§ 560.415 [Reserved]

§ 560.416 Brokering services.

(a) For purposes of the prohibitions in §§ 560.201, 560.204, 560.205, 560.206, and 560.208, the term services includes performing a brokering function.

(b) Examples. A person within the United States, or a United States person, wherever located, may not:

(1) Act as broker for the provision of goods, services or technology, from whatever source, to or from Iran or the Government of Iran;

(2) Act as broker for the purchase or swap of crude oil of Iranian origin or owned or controlled by the Government of Iran;

(3) Act as broker for the provision of financing, a financial guarantee or an extension of credit to any person specifically to enable that person to construct or operate a facility in Iran or owned or controlled by the Government of Iran;

(4) Act as a broker for the provision of financing, a financial guarantee or an extension of credit to any person specifically to enable that person to provide goods, services, or technology intended for Iran or the Government of Iran;

(5) Act as a broker for the provision of financing, a financial guarantee, or an extension of credit to any person specifically to enable that person to provide goods, services, or technology intended for Iran or the Government of Iran.

§ 560.417 Facilitation; change of policies and procedures; referral of business opportunities offshore.

With respect to § 560.208, a prohibited facilitation or approval of a transaction by a foreign person occurs, among other instances, when a United States person:

(a) Alters its operating policies or procedures, or those of a foreign affiliate, to permit a foreign affiliate to accept or perform a specific contract, engagement or transaction involving Iran or the Government of Iran without the approval of the United States person, where such transaction previously required approval by the United States person and such transaction by the foreign affiliate would be prohibited by this part if performed directly by a United States person or from the United States;

(b) Refers to a foreign person purchase orders, requests for bids, or similar business opportunities involving Iran or the Government of Iran to which the United States person could not directly respond as a result of the prohibitions contained in this part; or

(c) Changes the operating policies and procedures of a particular affiliate with the specific purpose of facilitating transactions that would be prohibited by this part if performed by a United States person or from the United States.

§ 560.418 Release of technology or software in the United States or a third country.

The release of technology or software in the United States, or by a United States person wherever located, to any person violates the prohibitions of this part if made with knowledge or reason to know the technology is intended for Iran or the Government of Iran, unless that technology or software meets the definition of information and informational materials in § 560.315.

 NOTE 1 TO § 560.418: The release of technology or software in the United States, or the release of U.S. origin technology or software in a third country, to a foreign national may require a license from the U.S. Department of Commerce’s Bureau of Industry and Security under the Export Administration Regulations, 15 CFR parts 730 through 774 (the “EAR”). The EAR require a license for such release if both of the following conditions are met:

(a) That technology or software would require a license for exportation (or reexportation) to the home country of the foreign national; and

(b) The foreign national is not a citizen or permanent resident of the United States (or of the third country) or is not a protected individual under the Immigration and Nationality Act (8 U.S.C. Sec. 1324(b)(a)(3)). See 15 CFR 734.2(b)(2)(ii) and 734.2(b)(5).

 NOTE 2 TO § 560.418: The transfer to a foreign national of technology subject to regulations administered by the U.S. Department of State or other agencies of the U.S. Government may require authorization by those agencies.

§ 560.419 U.S. employment of persons ordinarily resident in Iran.

The prohibitions in § 560.201 make it unlawful to hire an Iranian national ordinarily resident in Iran to come to the United States solely or for the
§ 560.420 Reexportation by non-U.S. persons of certain foreign-made products containing U.S.-origin goods or technology.

For purposes of satisfying the de minimis content rule in §560.205(b)(2):
(a) U.S.-origin goods (excluding software) falling within the definition in §560.205 must comprise less than 10 percent of the total value of the foreign-made good (excluding software);
(b) U.S.-origin software falling within the definition in §560.205 must comprise less than 10 percent of the total value of the foreign-made software;
(c) U.S.-origin technology falling within the definition in §560.205 must comprise less than 10 percent of the total value of the foreign-made technology; and,
(d) In cases involving a complex product made of a combination of U.S.-origin goods (including software) and technology falling within the definition in §560.205, the aggregate value of all such U.S.-origin goods (including software) and such technology contained in the foreign-made product must be less than 10 percent of the total value of the foreign-made product.

NOTE 1 TO §560.420: Notwithstanding the exceptions contained in §560.205(b)(1) and (b)(2) and this section, a reexportation to Iran or the Government of Iran of U.S.-origin items falling within the definition in §560.205 is prohibited if those U.S.-origin goods (including software) or that technology have been substantially transformed or incorporated into a foreign-made end product which is destined to end users or end users prohibited under Regulations administered by other U.S. Government agencies. See, e.g., the Export Administration Regulations (31 CFR 736.2(b)(5), 744.2, 744.3, 744.4, 744.7, and 744.10); International Traffic in Arms Regulations (22 CFR 124.9).

NOTE 2 TO §560.420: A reexportation not prohibited by §560.205 may nevertheless require authorization by the U.S. Department of Commerce, the U.S. Department of State or other agencies of the U.S. Government.

NOTE 3 TO §560.420: The provisions of §560.205 and this section apply only to persons other than United States persons.