SIX MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO YUGOSLAVIA (SERBIA AND MONTENEGRO) AND KOSOVO

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

A SIX MONTH PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO THE FEDERAL REPUBLIC OF YUGOSLAVIA (SERBIA AND MONTENEGRO) DECLARED IN EXECUTIVE ORDER 12808 ON MAY 30, 1992 AND WITH RESPECT TO THE KOSOVO EMERGENCY DECLARED IN EXECUTIVE ORDER 13088 ON JUNE 9, 1998, PURSUANT TO 50 U.S.C. 1641(c) AND 50 U.S.C. 1703(c)

DECEMBER 4, 2001.—Message and accompanying papers referred to the Committee on International Relations and ordered to be printed

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To the Congress of the United States:

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, 50 U.S.C. 1703(c), I transmit herewith a combined 6-month periodic report on the national emergencies declared with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) in Executive Order 12808 on May 30, 1992, and Kosovo in Executive Order 13088 on June 9, 1998.

GEORGE W. BUSH.

Periodic Report on the National Emergencies with respect to the Federal Republic of Yugoslavia (Serbia & Montenegro) and Kosovo

I hereby report to the Congress on developments over the course of the past 6 months concerning the national emergency with respect to the Federal Republic of Yugoslavia (Serbia and Montenegro) (the "FRY (S&M)") that was declared in Executive Order 12008 on May 30, 1992, as supplemented by Executive Orders 12810, 12831, and 12846, issued on June 5, 1992, January 15, 1993, and April 25, 1993, respectively, and as expanded in Executive Order 12944, issued on October 28, 1994, with respect to the Bosnian Serbs. I am also reporting to the Congress on developments over the course of the past 6 months concerning the national emergency with respect to the FRY (S&M) and Kosovo that was declared in Executive Order 13088 on June 9, 1998, as supplemented by Executive Order 13121, issued on April 30, 1999, and as amended in Executive Order 13192 of January 17, 2001.

This report is submitted pursuant to section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c) ("IEEPA"), and section 401(c) of the National Emergencies Act, 50 U.S.C. 1621(c).

With regard to the national emergency declared in 1992, the Office of Foreign Assets Control ("OFAC") has continued during the past 6 months to oversee the maintenance of FRY (S&M) accounts blocked pursuant to the Federal Republic of Yugoslavia (Serbia and Montenegro) and Bosnian Serb-controlled Areas of the Republic of Bosnia and Herzegovina Sanctions Regulations, 31 CFR Part 585 (the "Bosnia and Herzegovina Regulations"), and records with respect to: (1) liquidated tangible assets and personalty of the 15 blocked U.S. subsidiaries of entities organized in the FRY (S&M); (2) the blocked personalty, titles, and records of the two Serbian banking institutions in New York previously placed in secure storage; and (3) remaining blocked FRY (S&M) tangible property, including real estate. The Departments of State and Treasury continue to work closely with European Union member states and other U.N. member nations to implement the provisions of United Nations Security Council Resolutions 1022 and 1074 regarding the status of assets subject to claims and encumbrances previously blocked under that authority.
With regard to the national emergency declared in 1998, following the peaceful democratic transition begun in the FRY (S&N), the President issued Executive Order 13192 on January 17, 2001, amending Executive Order 13088 to lift and modify, with respect to future transactions, most of the economic sanctions imposed against the FRY (S&N). Executive Order 13192 imposes restrictions on transactions with certain persons described in Section 1(a) of the Order, namely Slobodan Milosevic, his close supporters and persons under open indictment for war crimes by the International Criminal Tribunal for the former Yugoslavia ("ICTY"). It also provides for the continued blocking of property or interests in property blocked prior to the Order’s effective date pending resolution of claims and encumbrances, until unblocked in accordance with applicable law.

Further information with regard to the national emergencies declared in 1992 and 1998 is provided below.

1. OFAC issued regulations implementing Executive Order 13192 on October 3, 2001, (66 FR 50506, October 3, 2001). These regulations include conforming amendments to the Federal Republic of Yugoslavia (Serbia & Montenegro) Kosovo Sanctions Regulations, 31 CFR Part 586 (the "Kosovo Regulations"), as well as new regulations, the Federal Republic of Yugoslavia (Serbia & Montenegro) Milosevic Regulations, 31 CFR Part 587 (the "Milosevic Regulations"). The amendments to the Kosovo Regulations reflect the lifting of certain economic sanctions relating to the FRY (S&N), the unblocking of certain previously blocked wire transfers and debt, and the effecting of other appropriate conforming and technical changes. The new Milosevic Regulations are being added to maintain and modify sanctions targeted against designated family members, supporters, and members of the regime of former President Slobodan Milosevic, as well as certain persons under open indictment by the ICTY, and other specified parties. A copy of the Federal Register notice containing the amendments to Kosovo Regulations, as well as the new Milosevic Regulations, is attached.

2. During this reporting period, OFAC issued a total of 33 specific licenses pursuant to the Kosovo Regulations. Specific licenses were issued to: (1) unblock wire transfers where it was determined that there was no FRY (S&N) property interest in the funds; (2) authorize the sale of a set amount of Yugoslavia New Financing Agreement of 1988/Serbia C3 Bonds; (3) release or transfer a set amount of First Emerging Markets, Second Emerging Markets, Yugoslavian Asset Backed Securities, and/or debt obligations issued under the New Financing Agreement...
of 1988 or the Trade and Deposit Facility Agreement of 1988; (4) authorize the sale and assignment of legal title and beneficial interest in a National Bank of Yugoslavia loan facility and; (5) authorize the release of assets consisting of liabilities incurred by the Federal Republic of Yugoslavia and the National Bank of Yugoslavia pursuant to the New Financing Agreement of 1988. No licenses were issued pursuant to the Bosnia and Herzegovina Regulations.

As the Kosovo sanctions were lifted prospectively on January 19, 2001, there were no blocked or rejected transactions during the current reporting period. No reports were received involving blocked or rejected transactions pursuant to the Milosevic Regulations.

Since my last report, OFAC reports collecting six civil monetary penalties totaling more than $27,200 for violations of the sanctions. These violations involved payments either to the Government of the FRY (S&G), persons in the FRY (S&G), or to blocked entities owned or controlled by the Government of the FRY (S&G), as well as the unauthorized export of services to the FRY (S&G). The violators included three U.S. financial institutions, one company, one carrier, and one individual. An additional case is undergoing penalty action for violation of the 1992 sanctions program and an additional 68 cases are undergoing penalty action for violation of the Kosovo Regulations.

3. The trial of a resident alien, along with his company, who were named in a February 16, 2000, 40-count indictment in the Central District of California, has been rescheduled for December 4, 2001. The indictment alleged unauthorized sales and exportation from the United States of aircraft parts to Yugoslavski Aerotransport ("JAT") in the FRY (S&G) and further alleged conspiracy with U.S. persons to acquire U.S.-manufactured aircraft parts from companies such as Boeing, Pratt & Whitney, Honeywell, and others for resale and exportation to JAT. The defendant allegedly shipped the aircraft parts to JAT in third countries with the knowledge that they would be transshipped to the FRY (S&G) without authorization by the United States Government. Trial was originally scheduled for February 2001.

4. The expenses incurred by the Federal Government in the 6-month period from May 31, 2001 through November 30, 2001, that are directly attributable to the declaration of the national emergencies in Executive Orders 12808 and 13088 are estimated at
approximately $745,000, most of which represents wage and salary costs for Federal personnel. Personnel costs were largely centered in the Department of the Treasury (particularly in OFAC, the Chief Counsel's Office (Office of Foreign Assets Control), and the U.S. Customs Service), the Department of State, the National Security Council, and the Department of Commerce.

5. It is in the United States foreign policy interest to support Yugoslavia's newly elected government as they work toward building a society based on democratic ideals. We also have a strong interest in avoiding prejudice to the claims of U.S. persons and successor States of the former Socialist Federal Republic of Yugoslavia with respect to previously blocked funds and assets. Further, we will ensure that sanctions-lifting measures do not allow supporters of Milosevic to benefit from the systematic theft of resources that have marked the last 13 years.
Wednesday,
October 3, 2001

Part II

Department of the Treasury
Office of Foreign Assets Control

31 CFR Parts 586 and 587
Federal Republic of Yugoslavia (Serbia and Montenegro) Kosovo Sanctions
Regulations; Federal Republic of Yugoslavia (Serbia and Montenegro)
Mistesevic Regulations; Final Rule
U.S. exports and receipts to and imports from the FRY(SM), as well as the prohibition on transactions or dealings by U.S. persons relating to trade with or to the FRY(SM). Consequently, with the exception of transactions involving property or interests in property of designated family members, supporters, and members of the regime of former President Slobodan Milosevic, as well as certain persons under open indictment by the ICTY, and other specified persons discussed below with respect to 31 CFR § 587.201(a), transactions on or after January 19, 2001, by U.S. persons involving the FRY(SM) will no longer fall under the scope of the prohibitions outlined in part 186.

An explanatory note is added to § 586.204 to reflect the prospective elimination by section 161 of Executive Order 13182 of the prohibition on all new investment by United States persons in the territory of the Republic of Serbia and the approval and other facilities by United States persons of other persons’ new investment in the territory of the Republic of Serbia. Consequently, with the exception of transactions involving property or interests in property of persons designated in or pursuant to 31 CFR § 587.201(a), the new investment activities of United States persons in the territory of the Republic of Serbia are as of or after January 19, 2001, are no longer prohibited by section 161.

Previously Blocked Property. Revised § 586.215(b) implements section 161 of Executive Order 13182 by continuing the blocking of any property and interests in property blocked pursuant to Executive Order 13050 before January 19, 2001, to remain blocked. A separate table identifies the property from the “FY67” entries being removed from appendix A to 31 CFR chapter V as available to the public upon request from OFAC’s Compliance Programs Division at (202) 623-4409. Similar lists are available with respect to persons whose property and interests in property continues to be blocked pursuant to part 586 of 31 CFR chapter V, see 63 FR 72 (Mar. 18, 1998) 31 FR 24405 (May 16, 1998).

Unblocking of Certain Debt. Notwithstanding the generally continued blocking of previously blocked property, new § 586.317(a) authorizes by general license the unblocking of debt obligations included within the restrictions of Yugoslav debt pursuant to the New Financing Agreement of September 20, 1999, negotiated between the Socialist Federal Republic of Yugoslavia and the London Club of commercial lenders. Section 586.317(b) provides for case-by-case review of requests to unblock debt previously blocked debt. Section 586.317(c) excludes from the general license transactions with any person designated in or pursuant to 31 CFR § 587.201(a).

Release of Certain Blocked Transfers. Notwithstanding the generally continued blocking of previously blocked property, new § 586.319 authorizes by general license U.S. financial institutions to unblock and return to the remitting party certain funds that came into the U.S. financial institution’s possession or control through wire transfers or check remittances. Funds may not be unblocked and returned if they were originally destined for an account established on the books of a U.S. financial institution by a person whose property or interests in property were blocked immediately prior to January 19, 2001, or if they were remitted by or destined for any person designated in or pursuant to 31 CFR § 587.201(a). Under this authorization, funds may generally be returned to, among others, the Government of the FRY(SM), the Government of the Republic of Serbia, the Government of the Republic of Montenegro, or any persons purporting to act for or on their behalf.

Funds Held at Overseas Branches of U.S. Financial Institutions. New § 586.319 provides that OFAC will review on a case-by-case basis requests to unblock deposit accounts established outside the United States at overseas branches of U.S. institutions.

Revisions to Sanctioned Provisions. Subject G of part 586 is revised in certain respects to describe more fully OPAC’s procedures in order to enhance transparency of the penalty process. Section 586.307—Sanctions Relating to Members and Supporters of the Milosevic Regime In addition to the existing sanctions on the Governments of the FRY(SM) and the Republic of Serbia, Executive Order 13182 imposes sanctions on designated family members, supporters, and members of the regime of former President Slobodan Milosevic, as well as certain persons under open indictment by the ICTY, and other specified parties. A new part 587 is added to chapter V of 31 CFR to implement these ongoing sanctions.

Section 587.201 implements section 151 of Executive Order 13192 by prohibiting any transaction or dealing within the United States or by a United States person, wherever located, in property or interests in property of any person designated in or pursuant to § 587.201(a).

Sections 587.202 and 587.203 detail the effect of transfers of blocked property in violation of the regulations and the required holding of blocked property in interest-bearing blocked accounts. Section 587.204 implements section 161 of the Executive Order by prohibiting any transaction that evades or avoids, or has the purpose of evading or avoiding, or in any way obstructing or attempting to violate, any of the prohibitions set forth in this section. Complexities formed for the purpose of engaging in a prohibited transaction are also prohibited.

Section 587.205 provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that
such expenses shall not be met from blocked funds. The section further provides that blocked property may, in the discretion of the Director of OFAC, be held or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

Section 847.900 details exempt transactions. The exemptions derive from the provisions set out in section 203(b) of the ESA (50 U.S.C. 1702(b)) and relate to personal communications, donations of articles to relieve human suffering, the importation and exportation of information or informational materials, and travel. Section 847.900 differs key terms used throughout the regulations and subject G sets forth interpretive sections regarding the general prohibitions of subject B. Section 847.450 of subject D describes the termination and acquisition of an interest in blocked property and §847.460 explains that, subject to certain exceptions, transactions incidental and necessary to the effectiveness of a licensed transaction are authorized.

Section 847.460 provides that the prohibitions of §847.281 apply to the provision of services, such as financial or transportation services, performed by U.S. persons, wherever located. Section 847.460 makes clear that even while outside the United States, U.S. persons are prohibited from dealing in property in which they have an interest regulated in or pursuant to §847.281(a). It has an interesting Section 847.460, and §847.460 explains that deeds generally may not be used to a blocked account to pay obligations to any person. U.S. financial institutions may not perform under existing credit agreements with a person designated in or pursuant to §847.281(a), including change or debit cards issued to such a person, and no U.S. person may affect or assist against blocked property.

Transactions otherwise prohibited under part 857 but found to be consistent with U.S. policy may be authorized by one of the U.S. policymakers. The procedures described in subject D of part 847, and by a specific license issued pursuant to the regulations described in subject D of part 847, provide for the application of the regulations. The regulations contained in subject G authorize U.S. financial institutions to make certain transfers of funds or credits between blocked accounts, to debit blocked accounts for normal service charges, and, subject to certain conditions, to invest and reinvest blocked assets. Sections 847.597 and 847.606 authorize the provision of certain legal and medical services, but require that receipt of payment for such services must be specifically licensed. A license may be issued, for the recording and maintaining requirements of this part, to the Reporting and Procedures Regulations in subject A of 31 CFR part 561. Subpart C of the regulations describes the civil and criminal penalties applicable to violations of the regulations, as well as the procedures governing the potential imposition of a civil monetary penalty. Subpart H of part 847 provides certain administrative procedures applicable to this part by reference to the Reporting and Procedures Regulations in part D of 31 CFR part 561, which contains provisions relating to civil administrative procedures.

Section 847.460 sets forth a Paperwork Reduction Act notice.

Request for Comments

Because the amendment of 31 CFR part 856 and the addition of 31 CFR Part 567 pursuant to Executive Order 13382 involve a foreign affairs function, the provisions of Executive Order 13660 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. However, because of the importance of the issues addressed in the amendments to part 856 and the introduction of part 857, comments will be considered in the development of final rules. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments may address the impact of the regulations on the submitter's activities, whether of a commercial, non-commercial, or humanitarian nature, as well as changes that would improve the clarity and enforcement of the regulations.

The period for submission of comments will close December 2, 2002. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured.

The Department will not accept public comments accompanied by a request that a part of all of the submission be treated confidentially because of its sensitive proprietary nature or for any other reason. The Department will return each comment 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 January 2, 2002, and will be obtainable from OFAC's Web site (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., Annex—36 Floor, N.W., Washington, D.C. 20222. Attention: Multilateral.
Subpart B—Prohibitions

2. Section 586.201 is amended by adding a note to paragraphs (a), (b), and (d), revising paragraph (c) and the accompanying note, and revising the note at the end of the section to read as follows:

§ 586.201 Prohibited transactions involving blocked property.

(a) * * *

Note to paragraph (a) of § 586.201: See note at end of this section with regard to the lifting of certain sanctions effective January 19, 2001.

(b) * * *

Note to paragraph (b) of § 586.201: See note at end of this section with regard to the lifting of certain sanctions effective January 19, 2001.

(c) Property or interests in property blocked pursuant to Executive Order 13228 of June 9, 2005, as amended by Executive Order 13232 of April 30, 1999, and this part prior to 1:00 a.m. eastern standard time, January 19, 2001, are blocked, and may not be transferred, paid, exported or otherwise dealt in except as otherwise authorized by the Secretary of the Treasury.

Note to paragraph (c) of § 586.201: See note at end of this section with regard to the lifting of certain sanctions effective January 19, 2001.

(d) * * *

Note to paragraph (d) of § 586.201: See note at end of this section with regard to the lifting of certain sanctions effective January 19, 2001.

(e) * * *

Note to § 586.201: See § 586.310 of Executive Order 13228 of January 17, 2001 (66 FR 7739, January 23, 2001), revised on June 9, 2005, and § 586.310 of Executive Order 13232 of June 9, 2005, as amended by Executive Order 13232 of April 30, 1999, and this part prior to 1:00 a.m. eastern standard time, January 19, 2001, for transactions involving properties or interests in property designated in or pursuant to 31 CFR part 586.

Subpart C—General Definitions

4. Section 586.302 is revised to read as follows:

§ 586.302 Effective date.

The term effective date refers to the effective date of the applicable prohibitions and directives contained in this part which is 1:00 a.m. eastern daylight time, June 10, 1990, except as provided in § 586.201(d), § 586.203(c), and § 586.301(a), and as otherwise provided in this part.

Subpart D—Interpretations

6. Section 586.405 is revised to read as follows:

§ 586.405 Transactions incidental to a licensed transaction.

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

(a) An incidental transaction, not explicitly authorized within the terms of the license, by or with a person whose property or interests in property are blocked pursuant to § 586.201 or

(b) An incidental transaction, not explicitly authorized within the terms of the license, involving a debt or credit to a blocked account or a transfer of blocked property.

§ 586.405 Provision of services.

7. Section 586.406 is amended by removing the phrase “as provided in” the first sentence of paragraph (a).

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

§ 586.501 General and specific licensing procedures. [Amended]

8. Section 586.501 is amended by removing the phrase “subpart C” and adding in its place the phrase “subpart B” as follows:

9. Section 586.513 is added to subpart E to read as follows:

§ 586.513 Unblocking of certain debt.

(a) Subject to the limitations in paragraph (b) below, obligations in the possession or control of U.S. persons for which the National Bank of Yugoslavia has joint or several liability and that were unblocked pursuant to the “New Financing Agreement” of September 23, 1990, may be unblocked.

(b) Subject to the limitations in paragraph (a) below, specific licenses may be issued on a case-by-case basis to permit the unblocking of debt obligations not otherwise provided for under paragraph (a) of this section or 31 CFR part 586.

(c) Nothing in this section authorizes transactions that would otherwise require a license to be effective.

(d) Nothing in this section authorizes transactions in property or interests in property that are blocked or otherwise unblocked immediately prior to January 19, 2001.

Subpart F—Authorization of release of certain blocked transfers by U.S. Financial Institutions


(a) Subject to the limitations set forth in this paragraph, U.S. financial institutions are authorized to unlock and return to the remitting party funds blocked pursuant to this part that come into their possession or control through wire transfer instructions or check returns, provided those funds were not destined for an account established on the books of a U.S. financial institution by a person whose property or interests in property were blocked immediately prior to January 19, 2001.

Other otherwise eligible for release under this general license, however, may not be unlocked and returned if...
they were remitted by or destined for a person designated in or pursuant to 31 U.S.C. 596.158(g). (b) Funds blocked pursuant to this part that were destined through wire transfer instructions or check returns for an account established on the books of a U.S. financial institution by a person whose property or interests in property were blocked immediately prior to January 19, 2001, remain blocked. If such funds are not already held in the account for which they were destined, they must be transferred to such an account by October 15, 2001, and maintained in blocked status pursuant to §586.220(g).

11. Section 586.159 is added to subject E to read as follows:

§586.159 Release of certain funds held at overseas branches of U.S. financial institutions.

Specific licenses may be issued on a case-by-case basis to permit the overseas branches of U.S. financial institutions to unblock deposit accounts that were blocked pursuant to this part prior to January 19, 2001, and that were established outside of the United States. In situations in which such accounts are not owned or controlled, directly or indirectly, by a person designated in or pursuant to 31 U.S.C. 596.158(b).

Subpart G—Penalties

12. Section 586.701 is revised to read as follows:

§586.701 Penalties.

(a) Except as provided in section 203 of the International Emergency Economic Powers Act (the "Act") (50 U.S.C. 1703), which is applicable to violations of the provisions of any license, 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 the Act, Section 203 of the Act, or in the Federal Civil Penalties Inflation Adjustment Act of 1992 (Public Law 102-585), as amended, 28 U.S.C. 2461 note, provides that:

(1) A civil penalty not to exceed $18,000 per violation may be imposed on any person who, violates, or attempts to violate, any license, order, or regulation issued under the Act; (2) A criminal penalty, including a fine, imprisonment, or willfully attempts to violate, any license, order, or regulation issued under the Act, upon conviction, shall be fixed no more than $10,000, and, if a natural person, may also be imprisoned for not more than 10 years and any offender, director, or agent of any corporation who knowingly participates in such violation may be punished by a fine, imprisonment, or both; (3) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3553.

§586.702 Propensity notice.

(b) 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, 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 the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency’s intent to impose a monetary penalty by issuing a propensity notice. The propensity notice shall be in writing. The propensity notice may be issued whether or not another agency has taken any action with respect to the matter. (c) Contents of notice—(i) Part of violation. The propensity notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty. (ii) Right to respond. The propensity notice also shall inform the respondent of the right to make a written presentation within the applicable 30-

day period as set forth in §586.703 as to why, if any, the monetary penalty should be in a lesser amount than proposed. (d) Final determination prior to issuance of a propensity notice. At any time prior to the issuance of a propensity notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the propensity 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 within his discretion, the Office of Foreign Assets Control will agree to withhold issuance of the propensity notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

13. Section 586.703 is revised to read as follows:

§586.703 Propensity notice; settlement.

(a) Deadline for response. The recipient shall submit a response to the propensity notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time in which to submit a response to the propensity 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.

(c) Computation of time for response. A response to the propensity notice must be postmarked or date-stamped by the U.S. Postal Service or other service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark or date stamp on the envelope in which the propensity notice was mailed. If the response is returned, delivered, or otherwise avoided receipt of the propensity notice, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery of the propensity notice.

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

(d) Final and adverse response. The response must be submitted in writing and may be addressed 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 by mail or courier and must be postmarked or date-stamped, in accordance with paragraph (a) of this section.

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

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, 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 also state if the respondent has no knowledge of a particular violation. If the written response fails to address any specific violation 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 reprinted in the written response. Any defense not raised in the written response will be considered waived.

The written response should also set forth the reasons why the respondent believes that penalties should not be imposed or why, if imposed, it should be reduced from the amount proposed.

(d) Final decision. If the respondent objects to a written response within the time set forth in paragraph (c) of this section, the Office of Foreign Assets Control will determine whether the respondent has decided not to respond to the penalty notice. The agency will generally issue a written penalty notice imposing the penalty proposed in the penalty notice.

(e) Information submitted. 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 written response set forth in paragraph (a) of this section as to oral communication by the respondent must still be filed. In the event of settlement at the penalty stage, the client 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 of violations. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the penalty notice will remain 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 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. The Office of Foreign Assets Control will make no final determination of violations. In the event no settlement is reached, the time limit specified in paragraph (a) of this section for written response to the penalty notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 584.794 Penalty imposition or withdrawal.

(a) No violation. If, after considering any 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 the cancellation of the proposed monetary penalty.

(b) Violation. (1) 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 with a monetary penalty.

(2) The penalty notice shall inform the respondent that payment or arrangement for installment payment of the assessed penalty must be made within 20 days of the date of mailing of the penalty notice by the Office of Foreign Assets Control.

(3) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

(4) The issuance of the penalty notice finding a violation 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.

§ 584.795 Petition to review.

(a) 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 to the Department of Justice for the appropriate action to recover the penalty in a civil suit in federal district court.

(b) A petition to review shall be filed in the United States Court of Claims within 60 days of the date of mailing of the penalty notice.
maintained, prior to that date, had written notice of the transfer, or any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate licensee or other authorized person shall give notice of 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 same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained funds or funds in such person's name in which such person is able to establish the existence of the Director of the Office of Foreign Assets Control such of the following:

1. Such transfer did not represent a willful violation of the restrictions 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 view of all the facts and circumstances known or available to such person, that such transfer required a license or other authorization issued pursuant to part 504 and was not so licensed or authorized, or, if a lender or supplier of a service to a customer in the transfer, that such license or authorization has been obtained by misrepresentation of a third party or itself, or was otherwise fraudulently obtained, and
3. The person with whom such property was held or maintained failed to comply with the Office of Foreign Assets Control a report forth in full the circumstances relating to each such transfer promptly upon discovery that:

1. Such transfer was in violation of the restrictions of this part or any regulation, ruling, instruction, license, or other authorization issued pursuant to this part;
2. Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control;
3. If a licensee did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material fact or was otherwise fraudulently obtained.

Note to paragraph (d) of §587.23(a): The filing of a report in accordance with the provisions of paragraph (c) of this section shall not be deemed evidence that the terms of paragraph (d) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, execution, garnishment, or other judicial process is null and void with respect to any property in which or since the effective date of §547.23 of the assets listed in a person designated in or pursuant to §587.23(a).

§587.233 Holding of funds in interest-bearing accounts, investment in securities, and utilization.

(a) Except as provided in paragraphs (b) or (c) of this section, any funds, as defined by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations subject to §587.23(a) shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b) For purposes of this section, the term blocked interest-bearing account means a blocked account.

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

(d) 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.

(e) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(f) Funds held or placed in a blocked account pursuant to this paragraph (f) may not be invested in instruments the maturity of which exceeds 360 days. If interest is credited to a separate blocked account or reinvested, the name of the account holder on each such account must be the same.

(g) Blocked funds held in instruments the security of which expires 360 days at the time the funds become due to §587.23(a) may continue to be held under such terms; provided any interest, earnings, or other proceeds expired therefrom are paid into a blocked interest-bearing account in accordance with paragraph (e) of this section.

(h) Blocked funds held in accounts or instruments outside the United States at the time the funds become due to §587.23(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 in the same manner; provided any interest, earnings, or other proceeds expired therefrom are paid into blocked funds held in the United States.

(i) 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 §587.23(a).

(ii) The Office of Foreign Assets Control may license persons permitting or directing such sales in appropriate cases.

(j) Funds subject to this section may be held, invested, or reinvested in a manner that provides immediately a covered financial or economic benefit or access to any person designated in or pursuant to §587.23(a); no further holder consents to nor facilitates the pledging or other attempted use as collateral of blocked funds or other assets.

§587.244 Evasion attempts, compliance.

(a) 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 after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to evade or avoid any of the prohibitions set forth in this part is prohibited.

(b) Except as otherwise authorized, and notwithstanding any contract entered into or any license or permit granted prior to the effective date, any person or entity that knowingly enters into, or consents to, any transaction that is prohibited by this part is prohibited.

(c) Funds held or placed in a blocked account pursuant to this paragraph (c) may not be invested in instruments the maturity of which exceeds 360 days. If interest is credited to a separate blocked account or reinvested, the name of the account holder on each such account must be the same.

(d) Blocked funds held in instruments the security of which expires 360 days at the time the funds become due to §587.23(a) may continue to be held under such terms; provided any interest, earnings, or other proceeds expired therefrom are paid into a blocked interest-bearing account in accordance with paragraph (e) of this section.

(e) Blocked funds held in accounts or instruments outside the United States at the time the funds become due to §587.23(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 in the same manner; provided any interest, earnings, or other proceeds expired therefrom are paid into blocked funds held in the United States.
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interest-bearing account in the name of the owner of the property.

§587.306 Exempt transactions.

(a) Personal communications. The prohibitions contained in this part do not apply to any postal, facsimile, telephone, or other personal communications service which does not involve the transfer of anything of value.

(b) Transmission devices. The prohibitions contained in this part do not apply to devices by U.S. persons of articles, such as food, clothing, and medicines, intended to be used to relieve human suffering.

(c) Information or informational materials. (1) The importation from any country or the exportation to any country of information or informational materials, as defined in §587.301, 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 authorization transactions related to information or informational materials not fully created and in existence at the date of the transaction, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, deposit of advance for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely-circulated magazines and other periodicals or for single copies of information or informational materials to market, produce or promote an event, or in the creation of information or informational materials and, with respect to information or informational materials imported from persons designated in or pursuant to §587.301(a), payment of royalties with respect to income received for enhancements or adaptations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR part 730 through 774, or to the exportation of goods, technology or software, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connections) for use in the transmission of any data. The exportation of such services or materials and the provision, sale, or leasing of such capacity or facilities to a person designated in or pursuant to §587.301(a) are prohibited.

(d) Travel. The prohibitions contained in this part do not apply to transactions normally incident to travel or to persons in any country, including expenditure or importation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel, including noncommercial air, sea, or land voyages.

Subpart C—General Definitions

§587.301 Blocked account; blocked property.

The terms blocked account and blocked property shall mean any account or property subject to the prohibitions in §587.301 held in the name of a person designated in or pursuant to §587.201(a), or in which a person designated in or pursuant to §587.201(a) has an interest, and with respect to which payments, transfers, exports, exports, withdrawals, 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.

§587.302 Effective date.

The terms effective date refers to the effective date of the applicable prohibition and directives contained in this part, which is 12:01 a.m. eastern standard time, January 19, 2001, or, in the case of any persons designated pursuant to §587.201(a)(2), the earlier of the date on which a person receives actual or constructive notice of such designation.

§587.303 Trusts.

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

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

Note to paragraph (a) of §587.304. To be considered information or informational materials, articles must be classified under HS 27.10, 27.11, 38.07, or 49.03 of the Harmonized Tariff Schedule of the United States.

(b) The term information or 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 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401-2412 (the "EAA") or section 4 of the EAR to the extent that such controls, promote the nonproliferation or other national security policies of the United States or

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

§587.305 Interest.

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

§587.306 Licensees; 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 the terms of which are set forth in subpart E of this part.

(c) The term specific license means any license or authorization not set forth in subpart E of this part but issued pursuant to this part.

Note to §587.306. See §581.801 of this chapter on licensing procedures.

§587.307 Person.

The term person means an individual or entity.

§587.308 Property; property interest.

of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future or contingent.

§567.309 Transfer.

The term `transfer' means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, assign, mortgage, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, trust, assignment, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or executor; the creation or transfer of any lien; the issuance, declaring, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest in any mortgage whatsoever by means of a judgment or decree of any foreign court; the assignment or transfer of any condition or security, the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, acquisition, or withdrawal of any security.

§567.310 United States.

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

§567.311 U.S. financial institution.

The term `U.S. financial institution' means any U.S. entity (including its foreign branch) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or negotiating loans or credits, purchasing or selling foreign exchange, securities, commodities, or derivatives, or procuring purchasers and sellers thereof, as principal or agent; including but not limited to, depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodity 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.

§567.312 United States person; U.S. person.

The term `United States person' or U.S. person means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§567.313 Interpretations.

(a) The term `person' includes an individual, a partnership, a trust, an estate, a corporation, an association, a cooperative, or any other entity.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person designated in or pursuant to §567.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§567.401 Reference to amended sections.

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

§567.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provisions in or appendix to this part or chapter or of any other regulation, ruling, instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§567.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction incident to a blocked transaction and necessary to give effect thereto is also authorized,

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person designated in or pursuant to §567.201(a), such property shall be deemed to be property in which that person has an interest and therefore blocked.

§567.405 Provision of services.

(a) Except as provided in §567.206, the prohibitions contained in §567.201 apply to services performed by U.S. persons, wherever located:

(i) On behalf of or for the benefit of a person designated in or pursuant to §567.201(a); and

(ii) With respect to property interests of a person designated in or pursuant to §567.201(a).

(b) Persons designated in or pursuant to §567.201(a) may authorize or be authorized to provide legal, accounting, financial, lending, insurance, transportation, public relations, or other services to a person designated in or pursuant to §567.201(a). See §§567.409 and 567.309, respectively, on licensing policy with regard to the provision of certain legal or medical services.

§567.406 Offshore transactions.

The prohibitions in §567.201 apply to transactions by any U.S. persons or by persons not located outside the United States with respect to property that the U.S. person knows, or has reason to know, is in the name of a person designated in or pursuant to §567.201(a) or to which the U.S. person knows, or has reason to know, a person designated in or pursuant to §567.201(a) has or had had an interest since the effective date.

§567.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to §567.201, no debts may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized pursuant to this part.
§ 587.303 Elections from licenses.

The Director of 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 Director of 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 all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 587.304 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person designated in or pursuant to § 587.201(a) has any interest, that comes within the possession or control of a U.S. financial institution, must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

Note to § 587.304: Please refer to § 587.301 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 587.305 concerning the obligations to hold blocked funds in interest-bearing accounts.

§ 587.305 Entries in certain accounts for normal service charges authorized.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges incurred in the course of maintaining that blocked account.

(b) As used in this section, the term "normal service charge" shall include charges for payment or reimbursement for service charges for interest due; cable, telegraph, telephone charges; postage costs; curiously fees; normal adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for advices, books, photocopier, credit reports, transcripts of statements, registration fees, lien, insurance, stamps and supplies, and other similar items.

§ 587.306 Investment and reinvestment of certain funds.

Subject to the requirements of § 587.301, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 587.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments shall not be 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.

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

(c) No immediate financial or economic benefit accrue (e.g., through pledging or other use) to persons designated in or pursuant to § 587.201.

§ 587.307 Provision of certain legal services authorized.

(a) Provision of the legal services set forth in paragraph (b) of this section to or on behalf of persons designed in or pursuant to § 587.201(a) is authorized, provided that all expenses 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 specifically described in paragraph (a) of this section:

(1) Provision of legal advice and counseling on the requirements 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) Initiation 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 federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; and
(d) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(e) Provision of any other legal services to persons designated in or pursuant to §587.201(a), see otherwise authorized in this part, requires the issuance of a specific license.

(f) 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 any other judicial process permitting to transfer or otherwise alter or affect property or interests in property blocked pursuant to §587.201 is prohibited unless specifically licensed in accordance with §587.202(d).

§587.508 Authorization of emergency medical services.

The provision of unlicensed emergency medical services in the United States to persons designated in or pursuant to §587.201(a) is authorized, provided that all receipt of payment for such services must be specifically licensed.

Subpart G—Reports

§587.201 Records and reports.

For provisions relating to required, records and reports, see part 141, subpart C, of this chapter.

§587.202(1) Reporting requirements imposed by part 101 of the regulations contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§587.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act ("I.E.E.P.A.") (50 U.S.C. 1705), which is applicable to violations 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 the Act. Section 206 of the Act, as amended by the Federal Civil Penalties Inflation Adjustment Act of 1995 (Public Law 104-208, as amended, 29 U.S.C. 2843 note), provides that:

(1) A civil penalty of $50,000 per violation is imposed on any person who violates or attempts to violate any license, order, or regulation issued under the Act.

(2) Whenever willfully violative or willfully attempting to violate any license, order, or regulation issued under the Act, upon conviction, shall be fined but not more than $100,000 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 punished by a like fine, imprisonment, or both.

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

(c) Attention is directed to section 5 of the United Nations Participation Act (22 U.S.C. 286c), which provides that any person who willfully violates or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $100,000 and, if a natural person, may also be imprisoned for not more than 10 years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both, and any property, funds, securities, papers, or other articles or documents, or any vessel, together with any mule, ass, horse, furniture, equipment, or vessel, or aircraft, captured or used in such violation shall be forfeited to the United States. The criminal penalties provided in the United Nations Participation Act are subject to increase pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1005, 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 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 representation or entry shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

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

§587.702 Penalty 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 provisions 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 the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall notify the alleged violator of the agency's intent to impose a monetary penalty by issuing a penalty notice. The penalty notice shall be in writing. The penalty notice may be issued whether or not another agency has taken any action with respect to the matter.

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

(2) Right to respond. The penalty notice shall inform the respondent of his rights to make a written presentation within the applicable 30-day period set forth in §587.205(a) 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) Informal settlement prior to issuance of penalty notice. At any time prior to the issuance of a penalty notice, an alleged violator may request in writing that, for a period not to exceed sixty (60) days, the agency withhold issuance of the penalty notice for the exclusive purpose of effecting settlement of the alleged violation. The agency shall take such action as it deems appropriate. In any event the Director grants the request, under terms and conditions within his discretion, Foreign Assets Control will agree to withhold issuance of the penalty notice for a period not to exceed 60 days and will enter into settlement negotiations of the potential civil monetary penalty claim.

§587.703 Response to penalty notice; informal settlement.

(a) Deadline for response. The respondent may submit a response to the penalty notice within the applicable 30-day period set forth in this paragraph. The Director may grant, at his discretion, an extension of time of not more than 30 days in response to the 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.

(b) Computation of time for response. A response to the penalty notice must be presented to the Director at the U.S. Postal Service for foreign postal service, if mailed abroad, or by other service provider (if transmitted to OFAC by courier) on or before the 30th day from the date of receipt of the penalty notice.
after the postmark date on the envelope in which the propensatory notice was mailed. If the respondent refused delivery or otherwise avoided receipt of the propensatory notice, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(2) Exemptions of time for responses. 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 Director's discretion, only upon the respondent's specific request to the Office of Foreign Assets Control.

(b) Form and method of response. The response must be submitted in writing and may be handwritten or typed. The response must be signed by the person or entity named on the propensatory notice or otherwise authorized to sign on behalf of the respondent.

(1) A written response must include the respondent's full name, address, telephone number, and facsimile number, if any, as specified on the propensatory notice or as those of the representative of the respondent.

(2) A written response should either admit or deny each specific violation alleged in the propensatory notice and also state if the respondent has knowledge of a particular violation. If the written response fails to address any specific violation alleged in the propensatory notice, the alleged violations shall be deemed to be admitted.

(3) A written response should include any information, data, evidence, or other materials 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 or explanation not found in the written response will be considered waived.

(4) A written response should specify the respondent's position in the organization and state the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(5) Default. If the respondent fails to submit a written response within the time limits 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 propensatory notice. The agency generally will then issue a written penalty notice imposing the penalty proposed in the propensatory notice.

(c) Informal settlement. In addition to or as an alternative to a written response to a propensatory notice, the respondent or the respondent's representative may contact the Office of Foreign Assets Control as advised in the propensatory notice to propose the settlement of allegations contained in the propensatory notice and related matters. However, the requirements set forth in paragraph (b) of this section as to oral communication by the representative must first be fulfilled.

(1) In the event of settlement at the propensatory stage, the claim proposed in the propensatory notice will be withdrawn. The respondent will not be required to take a written position on allegations contained in the propensatory 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 propensatory 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 (b) of this section for written responses to propensatory notice will remain in effect unless additional time is granted by the Office of Foreign Assets Control.

(3) 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 propensatory notice must be preceded by a written letter of representation, unless the propensatory notice was served upon the respondent in care of the representative.

857.756 Penalty imposition or withdrawal. (a) Violation. If, after considering any written response to the propensatory notice, the Director of the Office of Foreign Assets Control determines that there are no violations by the respondent named in the propensatory notice, the Director may modify the written penalty notice to reflect the Director's determination of violations and the imposition of the monetary penalty.

(b) Violation. If, after considering any written response to the propensatory notice, the Director of the Office of Foreign Assets Control determines that there are violations by the respondent named in the propensatory notice, the Director shall modify the written penalty notice to reflect the Director's determination of violations and the imposition of the monetary penalty.
any further Executive orders relating to the national emergency declared in Executive Order 13058 of June 5, 1998 (63 FR 32109, June 13, 1998) 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 to act.

Subpart I—Paperwork Reduction Act
§ 587.981 Paperwork Reduction Act notice.
For approval by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, including procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

E. Richard Nuscren,
Director, Office of Foreign Assets Control.

Timmy Gault,
Under Secretary (Enforcement), Department of the Treasury.

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