Office of Foreign Assets Control, Treasury

§ 501.732 Evidence.

The applicable evidentiary standard for proceedings under this subpart is proof by a preponderance of reliable, probative, and substantial evidence. The Administrative Law Judge shall admit any relevant and material oral, documentary, or demonstrative evidence. The Federal Rules of Evidence do not apply, by their own force, to proceedings under this subpart, but shall be employed as general guidelines. The fact that evidence submitted by a party is hearsay goes only to the weight of the evidence and does not affect its admissibility.

(a) Objections and offers of proof—(1) Objections. Objections to the admission or exclusion of evidence must be made on the record and shall be in short form, stating the grounds relied upon. Exceptions to any ruling thereon by the Administrative Law Judge need not be noted at the time of the ruling. Such exceptions will be deemed waived on review by the Secretary’s designee, however, unless raised:

(i) Pursuant to interlocutory review in accordance with §501.741;

(ii) In a proposed finding or conclusion filed pursuant to §501.738; or

(iii) In a petition for the Secretary’s designee’s review of an Administrative Law Judge’s decision filed in accordance with §501.741.

(2) Offers of proof. Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the record. Excluded material shall be retained pursuant to §501.739(b).

(b) Official notice. An Administrative Law Judge or Secretary’s designee may take official notice of any material fact that might be judicially noticed by a district court of the United States, any matter in the public official records of the Secretary, or any matter that is particularly within the knowledge of the Department as an expert body. If official notice is requested or taken of a material fact not appearing in the evidence in the record, a party, upon timely request to the Administrative Law Judge, shall be afforded an opportunity to establish the contrary.

§501.730, except that no cross-examination shall be made.

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