importation into the United States means the bringing of any goods or technology into the United States with the intent to sell. See also § 545.401.

With respect to services, the term importation into the United States means the receipt in the United States of services or receipt in the United States of the benefit of services wherever such services may be performed. The benefit of services is received in the United States if the services are:

(1) Performed on behalf of or for the benefit of a person located in the United States;

(2) Received by a person located outside the United States on behalf of or for the benefit of an entity organized in the United States;

(3) Received by an individual temporarily located outside the United States for the purpose of obtaining such services for use in the United States.

§ 545.305 Information or informational materials.

(a) For purposes of this part, the term information or informational materials includes, but is not limited to publications, films, posters, photographs, records, photographs, microfilms, microfiches, tapes, compact discs, CD-ROMs, artworks, and news wire feeds.

(b) The term information and informational materials with respect to United States exports does not include items:

(1) That were, as of April 30, 1994, or thereafter become, controlled for export pursuant to section 6 of the Export Administration Act of 1979, as amended, 50 U.S.C. App. 2403–2420 (1988)[15] (hereinafter “EAR”), or section 6 of the EAR to the extent that such controls prevent the commercialization of the information and informational materials.

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 545.306 Interest.

Except as otherwise provided in this part, the term interest, when used with respect to property (e.g., “an interest in property”) means an interest of any nature whatsoever, direct or indirect.

§ 545.307 License; general and specific.

(a) Except as otherwise specified, the term “license, means any license or authorization contained in or issued pursuant to this part.

(b) The term “general license means any license or authorization that allows any person to engage in the activities set forth in subsection (c) of this part.

(c) The term “specific license means any license or authorization that allows any person to engage in the activities set forth in subsection (c) of this part.

Note to § 545.307: See § 510.401 of the chapter on licensing procedures.

§ 545.308 Person.

The term person means an individual or entity.
§ 545.309 Property; property interest.

The term property and property interest include, but are not limited to, money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guaranties, instruments, stocks, bonds, compass, any other financial instruments, bank accounts, mortgages, pledges, liens, or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidence of title, ownership or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, ware, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest thereto, option, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, lease deposit bonuses and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, legal or equitable, interests therein, present, future or contingent.

§ 545.310 The Taliban.

(a) For purposes of this part, the term "The Taliban" means:

(1) The political/military entity known as the Taliban, Afghanistan, as of July 4, 1999, exercised in facto control in the territory of Afghanistan, described in 545.3105; and

(2) The principal leaders listed in the Annex to Executive Order 13129 (see appendix A of this chapter) and any additional leaders as may be designated by the Secretary of State in consultation with the Secretary of the Treasury and the Attorney General in accordance with section 4(e) of Executive Order 13129; and

(3) Persons designated pursuant to § 544.101.

Note to § 545.310: The Taliban is also known as the "Taliban," "Islamic Movement of Taliban," "Taliban Islamic Movement," "Taliban Islam(I)," "Islamic Taliban," and "Islamic Taliban's Taliban."
§545.405 Transactions incident to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:
(a) A transaction involving a person whose property or interests in property are blocked pursuant to §545.201, or involving a debit to a blocked account or a transfer of blocked property, not explicitly authorized within the terms of the license; and
(b) Distribution or leasing in the territory of Afghanistan controlled by the Taliban of any containers or similar goods owned or controlled by U.S. persons after the performance of transportation services to the territory of Afghanistan controlled by the Taliban.

§545.404 Transshipment or transit through the United States prohibited. Exempt as otherwise specified:
(a) The prohibitions in §§545.201 and 545.204 apply to the transshipment or transit, of foreign goods which are intended or destined for the Taliban or the territory of Afghanistan controlled by the Taliban.

(b) The prohibitions in §§545.201 and 545.204 apply to the transshipment or transit of foreign goods owned or controlled by the Taliban or the territory of Afghanistan controlled by the Taliban which are intended or destined for third countries.

(c) Goods, software, technology, or services which are intended or destined for a person, other than a U.S. person, that are imported into or transshipped through the United States are blocked pursuant to §545.201.

Note to §545.404: See §545.204 for the definition of the term importation into the United States.

§545.405 [Reserved].

§545.406 Exportation of services; performance of service contracts; legal services.

(a) The prohibition on transactions involving blocked property and the exportation of services contained in §§545.201 and 545.204 applies to services performed on behalf of the Taliban or persons whose property or interests in property are blocked pursuant to §545.201, or where the benefit of such services is otherwise recognized by the government of Afghanistan controlled by the Taliban, when such services are performed:

(1) In the United States;

(2) Outside the United States by a U.S. person, including by an overseas branch of an entity located in the United States; or

(b) The benefit of services performed anywhere in the world on behalf of the Taliban, including persons whose property or interests in property are blocked pursuant to §545.201, is presumed to have been received in the territory of Afghanistan controlled by the Taliban.

Note to §545.406: See §545.410 with regard to provisions of certain legal services and §545.110 with regard to the provisions of certain financial services.

§545.407 Services performed in the territory of Afghanistan controlled by the Taliban.

The prohibitions on transactions involving blocked property and certain transactions and dealings in that property and the importation into the United States of services contained in §§545.201 and 545.204, respectively, apply to services performed in the territory of Afghanistan controlled by the Taliban or by the Taliban, wherever located, when the benefit of such services is received in the United States and a description of circumstances in which the benefit of services is considered to be received in the United States.

§545.408 Offshore transactions.

(a) The prohibitions contained in §545.201 apply.

(b) Transactions by any U.S. person in a location outside the United States with respect to property to which the U.S. person knows, or has reason to know, that the Taliban or persons whose property or interests in property are blocked pursuant to §545.201 have had an interest since the effective date; and

(c) With respect to goods, software, technology, or services which the U.S. person knows, or has reason to know, are from the territory of Afghanistan controlled by the Taliban.

(d) Prohibited transactions include, but are not limited to:

(1) Exportation into or exportation from locations outside the United States of goods, software, technology, or services owned or controlled by the Taliban or persons whose property or interests in property are blocked pursuant to §545.201;

(2) Purchasing, selling, financing, lending, financing, managing, transporting, storing, insuring, incorporating, transforming, trading, brokering or otherwise dealing in such blocked goods, software, technology, or services;

(3) Example. A U.S. person may not sell, finance, transfer, or otherwise deal in or on behalf of the sale or transport of, or otherwise deal in goods (such as carpets, textiles, or wine) owned or controlled by the Taliban or by persons whose property or interests in property are blocked pursuant to §545.201 or which cease from the territory of Afghanistan controlled by the Taliban.

§545.409 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debts may be made to a blocked account to pay obligations to U.S. persons or other persons, including payments for goods, software, technology, or services exported prior to the effective date, except as authorized pursuant to this part.

§545.410 Acquisition of instruments including bankers acceptances. Exempt as otherwise specified:

(a) Acquisition of instruments including bankers acceptances.

(b) No U.S. persons may acquire or deal in any obligation, including bankers acceptances and debt or of guaranteed by a person whose property or interests in property are blocked pursuant to §545.201, in excess of which the documents evidencing the obligation indicate, or the U.S. person has actual knowledge, that the underlying transaction is in violation of §§545.201 and 545.204 through §545.206. This prohibition does not apply to obligations arising from an underlying transaction authorized for otherwise exempted pursuant to this part.

§545.411 Exportation to third countries; transshipments.

Except as otherwise specified, exportation of goods, software, or technology from the United States to third countries is prohibited if the exporter knows, or has reason to know, that the goods, software, or technology are intended for transshipment to the Taliban, to persons whose property or interests in property are blocked pursuant to §545.201, or to the territory of Afghanistan controlled by the Taliban, including passage through, or storage in, intermediate destinations.

§545.412 Release of goods originating in the territory of Afghanistan controlled by the Taliban from a bonded warehouse or foreign trade zone.

Section 845.209 does not prohibit the release from a bonded warehouse or foreign trade zone of goods originating in the territory of Afghanistan controlled by the Taliban imported into a bonded warehouse or foreign trade zone other prior to the effective date or in a transaction authorized pursuant to this part after the effective date.
§545.413 Importation of goods from third countries: Transshipments.

(a) Importation into the United States from third countries of goods containing raw materials or components originating in the territory of Afghanistan controlled by the Taliban in a non-prohibited state or which have been incorporated into manufactured products or otherwise substantially transformed in a third country is prohibited.

(b) Importation into the United States of goods originating in the territory of Afghanistan controlled by the Taliban that have been transshipped through a third country without being incorporated into manufactured products or otherwise substantially transformed in a third country is prohibited.

§545.414 Leases or extensions of credit.

(a) The prohibitions in §§545.201 and 545.204 apply to leases or extensions of credit to a person in the territory of Afghanistan controlled by the Taliban, including overdraft protection on checking accounts, and the unauthorized removal or redeployment of credit or lease in existence on or after April 10, 2010, effective 24 hours after the effective date of this part.

(b) The prohibitions in §§545.201 and 545.204 apply to financial services including loans or credit extended in any other form.

§545.415 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

(a) Pursuant to §545.201, no debts may be owed to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, services, or technology expected to reach the effective date, except as authorized pursuant to this part.

(b) Wherever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property or interests in property are blocked pursuant to §545.201, such property shall be subject to the property blocked pursuant to §545.201, unless there exists in the property another interest that is blocked pursuant to §545.201 or any other part of this chapter, the transfer of which has not been authorized or license by or pursuant to §545.201 or any other part of this chapter.

§545.417 Leases prohibited.

(a) A lease is defined as a non-prohibited lease with a person whose property or interests in property are blocked pursuant to §545.201, and such property or interests are subject to an authorization in this Part.

§545.418 Effect of license or authorization.

(a) No license or other authorization issued by or under the direction of the Office of Foreign Assets Control, unless otherwise provided in such license or authorization, authorizes any transaction prohibited under §545.201 or any other part of thischapter, except as specifically permitted under the license or authorization or in this Part.

§545.419 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

(a) Pursuant to §545.201, no debts may be owed to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, services, or technology expected to reach the effective date, except as authorized pursuant to this part.

(b) Wherever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property or interests in property are blocked pursuant to §545.201, such property shall be subject to the property blocked pursuant to §545.201, unless there exists in the property another interest that is blocked pursuant to §545.201 or any other part of this chapter, the transfer of which has not been authorized or license by or pursuant to §545.201 or any other part of this chapter.

§545.417 Leases prohibited.

(a) A lease is defined as a non-prohibited lease with a person whose property or interests in property are blocked pursuant to §545.201, and such property or interests are subject to an authorization in this Part.

§545.418 Effect of license or authorization.

(a) No license or other authorization issued by or under the direction of the Office of Foreign Assets Control, unless otherwise provided in such license or authorization, authorizes any transaction prohibited under §545.201 or any other part of thischapter, except as specifically permitted under the license or authorization or in this Part.

§545.419 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

(a) Pursuant to §545.201, no debts may be owed to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods, services, or technology expected to reach the effective date, except as authorized pursuant to this part.

(b) Wherever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property or interests in property are blocked pursuant to §545.201, such property shall be subject to the property blocked pursuant to §545.201, unless there exists in the property another interest that is blocked pursuant to §545.201 or any other part of this chapter, the transfer of which has not been authorized or license by or pursuant to §545.201 or any other part of this chapter.
or technology from the territory of Afghanistan controlled by the Taliban is authorized provided that:

(1) The applicant submits proof satisfactory to the U.S. Customs Service that the goods, software, or technology were exported from the territory of Afghanistan controlled by the Taliban before the effective date may vary depending on the facts of a particular case. However, independent corroborating documentary evidence issued and certified by a distinguished party normally will be required. This might include contracts, invoices, documents, shipping documents, warehouse receipts, and appropriate customer documents, accompanied by a certification of an insurance agent, warehouse agent, or other appropriate person, identifying with particularity the goods sought to be imported and attesting that the goods concerned were located outside the territory of Afghanistan controlled by the Taliban at a time prior to the effective date. In general, affidavits, statements and other documents prepared by the applicant or other interested parties will not, by themselves, constitute satisfactory proof.

(2) The statement made in paragraph (b) above is not applied to any goods, software, or technology in which the Taliban, or persons whose property or interests in property are blocked pursuant to §541.201, have any interest.

§541.406 Importation of certain gifts authorized.

The importation into the United States of goods from the territory of Afghanistan controlled by the Taliban or from a person whose property or interests in property are blocked pursuant to §541.201 is authorized for goods sent as gifts to persons provided that:

(a) The value of a gift is not more than $500 per recipient;

(b) The goods are of a type and in quantities normally given as gifts between individuals;

(c) The goods are not controlled for chemical and biological weapons (CBW), missile technology (MT), nuclear security (NS), or nuclear proliferation (NP) (see Commerce Control List (CCL) at 15 CFR part 774, supplement No. 1, of the Export Administration Regulations).

§541.507 Accompanied baggage authorized.

(a) Persons entering the United States directly or indirectly from the territory of Afghanistan controlled by the Taliban are authorized to enter into the United States accompanied baggage normally incident to travel.

(b) Persons leaving the United States for the territory of Afghanistan controlled by the Taliban are authorized to export from the United States accompanied baggage normally incident to travel.

(c) For purposes of this section, the term "accompanied baggage normally incident to travel" includes only baggage that accompanies the traveler on the same conveyance, train, or vehicle, and includes only articles that are necessary for personal use incident to travel, that are not intended for any other person or for sale, and that are not otherwise prohibited from importation or exportation under applicable United States laws.

§541.508 Transactions related to telecommunications authorized.

All transactions ordinarily incident to the receipt or transmission of telecommunications involving the territory of Afghanistan controlled by the Taliban are authorized. This section does not authorize the provision, sale, or lease to the Taliban, or to persons whose property or interests in property are blocked pursuant to §541.201, or to the territory of Afghanistan controlled by the Taliban, of telecommunications equipment or technology; nor does it authorize the provision, sale, or lease of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity).

§541.509 Transactions related to mail authorized.

All transactions by U.S. persons, including payment and transfers to common carriers, incident to the receipt or transmission of mail between the United States and the territory of Afghanistan controlled by the Taliban are authorized, provided that mail is authorized for personal use or for personal communications not involving a transfer of anything of value.

§541.510 Importation of household and personal effects authorized.

The importation of household and personal effects originating in the territory of Afghanistan controlled by the Taliban, including baggage and articles for family use, of persons arriving in the United States, directly or indirectly from the territory of Afghanistan controlled by the Taliban, is authorized; to qualify, articles included in such effects must actually have been used by such persons or by other family members arriving from the same foreign household, must not be intended for any other person or for sale, and must not be otherwise prohibited from importation.

§541.511 Registration of nongovernmental organizations for humanitarian or religious activities.

(a) Registration numbers may be issued on a case-by-case basis for the registration of nongovernmental organizations involved in humanitarian or religious activities in the territory of Afghanistan controlled by the Taliban, authorizing transactions by such organizations otherwise prohibited by this part, including the exportation of goods, software, technology or services to the territory of Afghanistan controlled by the Taliban and the issuance of funds to and from the territory of Afghanistan controlled by the Taliban for the purpose of relieving human suffering. Applicants for registration numbers must comply with the requirements of §501.007(c).

(b) This section does not authorize transfers from blocked accounts.

Note to §541.313: Registration does not serve as evidence of compliance with any other applicable U.S. law governing the export or reexport of U.S.-origin goods, software, or technology (including Chemical Act). See, e.g., the Export Administration Regulations administered by the U.S. Department of Commerce (15 CFR parts 730-774).

§541.512 Payment of obligations to U.S. persons authorized.

(a) The transfer of funds after the effective date by, through, or to any U.S. financial institution or other U.S. person solely for the purpose of payment of obligations owed to U.S. persons, including a payment of such obligations of persons whose property or interests in property are blocked pursuant to §541.201, is authorized, provided that:

(1) The obligation arose prior to the effective date or is otherwise authorized or not prohibited pursuant to statute or the provisions of this part; (2) the payment does not exceed the amount of the obligation; and (3) the U.S. person making the blocked pursuant to this chapter V.

(b) A person receiving payment under this section may distribute all or part of that payment to any person, provided that any such payment to a person whose property or interests in property are blocked pursuant to §541.201 must be to a blocked account in a U.S. financial institution.
§ 465.512 Provision of certain legal services

(a) The provision of the legal services set forth in paragraph (b) of this section to or on behalf of persons whose property or interests in property are blocked pursuant to § 465.201, and the provision of such legal services to persons located in the territory of Afghanistan controlled by the Taliban or in circumstances in which the benefit to otherwise received in the territory of Afghanistan controlled by the Taliban, are authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed.

(b) Specific licenses may be issued on a case-by-case basis authorizing receipt from unblocked sources of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to persons specified in paragraph (a) of this section:

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions in violation of this part;

(2) Representation of persons when named as defendants in or otherwise made parties to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Representation and conduct of domestic U.S. legal, arbitration, or administrative proceedings in defense of property interests subject to U.S. jurisdiction;

(4) Representation of persons before any blocked person or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons;

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel or public expense.

(c) The provision of any other legal services to persons whose property or interests in property are blocked pursuant to § 465.201 or who are located in the territory of Afghanistan controlled by the Taliban, not otherwise authorized in this part, require the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process pertaining to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 465.201 is prohibited unless specifically licensed in accordance with § 465.506.

§ 465.514 Payments for services rendered by the Taliban to aircraft.

(a) Specific licenses may be issued on a case-by-case basis for authorizations of payments to the Taliban, persons whose property or interests in property are blocked pursuant to § 465.201, or to persons within the territory of Afghanistan controlled by the Taliban for services rendered in connection with the oversight of the territory of Afghanistan controlled by the Taliban or emergency landing in the territory of Afghanistan controlled by the Taliban by aircraft. Any such payments shall be made consistent with United Nations Security Council Resolution 1267.

(b) Specific licenses may be issued on a case-by-case basis for the exportation, repatriation, sale, or supply, directly or indirectly, of goods, software, technology, and services to ensure the safety of Civil aviation and safe operation of U.S.-origin commercial passenger aircraft.

§ 465.515 Certain transactions related to patients, trademarks, and copyrights authorized.

(a) All of the following transactions in connection with patents, trademarks, copyrights, or other intellectual property protection in the United States or Afghanistan are authorized:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright, or other form of intellectual property protection, including importation of or dealing in services or payment for services from the Taliban, persons whose property or interests in property are blocked pursuant to § 465.201, or from persons within the territory of Afghanistan controlled by the Taliban connected to such intellectual property protection;

(2) The receipt of patents, trademarks, copyrights, or other form of intellectual property protection;

(3) The issuance or maintenance of a patent, trademark, copyright, or other form of intellectual property protection; and

(4) The filing and prosecution of opposition or infringement proceedings with respect to a patent, trademark, copyright, or other form of intellectual property protection, or the entrance of a defense to any such proceeding.

(b) Nothing in this section affects obligations under any other provision of law, order, or treaty to transfer or from the territory of Afghanistan controlled by the Taliban.

(c) United States financial institutions, as defined in § 465.314, are authorized to process transfers of funds to or from any financial institution controlled by the Taliban if the transfer is covered in full by any of the following conditions and does not involve altering a blocked account on the books of a U.S. financial institution:

(1) The transfer arises from an underlying transaction that has been authorized by a specific license, general license, or non-issuer certification organization’s registration number issued pursuant to this part; or

(2) The transfer arises from an underlying transaction that is not prohibited by or that is exempted from the prohibitions of this part, such as an exportation of information or informational materials to the territory of Afghanistan controlled by the Taliban, a travel-related transaction, or payment for the shipment of a donation of articles to relieve human suffering.

(b) With respect to transactions meeting the conditions of paragraph (a) of this section, before a United States depository institution initiates a payment on behalf of any U.S. non-bank party, the account on whose books the ultimate beneficiary, the United States depository institution must determine that the underlying transaction is not prohibited by this part. In order to meet this requirement, a United States depository institution must either obtain a copy of the applicable specific license or non-issuer certification organization’s registration number or obtain a certification from the customer or beneficiary confirming that the transaction is authorized by a general license or not prohibited by this part. Such a certification will not meet the requirements of this section if the United States depository institution knows or has reason to know that any part of the certification is false.

§ 465.517 Authorization of emergency medical services.

The provision of nonmedical emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 465.201 is authorized, provided that all receipt of payment for such services must be specifically licensed.
§540.518 Investment and reinvestment of certain funds.

(a) Subject to the requirements of §540.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to §540.201, subject to the following conditions:

(1) The assets representing such investments and reinvestments are credited to a blocked account or subaccount which is held in the same name as the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(2) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(b) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to persons whose property or interests in property are blocked pursuant to §540.201.

§540.519 Payments and transfers authorized for goods and services exported to the territory of Afghanistan controlled by the Taliban prior to the effective date.

(a) No specific licenses may be issued on a case-by-case basis to permit payment of an irrecoverable credit, issued or confirmed by a U.S. bank, on a blocked account or subaccount approved by the Taliban, or on any other account, by a U.S. bank, to the Taliban or to any entity controlled by the Taliban, or to any entity controlled by a person who has been blocked pursuant to §540.201, on the effective date. The国务院 of Foreign Affairs Committee of the U.S. Government has determined that the exportation of goods, software, technology, or services after the effective date to a contract entered into, or partially performed, prior to the effective date, without prior U.S. authorization, constitutes a violation of U.S. law.

(b) No specific licenses may be issued on a case-by-case basis to permit payment of an irrecoverable credit, issued or confirmed by a U.S. bank, on a blocked account or subaccount approved by the Taliban, or on any other account, by a U.S. bank, to the Taliban or to any entity controlled by the Taliban, or to any entity controlled by a person who has been blocked pursuant to §540.201, on the effective date. The国务院 of Foreign Affairs Committee of the U.S. Government has determined that the exportation of goods, software, technology, or services after the effective date to a contract entered into, or partially performed, prior to the effective date, without prior U.S. authorization, constitutes a violation of U.S. law.

§540.520 Noncommercial personal remittances to or from the territory of Afghanistan controlled by the Taliban.

United States financial institutions, as defined in §540.314, are authorized to process transfers of funds to or from the territory of Afghanistan controlled by the Taliban in cases in which the transfer involves a noncommercial, personal remittance, provided the beneficiary is not a person whose property or interests in property are blocked pursuant to §540.201 or an entity or other organization subject to the jurisdiction of the United States. The国务院 of Foreign Affairs Committee of the U.S. Government has determined that the exportation of goods, software, technology, or services after the effective date to a contract entered into, or partially performed, prior to the effective date, without prior U.S. authorization, constitutes a violation of U.S. law.

§540.521 Transactions related to U.S. citizens residing in the territory of Afghanistan controlled by the Taliban.

U.S. citizens who reside in a permanent basis in the territory of Afghanistan controlled by the Taliban are authorized to engage in transactions within the territory of Afghanistan controlled by the Taliban's central government or any entity controlled by the Taliban's central government or any entity controlled by a person who has been blocked pursuant to §540.201.

Note to §540.521: This provision does not apply to non-U.S. financial institutions, as defined in §404.314, to process transfers of funds to persons whose property or interests in property are blocked pursuant to §540.201.

§540.522 Operation of accounts.

The operation of an account in a U.S. financial institution, as defined in §540.314, for a natural person in the territory of Afghanistan controlled by the Taliban, other than a person whose property or interests in property are blocked pursuant to §540.201, is hereby authorized; however, such operation may not include the execution of transactions in support of transactions or activities prohibited by subpart B of this part.

§540.523 Extensions or renewals of letters of credit authorized.

(a) The extension or renewal, at the request of the account party, of a letter of credit or a standby letter of credit issued or confirmed by a U.S. financial institution is authorized, provided the transfer of funds is not made to a blocked account.

(b) Extensions or renewals are governed by the regulations of the CDPAC Program Division of the Office of Foreign Assets Control, U.S. Treasury Department, 1500 Pennsylvania Ave., N.W., Annex, Washington, D.C. 20220, within 10 days after completion of the transaction.
§ 545.525 Certain importations for diplomatic or official personal use.

All transactions ordinarily incident to the importation into the United States of any goods, articles, machinery, or equipment for official use by officials or employees of the diplomatic missions of the Taliban to the United States and to international organizations located in the United States are authorized unless the importation is otherwise prohibited by law.

Subpart F—Reports

§ 545.601 Reports and records. Für provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recovering and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements affecting permits granted pursuant to this part.

Subpart G—Penalties

§ 545.791 Penalties.

(c) All persons and instruments described in parts 120 and 121 of the International Emergency Economic Powers Act (as specified in part 121 of the International Emergency Economic Powers Act, and the Secretary of the Treasury pursuant to this part or otherwise under the Act, shall be subject to the Act, upon conviction, shall be fined not more than $10,000, and if a natural person, may also be imprisoned for not more than 10 years; and any officer, director, or agent of any corporation who knowingly participates in such violation may be fined $10,000 or imprisoned, or both.

(d) The criminal penalties provided in the Act are subject to increased pursuant to 18 U.S.C. 3571.

(e) This section is also directed to 18 U.S.C. 1001(a), which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device, a material fact, or makes or uses any materially false writing or document, knowing the same to contain any false, fictitious, or fraudulent statement or representation, or makes or uses any materially false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined or imprisoned not more than five years, or both.

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

§ 545.792 Preconviction notice.

(a) When required. If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, rule, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury to any person who is a citizen or resident of the United States or who is an agency or instrumentality of the Government of the United States, the Director shall notify the alleged violator of the violation and any penalties therefor. The preconviction notice shall be served in writing on the alleged violator.

(b) Contents of notice—(1) Name of violator. The preconviction notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed penalty.

(2) Right to respond. The preconviction notice shall also inform the respondent of his right to make a written presentation within the applicable 30 day period set forth in section 540.703 as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

(c) Ibrahim remittance prior to issuance of preconviction notice. At any time prior to the issuance of a preconviction notice, the alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the preconviction notice for the exclusive purpose of effecting settlement of the agency’s potential civil monetary penalty claim. In the event the Director grants the request, under terms and conditions acceptable to the Director, the Foreign Assets Control will agree to withhold issuance of the preconviction notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§ 545.793 Response to preconviction notice; informal settlement.

(a) Deadline for response. The respondent shall submit a response to the preconviction notice within the applicable 30 day period set forth in this paragraph. The Director may, at his discretion, extend the time in which to submit a response to the preconviction 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.

(b) Compromise of time for response. A compromise of time for response is permitted for preconviction notices for the purposes set forth in this paragraph. In the event that a compromise of time for response is permitted, the preconviction notice shall be extended to the date of the compromise.

(c) General provisions. If a preconviction notice is served on or before the 30th day of the month, the preconviction notice shall be served on or before the 30th day of the month after the date on which the preconviction notice was mailed. If the preconviction notice is served on or after the 30th day of the month, the preconviction notice shall be served on or before the 30th day of the month after the date on which the preconviction notice was mailed.

(d) Extension of time for response. If a preconviction notice is served on or after the 30th day of the month, the preconviction notice shall be served on or before the 30th day of the month after the date on which the preconviction notice was mailed.

(e) Failure to respond. The response must be in writing and may be hand written or typed. The response need not be in any particular form. A copy of the written response may be sent by facsimile, but the original must also be sent to the Office of Foreign Assets Control Civil Penalties Division.
Division by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

(f) Contents of response. A written response must contain information sufficient to indicate that it is in response to the proposed penalty notice.

(1) A written response must include the respondent's full name, address, telephone number, and Federal identifier, if available, or those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the penalty notice and, where the respondent has no knowledge of a particular violation, if the written response fails to address any specific violations alleged in the penalty notice, that alleged violation shall be deemed to be admitted.

(3) A written response should include any information in defense, evidence in support of an asserted defense, or other factors that the respondent requests the Office of Foreign Assets Control to consider. Any defense or explanation previously made to the Office of Foreign Assets Control or any other agency must be repeated in the written response. Any defense not raised in the written response will be considered waived. The written response should set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be less than that proposed.

(4) Default. If the respondent fails to submit a written response within the time limit set forth in paragraph (a) of this section, the Office of Foreign Assets Control will conclude that the respondent has decided not to respond to the penalty notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the penalty notice.

(e) Informed settlement. In addition to or as an alternative to a written response to a penalty notice, the respondent or the respondent's representative may contact the Office of Foreign Assets Control as advised in the penalty notice to propose the settlement of allegations contained in the penalty notice and related matters. However, the requirements set forth in paragraph (f) of this section as to oral communication by the representative must first be fulfilled. In the event of settlement at the penalty stage, the claim proposed in the penalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the penalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a penalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the penalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

(f) Representation. A representative of the respondent may act on behalf of the respondent, but any oral communication with the Office of Foreign Assets Control prior to a written submission regarding the specific allegations contained in the penalty notice must be preceded by a written letter of representation, unless the penalty notice was served upon the respondent in care of the representative.

§ 561.708 Penalty imposition or withdrawal.

(a) No violation. If, after considering any written response to the penalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the penalty notice, the Director shall notify the respondent in writing of that determination and of the cancellation of the proposed monetary penalty.

(b) Violation. If, after considering any written response to the penalty notice, or default in the submission of a written response, and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the penalty notice, the Director is authorized to issue a written penalty notice to the respondent.

(c) The penalty notice shall inform the respondent that payment of or arrangement for installment payment of the proposed penalty must be made within 30 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(d) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 26 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any disallowance penalty amount.

(e) The issuance of the penalty notice for a violation is binding and imposing a monetary penalty shall constitute final agency action. The respondent has the right to seek judicial review of that final agency action in federal district court.

§ 561.709 Administrative collection; return to United States Department of Justice.

In the event that the respondent does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of the penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.
Subpart I—Procedures
§ 545.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses, administrative decisions, rulemakings and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart D, of this chapter.

Subpart II—Delegation by the Secretary of the Treasury
§ 545.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13129 of July 4, 1999 (64 FR 36756, July 7, 1999) and any further Executive Order relating to the national emergency declared in Executive Order 13129 may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart III—Paperwork Reduction Act
§ 545.801 Paperwork Reduction Act notice.

For approved by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 581.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

[For approved by OMB, November 28, 2000, R. Richard Newcomb, Director, Office of Foreign Assets Control.]

[Approved: January 2, 2001, Elizabeth A. Strese, Assistant Secretary (Enforcement), Department of the Treasury.]

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