

Approved: October 28, 2008.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") is amending the Iranian Transactions Regulations, to narrow the scope of existing section by revoking an authorization previously granted to U.S. depository institutions to process "U-turn" transfers, and to make certain other conforming and technical changes.

DATES: *Effective Date:* November 10, 2008.

FOR FURTHER INFORMATION CONTACT:

Assistant Director for Compliance, Outreach & Implementation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Assistant Director for Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning the Office of Foreign Assets Control ("OFAC") are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax on-demand service, tel.: 202/622-0077.

Background

The Iranian Transactions Regulations, 31 CFR part 560 (the "ITR"), implement a series of Executive Orders that began with Executive Order 12613 of October 30, 1987, issued pursuant to authorities including the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa-9). In that order, after finding, *inter alia*, that the Government of Iran was actively supporting

terrorism as an instrument of state policy, the President prohibited the importation of Iranian-origin goods and services. Subsequently, in Executive Order 12957, issued on March 15, 1995, under the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) ("IEEPA"), the President declared a national emergency with respect to the actions and policies of the Government of Iran, including its support for international terrorism, its efforts to undermine the Middle East peace process, and its efforts to acquire weapons of mass destruction and the means to deliver them. To deal with that threat, Executive Order 12957 imposed prohibitions on certain transactions with respect to the development of Iranian petroleum resources. On May 6, 1995, to further respond to this threat, the President issued Executive Order 12959, which imposed comprehensive trade and financial sanctions on Iran. Finally, on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

Section § 560.516 of the ITR contains authorizations with respect to certain transactions that are processed by U.S. depository institutions, as well as by U.S. registered brokers or dealers in securities. OFAC now is amending § 560.516 to narrow the scope of authority provided in paragraph (a) of this section. As amended, paragraph (a) of § 560.516 authorizes U.S. depository institutions to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, only if the transfer meets one of the conditions set forth in the sub-paragraphs to paragraph (a) and does not involve debiting or crediting an Iranian account, as defined in § 560.320 of the ITR. Prior to this amendment, sub-paragraph (a)(1) authorized such transactions when the transfer was by order of a non-Iranian foreign bank from its own account in a domestic bank to an account held by a domestic bank for a non-Iranian foreign bank. This is commonly referred to as the "U-turn" authorization. It is so termed because it is initiated offshore as a dollar-denominated transaction by order of a foreign bank's customer; it then becomes a transfer from a correspondent account held by a domestic bank for the foreign bank to a correspondent account held by a domestic bank for another foreign bank; and it ends up offshore as a transfer to a dollar-denominated account of the second foreign bank's customer. OFAC now is narrowing the scope of authority provided by

paragraph (a) of § 560.516 by deleting sub-paragraph (a)(1) and, thereby, revoking the authorization for "U-turn" transfers.

The reasons OFAC is revoking this authorization include the need to further protect the U.S. financial system from the threat of illicit finance posed by Iran and its banks. This threat was highlighted in March of 2008 when the United Nations Security Council adopted Resolution 1803, which calls upon all states "to exercise vigilance over the activities of financial institutions in their territories with all banks domiciled in Iran...in order to avoid such activities contributing to the proliferation [of] sensitive nuclear activities, or to the development of nuclear weapon delivery systems * * *." Moreover, on October 16, 2008, the Financial Action Task Force ("FATF"), the world's premier standard-setting body for anti-money laundering and counter-terrorist financing ("AML/CFT"), warned for the fourth time about the risks posed to the international financial system by continuing deficiencies in Iran's AML/CFT regime, and in particular emphasized Iran's lack of effort in addressing the risk of terrorist financing. The FATF called on all countries to strengthen preventive measures to protect their financial systems from the risk.

As a result of this amendment, effective November 10, 2008, U.S. depository institutions no longer will be allowed to process "U-turn" transfers involving Iran, thereby precluding transfers designed to dollarize transactions through the U.S. financial system for the direct or indirect benefit of Iranian banks or other persons in Iran or the Government of Iran. OFAC is revising and republishing § 560.516 of the ITR in its entirety because, in addition to removing sub-paragraph (a)(1), OFAC also is amending this section to delete references to outdated provisions and make other minor technical changes. OFAC also is revising § 560.405 and § 560.532 of the ITR to make certain conforming changes by deleting references to outdated provisions.

Public Participation

Because the amendment of the ITR involves a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory

Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the ITR are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget 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 the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 560

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

■ For the reasons set forth in the preamble, the Office of Foreign Assets Control amends 31 CFR part 560 as follows:

PART 560—IRANIAN TRANSACTIONS REGULATIONS

■ 1. The authority citation of part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106–387, 114 Stat. 1549; Pub. L. 110–96, 121 Stat. 1011; E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

Subpart D—[Amended]

■ 2. Revise § 560.405 to read as follows:

§ 560.405 Transactions incidental 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 by an unlicensed Iranian governmental entity or involving a debit or credit to an Iranian account not explicitly authorized within the terms of the license;

(b) Provision of any transportation services to or from Iran not explicitly authorized in or pursuant to this part other than loading, transporting, and discharging licensed or exempt cargo there;

(c) Distribution or leasing in Iran of any containers or similar goods owned or controlled by United States persons

after the performance of transportation services to Iran;

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine or medical equipment to Iran or the Government of Iran (see § 560.532); and

(e) Letter of credit services relating to transactions authorized in § 560.534. See § 560.535(a).

Subpart E—[Amended]

■ 3. Revise § 560.516 to read as follows:

§ 560.516 Payment and United States dollar clearing transactions involving Iran.

(a) United States depository institutions are authorized to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, if the transfer is covered in full by any of the following conditions and does not involve debiting or crediting an Iranian account:

(1) The transfer arises from an underlying transaction that has been authorized by a specific or general license issued pursuant to this part;

(2) The transfer arises from an underlying transaction that is not prohibited by this part, such as a non-commercial remittance to or from Iran (e.g., a family remittance not related to a family-owned enterprise); or

(3) The transfer arises from an underlying transaction that is exempted from regulation pursuant to § 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)), such as an exportation to Iran or importation from Iran of information and informational materials, a travel-related remittance, or payment for the shipment of a donation of articles to relieve human suffering.

(b) United States registered brokers or dealers in securities are authorized to process transfers of funds to or from Iran, or for the direct or indirect benefit of persons in Iran or the Government of Iran, if the transfer is covered in full by any of the conditions set forth in paragraph (a) of this section and does not involve the debiting or crediting of an Iranian account.

(c) Before a United States depository institution or a United States registered broker or dealer in securities initiates a payment on behalf of any customer, or credits a transfer to the account on its books of the ultimate beneficiary, the United States depository institution or United States registered broker or dealer in securities must determine that the underlying transaction is not prohibited by this part.

(d) Pursuant to the prohibitions contained in § 560.208, a United States depository institution or a United States registered broker or dealer in securities may not make transfers to or for the benefit of a foreign-organized entity owned or controlled by it if the underlying transaction would be prohibited if engaged in directly by the U.S. depository institution or U.S. registered broker or dealer in securities.

(e) This section does not authorize transactions with respect to property blocked pursuant to part 535.

■ 4. Revise paragraph (b) of § 560.532 to read as follows:

§ 560.532 Payment for and financing of exports and reexports of commercial commodities, medicine, and medical devices.

* * * * *

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case-by-case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to § 560.530. See § 501.801(b) of this chapter for specific licensing procedures.

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Dated: November 4, 2008.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[USCG–2008–1090]

RIN 1625–AA09

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway (AIWW), Elizabeth River, Southern Branch, VA, Maintenance

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Norfolk Southern #7 Railroad Bridge, at AIWW mile 5.8, across the Elizabeth River (Southern Branch) in Chesapeake, VA. Under this temporary deviation, the drawbridge may remain in the closed position on specific dates and times to facilitate structural repairs.