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SOURCE: 83 FR 9187, Mar. 5, 2018, unless otherwise noted.

Subpart A—Relation of This Part to Other Laws and Regulations

§ 510.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 510.201 Prohibited transactions involving blocked property.

(a)(1) All property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of the Government of North Korea or the Workers' Party of Korea are blocked

and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(2) All property and interests in property of North Korea or a North Korean national that were blocked pursuant to the Trading With the Enemy Act as of June 16, 2000 and remained blocked on June 26, 2008, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(3) All property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(i) *E.O. 13551 Annex*. The persons listed in the Annex to Executive Order 13551 of August 30, 2010;

(ii) *E.O. 13551*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To have, directly or indirectly, imported, exported, or reexported to, into, or from North Korea any arms or related materiel;

(B) To have, directly or indirectly, provided training, advice, or other services or assistance, or engaged in financial transactions, related to the manufacture, maintenance, or use of any arms or related materiel to be imported, exported, or reexported to, into, or from North Korea, or following their importation, exportation, or re-exportation to, into, or from North Korea;

(C) To have, directly or indirectly, imported, exported, or reexported luxury goods to or into North Korea;

(D) To have, directly or indirectly, engaged in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, narcotics trafficking, or other illicit economic activity that involves or supports the Government of North Korea or any senior official thereof;

(E) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the activities described in paragraphs (a)(3)(ii)(A) through (D) of this section or any person whose property and in-

terests in property are blocked pursuant to paragraph (a)(3)(i) or (ii) of this section;

(F) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(i) or (ii) of this section; or

(G) To have attempted to engage in any of the activities described in paragraphs (a)(3)(ii)(A) through (F) of this section;

(iii) *E.O. 13687*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To be an agency, instrumentality, or controlled entity of the Government of North Korea or the Workers' Party of Korea;

(B) To be an official of the Government of North Korea;

(C) To be an official of the Workers' Party of Korea;

(D) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the Government of North Korea or any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(iii) of this section; or

(E) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of North Korea or any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(iii) of this section;

(iv) *E.O. 13722*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To operate in any industry in the North Korean economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to paragraph (a)(3)(iv) of this section, such as transportation, mining, energy, or financial services;

NOTE 1 TO PARAGRAPH (a)(3)(iv)(A): Any industry in the North Korean economy that is determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to paragraph (a)(3)(iv) of this section will be so identified in a publication in the FEDERAL REGISTER.

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(B) To have sold, supplied, transferred, or purchased, directly or indirectly, to or from North Korea or any person acting for or on behalf of the Government of North Korea or the Workers' Party of Korea, metal, graphite, coal, or software, where any revenue or goods received may benefit the Government of North Korea or the Workers' Party of Korea, including North Korea's nuclear or ballistic missile programs;

(C) To have engaged in, facilitated, or been responsible for an abuse or violation of human rights by the Government of North Korea or the Workers' Party of Korea or any person acting for or on behalf of either such entity;

(D) To have engaged in, facilitated, or been responsible for the exportation of workers from North Korea, including exportation to generate revenue for the Government of North Korea or the Workers' Party of Korea;

(E) To have engaged in significant activities undermining cybersecurity through the use of computer networks or systems against targets outside of North Korea on behalf of the Government of North Korea or the Workers' Party of Korea;

(F) To have engaged in, facilitated, or been responsible for censorship by the Government of North Korea or the Workers' Party of Korea;

(G) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to paragraph (a)(1) or (a)(3)(iv) of this section;

(H) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraph (a)(1) or (a)(3)(iv) of this section; or

(I) To have attempted to engage in any of the activities described in paragraphs (a)(3)(iv)(A) through (H) of this section;

(v) *E.O. 13810 section 1*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To operate in the construction, energy, financial services, fishing, information technology, manufacturing, medical, mining, textiles, or transportation industries in North Korea;

(B) To own, control, or operate any port in North Korea, including any seaport, airport, or land port of entry;

(C) To have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology;

(D) To be a North Korean person, including a North Korean person that has engaged in commercial activity that generates revenue for the Government of North Korea or the Workers' Party of Korea;

(E) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(v) of this section; or

(F) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(v) of this section;

(vi) *E.O. 13810 section 4*. Any person that is a foreign financial institution:

(A) Determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have, on or after September 21, 2017, knowingly conducted or facilitated any significant transaction;

(I) On behalf of any person whose property and interests in property are blocked pursuant to Executive Order 13551, Executive Order 13687, Executive Order 13722, or Executive Order 13810, or of any person whose property and interests in property are blocked pursuant to Executive Order 13382 in connection with North Korea-related activities; or

(2) In connection with trade with North Korea; and

(B) With respect to which the Secretary of the Treasury, in consultation with the Secretary of State, has exercised the authority to block all property and interests in property;

NOTE 2 TO PARAGRAPH (a)(3)(vi): See § 510.210 for alternative sanctions that can be imposed on a foreign financial institution when

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the determination specified in paragraph (a)(3)(vi)(A) of this section is made.

(vii) *Section 104(a) of the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020 (NKSPEA, as amended)*. Any person the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly:

(A) Directly or indirectly, imports, exports, or reexports to, into, or from North Korea any goods, services, or technology controlled for export by the United States because of the use of such goods, services, or technology for weapons of mass destruction or delivery systems for such weapons and materially contributes to the use, development, production, possession, or acquisition by any person of a nuclear, radiological, chemical, or biological weapon or any device or system designed in whole or in part to deliver such a weapon;

(B) Directly or indirectly, provides training, advice, or other services or assistance, or engages in significant financial transactions, relating to the manufacture, maintenance, or use of any such weapon, device, or system to be imported, exported, or reexported to, into, or from North Korea;

(C) Directly or indirectly, imports, exports, or reexports luxury goods to or into North Korea;

(D) Engages in, is responsible for, or facilitates censorship by the Government of North Korea;

(E) Engages in, is responsible for, or facilitates serious human rights abuses by the Government of North Korea;

(F) Directly or indirectly, engages in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, or narcotics trafficking that supports the Government of North Korea or any senior official or person acting for or on behalf of that Government;

(G) Engages in significant activities undermining cybersecurity through the use of computer networks or systems against foreign persons, governments, or other entities on behalf of the Government of North Korea;

(H) Directly or indirectly, sells, supplies, or transfers to or from the Gov-

ernment of North Korea or any person acting for or on behalf of that Government, a significant amount of precious metal, graphite, raw or semi-finished metals or aluminum, steel, coal, or software, for use by or in industrial processes directly related to weapons of mass destruction and delivery systems for such weapons, other proliferation activities, the Korean Workers' Party, armed forces, internal security or intelligence activities, or the operation and maintenance of political prison camps or forced labor camps, including outside of North Korea;

(I) Directly or indirectly, imports, exports, or reexports to, into, or from North Korea any arms or related material or any defense article or defense service (as such terms are defined in section 47 of the Arms Export Control Act (22 U.S.C. 2794));

(J) Directly or indirectly, purchases or otherwise acquires from North Korea any significant amounts of gold, titanium ore, vanadium ore, copper, silver, nickel, zinc, or rare earth minerals;

(K) Directly or indirectly, sells or transfers to North Korea any significant amounts of rocket, aviation, or jet fuel (except for use by a civilian passenger aircraft outside North Korea, exclusively for consumption during its flight to North Korea or its return flight);

(L) Directly or indirectly, provides significant amounts of fuel or supplies, provides bunkering services, or facilitates a significant transaction or transactions to operate or maintain, a vessel or aircraft that is designated under an applicable Executive order or an applicable United Nations Security Council resolution (as such terms are defined in NKSPEA, as amended), or that is owned or controlled by a person designated under an applicable Executive order or applicable United Nations Security Council resolution (as such terms are defined in NKSPEA, as amended);

(M) Directly or indirectly, insures, registers, facilitates the registration of, or maintains insurance or a registration for, a vessel owned or controlled by the Government of North Korea, except as specifically approved

by the United Nations Security Council;

(N) Directly or indirectly, maintains a correspondent account as defined in section 201A(d)(1) of NKSPEA, as amended, with any North Korean financial institution, except as specifically approved by the United Nations Security Council; or

(O) Attempts to engage in any of the conduct described in paragraphs (a)(3)(vii)(A) through (N) of this section;

(viii) *Section 104(b) of NKSPEA, as amended.* Any person the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly:

(A) Engages in, contributes to, assists, sponsors, or provides financial, material, or technological support for, or goods and services in support of, any person designated pursuant to: An applicable United Nations Security Council resolution (as defined in NKSPEA, as amended); this section; or any applicable Executive order (as defined in NKSPEA, as amended);

(B) Contributed to:

(1) The bribery of an official of the Government of North Korea or any person acting for on behalf of that official;

(2) The misappropriation, theft, or embezzlement of public funds by, or for the benefit of, an official of the Government of North Korea or any person acting for or on behalf of that official; or

(3) The use of any proceeds of any activity described in paragraph (a)(3)(viii)(B)(I) or (2) of this section;

(C) Materially assisted, sponsored, or provided significant financial, material, or technological support for, or goods or services to or in support of, the activities described in paragraph (a)(3)(viii)(A) or (B) of this section;

(D) Directly or indirectly, purchased or otherwise acquired from the Government of North Korea significant quantities of coal, iron, or iron ore, in excess of the limitations provided in applicable United Nations Security Council resolutions (as defined in NKSPEA, as amended);

(E) Directly or indirectly, purchased or otherwise acquired significant types or amounts of textiles from the Government of North Korea;

(F) Facilitated a significant transfer of funds or property of the Government of North Korea that materially contributes to any violation of an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended);

(G) Directly or indirectly, facilitated a significant transfer to or from the Government of North Korea of bulk cash, precious metals, gemstones, or other stores of value not described under paragraph (a)(3)(vii)(J) of this section;

(H) Directly or indirectly, sold, transferred, or otherwise provided significant amounts of crude oil, condensates, refined petroleum, other types of petroleum or petroleum byproducts, liquefied natural gas, or other natural gas resources to the Government of North Korea (except for heavy fuel oil, gasoline, or diesel fuel for humanitarian use or as excepted under paragraph (a)(3)(vii)(K) of this section);

(I) Directly or indirectly, engaged in, facilitated, or was responsible for the online commercial activities of the Government of North Korea, including online gambling;

(J) Directly or indirectly, purchased or otherwise acquired fishing rights from the Government of North Korea;

(K) Knowingly, directly or indirectly, purchased or otherwise acquired significant types or amounts of food or agricultural products from the Government of North Korea;

(L) Directly or indirectly, engaged in, facilitated, or was responsible for the exportation of workers from North Korea in a manner intended to generate significant revenue, directly or indirectly, for use by the Government of North Korea or by the Workers' Party of Korea;

(M) Conducted a significant transaction or transactions in North Korea's transportation, mining, energy, or financial services industries; or

(N) Facilitated the operation of any branch, subsidiary, or office of a North Korean financial institution, except as specifically approved by the United Nations Security Council, and other than through a correspondent account as described in paragraph (a)(3)(vii)(N) of this section;

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(ix) *Section 104(g) of NKSPEA, as amended.* Any person the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly:

(A) Directly or indirectly, engages in the importation from or exportation to North Korea of significant quantities of:

(1) Coal, textiles, seafood, iron, or iron ore;

(2) Refined petroleum products or crude oil above limits set by the United Nations Security Council and with which the United States concurs; or

(3) Services or technology related to goods specified in paragraph (a)(3)(ix)(A)(I) and (2) of this section;

(B) Facilitates a significant transfer of funds or property of the Government of North Korea that materially contributes to any violation of an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended);

(C) Directly or indirectly, engages in, facilitates, or is responsible for the exportation of workers from North Korea, or the employment of such workers, in a manner that generates significant revenue, directly or indirectly, for use by the Government of North Korea or by the Workers' Party of Korea;

(D) Directly or indirectly, sells or transfers a significant number of vessels to North Korea, except as specifically approved by the United Nations Security Council;

(E) Engages in a significant activity to charter, insure, register, facilitate the registration of, or maintain insurance or a registration for, a vessel owned, controlled, commanded, or crewed by a North Korean person; or

(F) Contributes to and participates in:

(1) A significant act of bribery of an official of the Government of North Korea or any person acting for or on behalf of that official;

(2) The misappropriation, theft, or embezzlement of a significant amount of public funds by, or for the benefit of, an official of the Government of North Korea or any person acting for or on behalf of that official; or

(3) The use of any proceeds of any activity described in paragraph (a)(3)(ix)(A) or (B) of this section; or

(x) *Section 201B of NKSPEA, as amended.* Any foreign financial institution that the Secretary of the Treasury determines, in consultation with the Secretary of State, knowingly, on or after April 18, 2020, provides significant financial services to any person designated for the imposition of sanctions with respect to North Korea described in paragraphs (a)(3)(vii) through (ix) of this section and under an applicable Executive order (as defined in NKSPEA, as amended) or an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended), and with respect to which the Secretary of the Treasury has exercised the authority to block all property and interests in property.

NOTE 3 TO PARAGRAPH (a)(3)(x): See §510.210(c) for alternative sanctions that can be imposed on a foreign financial institution when the determination specified in paragraph (a)(3)(x) of this section is made.

NOTE 4 TO PARAGRAPH (a): The names of persons listed in or designated or identified pursuant to E.O. 13551, E.O. 13687, E.O. 13722, or E.O. 13810 and whose property and interests in property are blocked pursuant to those orders and who are referenced in paragraph (a) of this section are published in the FEDERAL REGISTER and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the following identifiers: for E.O. 13551: "[DPRK];" for E.O. 13687: "[DPRK2];" for E.O. 13722: "[DPRK3];" and for E.O. 13810: "[DPRK4]." The names of persons designated or identified pursuant to NKSPEA, as amended, will be incorporated into the SDN List with the identifier "[DPRK-NKSPEA]." Certain transactions with persons blocked pursuant to paragraph (a) of this section, or blocked pursuant to other parts of 31 CFR chapter V in connection with North Korea-related activities, may result in the imposition of secondary sanctions, and therefore such blocked persons' entries on the SDN List will also include the descriptive prefix text "Secondary sanctions risk:", followed by information about the applicable secondary sanctions authority. Pursuant to §510.214, persons owned or controlled by a U.S. financial institution are subject to certain prohibitions under this part; as a result, the entries of persons blocked pursuant to paragraph (a) of this section, or blocked pursuant to other parts of 31 CFR chapter V in connection

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with North Korea-related activities, will also include the descriptive prefix text “Transactions Prohibited For Persons Owned or Controlled By U.S. Financial Institutions:”, followed by information about the applicable sanctions authority. The SDN List is accessible through the following page on OFAC’s website: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in appendix A to this chapter. See §510.411 concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to paragraph (a) of this section. The property and interests in property of persons who meet the definition of the term Government of North Korea, as defined in §510.311, are blocked pursuant to paragraph (a) of this section regardless of whether the names of such persons are published in the FEDERAL REGISTER or incorporated into the SDN List.

NOTE 5 TO PARAGRAPH (a): The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. Except as described in note 6 to this paragraph (a), the names of persons whose property and interests in property are blocked pending investigation pursuant to paragraph (a) of this section are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier “BPI-DPRK.”

NOTE 6 TO PARAGRAPH (a): In certain cases, OFAC may issue an order to: identify as blocked specific property or interests in property of a person designated or otherwise blocked pursuant to this section; block specific property or interests in property of a person pending investigation; or block or impose other prohibitions with respect to specific property or interests in property less than full blocking sanctions. Notice of such orders will be provided: by publication in the FEDERAL REGISTER; in writing to persons OFAC may assess to have an interest in the property; or by issuing an order or directive in writing to financial institutions or other transaction intermediaries, and requiring the recipient of the order or directive to promptly disclose it to affected persons with whom the recipient maintains direct commercial relationships. Inquiries regarding any such order should be directed to OFAC’s Compliance Division at 202–622–2490 or <https://ofac.treasury.gov/contact-ofac>.

NOTE 7 TO PARAGRAPH (a): Subpart E of part 501 of this chapter describes the procedures to be followed for the release of property and interests in property blocked pursuant to this section, including funds blocked due to mistaken identity or typographical or simi-

lar errors, and for administrative reconsideration of one’s status as a person whose property and interests in property are blocked pursuant to this paragraph (a).

(b) The prohibitions in paragraph (a) of this section include prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless authorized by this part or by a specific license expressly referring to this part, any dealing in securities (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, the Government of North Korea, the Workers’ Party of Korea, or any other person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any securities on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such securities may have or might appear to have assigned, transferred, or otherwise disposed of the securities.

(d) All funds that are in the United States, that come within the United States, or that are or come within the possession or control of any U.S. person and that originate from, are destined for, or pass through a foreign bank account that has been determined by the Secretary of the Treasury to be owned or controlled by a North Korean person, or to have been used to transfer funds in which any North Korean person has an interest, are blocked and

may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(e) Funds subject to blocking or blocking pending investigation pursuant to paragraph (d) of this section may be identified via actual or constructive notice from OFAC to relevant U.S. persons believed to be holding or to soon come into possession of such funds. To the extent a foreign bank account determined to meet the criteria contained in paragraph (d) of this section is publicized, it will be published in the FEDERAL REGISTER.

(f)(1) The prohibitions in paragraph (a)(1) of this section apply except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(2) The prohibitions in paragraphs (a)(2), (a)(3)(i) through (iii), and (d) of this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(3) The prohibitions in paragraphs (a)(3)(iv) through (v) of this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date. These prohibitions are in addition to the export control authorities administered by the Department of Commerce.

[83 FR 9187, Mar. 5, 2018, as amended at 84 FR 30869, June 28, 2019; 85 FR 20159, Apr. 10, 2020; 89 FR 75957, Sept. 17, 2024]

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

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interests in property blocked pursuant to

§ 510.201 is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interests in property.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interests in property blocked pursuant to § 510.201 unless the person who holds or maintains such property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, a license or other authorization issued by OFAC 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 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 is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

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

(2) The person with whom such property is or 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 authorization issued pursuant to this part and was not so licensed or authorized, or, if a license or authorization did purport to cover the transfer, that such license or authorization had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

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(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

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

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property and interests in property blocked pursuant to § 510.201.

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

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 510.201, shall hold or place such funds in a blocked interest-bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest-bearing account* means a blocked account:

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

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) Funds held or placed in a blocked account pursuant to paragraph (a) of this section may not be invested in instruments the maturity of which exceeds 180 days.

(c) 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.

(d) For purposes of this section, if interest is credited to a separate blocked account or subaccount, the name of the account party on each account must be the same.

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 510.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (a) or (f) of this section.

(f) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 510.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) 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. However, OFAC may issue licenses permitting or directing such sales or liquidation in appropriate cases.

(h) Funds subject to this section may not be held, invested, or reinvested in a manner that provides financial or economic benefit or access to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 510.204 Expenses of maintaining blocked physical property; liquidation of blocked property.

(a) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or contract entered into or any license or permit granted prior to the effective date, all expenses incident to the maintenance of physical property blocked pursuant to § 510.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 510.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 510.205 Prohibited importation of goods, services, or technology from North Korea.

(a) The importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea is prohibited.

(b) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.206 Prohibited exportation or re-exportation of goods, services, or technology to North Korea.

(a) The exportation or reexportation, directly or indirectly, from the United States, or by a U.S. person, wherever located, of any goods, services, or technology to North Korea is prohibited.

(b) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.207 Prohibited vessel transactions related to North Korean registration and flagging.

(a) U.S. persons may not register a vessel in North Korea, obtain authorization for a vessel to fly the North Korean flag, or own, lease, operate, or insure any vessel flagged by North Korea.

(b) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.208 Prohibited aircraft landing or vessel calling in the United States.

(a) No aircraft in which a foreign person has an interest that has landed at a place in North Korea may land at a place in the United States within 180 days after departure from North Korea.

(b) No vessel in which a foreign person has an interest that has called at a port in North Korea within the previous 180 days, and no vessel in which a foreign person has an interest that has engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, may call at a port in the United States.

(c) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.209 Prohibited new investment in North Korea.

(a) New investment, as defined in § 510.318, in North Korea by a U.S. person, wherever located, is prohibited.

(b) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§510.210 Prohibitions or strict conditions with respect to correspondent or payable-through accounts or blocking of certain foreign financial institutions identified by the Secretary of the Treasury.

(a) *Prohibited activities.* A U.S. financial institution shall not:

(1) Open or maintain a correspondent account or a payable-through account in the United States for a foreign financial institution for which the opening or maintaining of such an account is prohibited pursuant to this section; or

(2) Maintain a correspondent account or a payable-through account in the United States in a manner that is inconsistent with any strict condition imposed and in effect pursuant to this section.

(b) *Sanctionable activity by foreign financial institutions prohibited by Executive Order 13810.* The Secretary of the Treasury, in consultation with the Secretary of State, may determine that a foreign financial institution has, on or after September 21, 2017, knowingly conducted or facilitated any significant transaction:

(1) On behalf of any person whose property and interests in property are blocked pursuant to Executive Order 13551, Executive Order 13687, Executive Order 13722, or Executive Order 13810, or on behalf of any person whose property and interests in property are blocked pursuant to Executive Order 13382 in connection with North Korea-related activities; or

(2) In connection with trade with North Korea.

(c) *Sanctionable activity by foreign financial institutions prohibited by NKSPEA, as amended.* The Secretary of the Treasury, in consultation with the Secretary of State, may determine that a foreign financial institution has, on or after April 18, 2020, knowingly provided significant financial services to any person designated for the imposition of sanctions with respect to North Korea described in §510.201(a)(3)(vii) through (ix) and under an applicable Executive order (as defined in NKSPEA, as amended) or an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended).

(d) *Imposition of sanctions on foreign financial institutions.* Upon determining that a foreign financial institution has engaged in sanctionable activity described in paragraph (b) or (c) of this section, the Secretary of the Treasury, in consultation with the Secretary of State, may:

(1) Prohibit the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for the foreign financial institution; or

(2) Impose one or more strict conditions on the maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for the foreign financial institution. Such conditions may include the following:

(i) Prohibiting or restricting any provision of trade finance through the correspondent account or payable-through account of the foreign financial institution;

(ii) Restricting the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution to certain types of transactions, such as personal remittances;

(iii) Placing monetary limits on, or limiting the volume of, the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution;

(iv) Requiring pre-approval from the U.S. financial institution for all transactions processed through the correspondent account or payable-through account of the foreign financial institution; or

(v) Prohibiting or restricting the processing of foreign exchange transactions through the correspondent account or payable-through account of the foreign financial institution.

(e) *Applicability of prohibitions.* The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

NOTE 1 TO §510.210: For information regarding persons blocked pursuant to this part, or

another part of 31 CFR chapter V in connection with North Korea-related activities, including identifier information for entries on the SDN List, see Note 4 to §510.201(a).

NOTE 2 TO §510.210: The names of foreign financial institutions for which the opening or maintaining of a correspondent account or a payable-through account in the United States is prohibited or for which the maintenance of a correspondent account or payable-through account is subject to one or more strict conditions pursuant to this section will be added to the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List) on OFAC's website (www.treasury.gov/ofac), and published in the FEDERAL REGISTER along with the applicable prohibition or strict condition(s).

[83 FR 9187, Mar. 5, 2018, as amended at 84 FR 30870, June 28, 2019; 85 FR 20161, Apr. 10, 2020]

§510.211 Prohibited facilitation.

(a) Except as otherwise authorized, U.S. persons, wherever located, are prohibited from approving, financing, facilitating, or guaranteeing a transaction by a foreign person where the transaction by that foreign person would be prohibited by §510.201(d), §510.206, or §510.209 if performed by a U.S. person or within the United States.

(b)(1) The prohibitions in this section with respect to §510.201(d) apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(2) The prohibitions in this section with respect to §§510.206 and 510.209 apply except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§510.212 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate the prohibitions set forth in this part is prohibited.

§510.213 Exempt transactions.

(a) *United Nations Participation Act.* The exemptions described in this section do not apply to transactions involving property or interests in property of persons whose property and interests in property are blocked pursuant to the authority of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (UNPA).

NOTE 1 TO PARAGRAPH (a): Persons whose property and interests in property are blocked pursuant to the authority of the UNPA include those listed on both OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) and the Consolidated United Nations Security Council Sanctions List (see <https://www.un.org>) as well as persons listed on the SDN List for being owned or controlled by, or acting for or on behalf of, such persons.

(b) *Personal communications.* The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(c) *Information or informational materials.* (1) The prohibitions contained in this part do not apply to the importation from any country and the exportation to any country of any information or informational materials, as defined in §510.312, whether commercial or otherwise, regardless of format or medium of transmission.

(2) This section does not exempt from regulation transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of information or informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational

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materials; and payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730 through 774, or to the exportation of goods (including software) or technology for use in the transmission of any data, or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to §510.201(a) are prohibited.

(d) *Travel*. The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation or exportation 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 nonscheduled air, sea, or land voyages.

NOTE 2 TO PARAGRAPH (d): As of September 1, 2017, the U.S. Department of State has restricted the use of U.S. passports to travel into, in, or through North Korea. See 22 CFR 51.63. U.S. nationals who wish to travel to or within North Korea for the extremely limited purposes that are set forth in federal regulations must apply for a passport with a special validation from the Department of State. See *travel.state.gov* for additional details.

(e) *Official business*. The prohibitions contained in §§510.201(a)(1), 510.201(a)(3)(iv) through (vi) and (d), 510.206, and 510.208 through 510.211 do not apply to transactions for the conduct of the official business of the United States Government or the United Nations and its Specialized Agencies, Programmes, Funds, and Related Organizations by employees, grantees, or contractors thereof.

(f) *Exemptions under the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020*. The prohibitions contained in §§510.201(a)(3)(vii) through (x), 510.210(c), and 510.214 do not apply to the following activities:

(1) Activities subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 *et seq.*), or to any authorized intelligence activities of the United States.

(2) Any transaction necessary to comply with United States obligations under the Agreement between the United Nations and the United States of America regarding the Headquarters of the United Nations, signed at Lake Success June 26, 1947, and entered into force November 21, 1947, or under the Convention on Consular Relations, done at Vienna April 24, 1963, and entered into force March 19, 1967, or under other international agreements.

(3) Any activities incidental to the POW/MIA accounting mission in North Korea, including activities by the Defense POW/MIA Accounting Agency and other governmental or nongovernmental organizations tasked with identifying or recovering the remains of members of the United States Armed Forces in North Korea.

[83 FR 9187, Mar. 5, 2018, as amended at 85 FR 20161, Apr. 10, 2020; 87 FR 78471, Dec. 21, 2022]

§510.214 Prohibitions on persons owned or controlled by U.S. financial institutions.

Except as otherwise authorized pursuant to this part, any person that is owned or controlled by a U.S. financial institution and established or maintained outside the United States is prohibited from knowingly engaging in any transaction directly or indirectly with the Government of North Korea or any person designated for the imposition of sanctions with respect to North Korea described in §510.201(a)(3)(vii) through (ix) and under an applicable Executive order (as defined in NKSPEA, as amended) or an applicable United Nations Security Council resolution (as defined in NKSPEA, as amended).

NOTE 1 TO § 510.214: For information regarding persons blocked pursuant to this part, or another part of 31 CFR chapter V in connection with North Korea-related activities, including identifier information for entries on the SDN List, *see* Note 4 to § 510.201(a).

NOTE 2 TO § 510.214: A U.S. financial institution is subject to the civil penalties provided for in section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) if any entity that it owns or controls violates, attempts to violate, conspires to violate, or causes a violation of the prohibitions set forth in this section. *See* § 510.701.

[85 FR 20161, Apr. 10, 2020]

Subpart C—General Definitions

§ 510.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 510.301 Arms or related materiel.

The term *arms or related materiel* means arms or related materiel of all types, including any battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, or related materiel including spare parts.

NOTE 1 TO § 510.301: For additional guidance as to items that constitute *arms or related materiel*, please see determinations by the United Nations Security Council or its committee created pursuant to United Nations Security Council Resolution 1718, as well as designations by the Secretary of State of defense articles and defense services pursuant to the Arms Export Control Act and listed on the United States Munitions List (USML). In addition, items on the Commerce Control List as well as certain uncontrolled items that are subject to the Export Administration Act may be considered *related materiel*.

§ 510.302 Blocked account; blocked property.

For the purposes of this part, the terms *blocked account* and *blocked property* shall mean:

(a) Any account or property subject to the prohibitions in § 510.201(a) held in the name of the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a), or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or

other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action; and

(b) Any account or property subject to the prohibitions in § 510.201(d), and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license or other authorization from OFAC expressly authorizing such action.

NOTE 1 TO § 510.302: See § 510.411 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 510.201(a).

[83 FR 9187, Mar. 5, 2018, as amended at 85 FR 20161, Apr. 10, 2020]

§ 510.303 Correspondent account.

The term *correspondent account* means an account established by a U.S. financial institution for a foreign financial institution to receive deposits from, or to make payments on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution.

§ 510.304 Effective date.

(a) The term *effective date* refers to the effective date of the applicable prohibitions and directives contained in this part as follows:

(1) With respect to transfers or other dealings in blocked property and interests in property of the Government of North Korea, as defined in § 510.311, or the Workers' Party of Korea prohibited by § 510.201(a)(1), 12:01 a.m. eastern daylight time, March 16, 2016;

(2) With respect to a person whose property and interests in property are blocked pursuant to § 510.201(a)(3)(i), 12:01 p.m. eastern daylight time, August 30, 2010;

(3) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 510.201(a), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked;

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(4) With respect to funds subject to blocking pursuant to § 510.201(d), the earlier of the date of actual or constructive notice that funds are blocked or that a foreign bank account that the funds originate from, are destined for, or pass through has been determined to meet the criteria contained in § 510.201(d);

(5) With respect to the prohibition set forth in § 510.207, June 26, 2008;

(6) With respect to the prohibition set forth in § 510.205, 12:01 a.m. eastern daylight time, April 19, 2011;

(7) With respect to the prohibitions set forth in §§ 510.206 and 510.209, 12:01 a.m. eastern daylight time, March 16, 2016;

(8) With respect to the prohibitions set forth in § 510.208, 12:01 a.m. eastern daylight time, September 21, 2017;

(9) With respect to the prohibition set forth in § 510.210(b), 12:01 a.m. eastern daylight time, September 21, 2017. The effective date of a prohibition or strict condition imposed pursuant to § 510.210(b) on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition; and

(10) With respect to the prohibition set forth in § 510.210(c), April 18, 2020. The effective date of a prohibition or strict condition imposed pursuant to § 510.210(c) on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition.

(b) For the purposes of this section, *constructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property, or a notice of the imposition of a prohibition or strict condition pursuant to § 510.210, is published in the FEDERAL REGISTER.

[83 FR 9187, Mar. 5, 2018, as amended at 85 FR 20162, Apr. 10, 2020]

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§ 510.305 Entity.

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

§ 510.306 Financial, material, or technological support.

The term *financial, material, or technological support*, as used in § 510.201(a), means any property, tangible or intangible, including currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. “Technologies” as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

[83 FR 9187, Mar. 5, 2018, as amended at 85 FR 20162, Apr. 10, 2020]

§ 510.307 Financial services.

The term *financial services* includes loans, transfers, accounts, insurance, investments, securities, guarantees, foreign exchange, letters of credit, and commodity futures or options.

§ 510.308 Financial transaction.

The term *financial transaction* means any transfer of value involving a financial institution.

§ 510.309 Foreign financial institution.

The term *foreign financial institution* means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money service businesses, trust companies, securities

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brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, the North American Development Bank, or any other international financial institution so notified by OFAC.

§510.310 Foreign person.

The term *foreign person* means any person that is not a U.S. person.

§510.311 Government of North Korea.

The term *Government of North Korea* includes:

(a) The state and the Government of the Democratic People's Republic of Korea, as well as any political subdivision, agency, or instrumentality thereof;

(b) Any entity owned or controlled, directly or indirectly, by the foregoing, including any corporation, partnership, association, or other entity in which the Government of North Korea owns a 50 percent or greater interest or a controlling interest, and any entity which is otherwise controlled by that government;

(c) Any person that is, or has been, acting or purporting to act, directly or indirectly, for or on behalf of any of the foregoing; and

(d) Any other person determined by OFAC to be included within paragraphs (a) through (c) of this section.

NOTE 1 TO §510.311: The names of persons that OFAC has determined fall within this definition are published in the FEDERAL REGISTER and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier "[DPRK]." The SDN List is accessible through the following page on OFAC's website: www.treasury.gov/sdn. However, the property and interests in property of persons who meet the definition of the term Government of North Korea are blocked pursuant to §510.201(a) regardless of whether the names

of such persons are published in the FEDERAL REGISTER or incorporated into the SDN List.

NOTE 2 TO §510.311: Section 501.807 of this chapter describes the procedures to be followed by persons seeking administrative reconsideration of OFAC's determination that they fall within the definition of the term Government of North Korea.

§510.312 Information or informational materials.

(a)(1) The term *information or informational materials* includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(2) To be considered information or informational materials, artworks must be classified under heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401-2420 (1979) (EAA), or section 6 of the EAA to the extent that such controls promote the non-proliferation or antiterrorism policies of the United States; or

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

§510.313 Interest.

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

§510.314 Knowingly.

The term *knowingly*, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

§510.315 Licenses; general and specific.

(a) Except as otherwise provided in this part, 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

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this part or made available on OFAC's website: *www.treasury.gov/ofac*.

(c) The term *specific license* means any license or authorization issued pursuant to this part, but not set forth in subpart E of this part or made available on OFAC's website: *www.treasury.gov/ofac*.

NOTE 1 TO §510.315: See §501.801 of this chapter on licensing procedures.

§510.316 Loans or other extensions of credit.

The term *loans or other extensions of credit* means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including: overdrafts; currency swaps; purchases of securities or debt securities, including securities from or issued by the Government of North Korea; purchases of a loan made by another person; sales of financial assets subject to an agreement to repurchase; renewals or refinancings whereby funds or credits are transferred or extended to a prohibited borrower or prohibited recipient; the issuance of standby letters of credit; and drawdowns on existing lines of credit.

§510.317 Luxury goods.

The term *luxury goods*, as used in §510.201(a) includes those items listed in 15 CFR 746.4(b)(1) and supplement no. 1 to part 746, similar items, and items so designated under an applicable United Nations Security Council resolution (as defined by the North Korea Sanctions and Policy Enhancement Act of 2016, as amended by the Countering America's Adversaries Through Sanctions Act and the National Defense Authorization Act for Fiscal Year 2020), except as specifically approved by the United Nations Security Council for import, export, or re-export to or into North Korea.

[85 FR 20162, Apr. 10, 2020]

§510.318 New investment.

The term *new investment* means a transaction after 12:01 a.m. eastern daylight March 16, 2016 that constitutes:

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(a) A commitment or contribution of funds or other assets; or

(b) A loan or other extension of credit as defined in §510.316.

§510.319 North Korean person.

(a) The term *North Korean person* means any North Korean citizen, North Korean permanent resident alien, or entity organized under the laws of North Korea or any jurisdiction within North Korea (including foreign branches).

(b) For the purposes of §510.201(a), the term *North Korean person* shall not include any United States citizen, any permanent resident alien of the United States, any alien lawfully admitted to the United States, or any alien holding a valid United States visa.

[83 FR 9187, Mar. 5, 2018, as amended at 85 FR 20162, Apr. 10, 2020]

§510.320 OFAC.

The term *OFAC* means the Department of the Treasury's Office of Foreign Assets Control.

§510.321 Payable-through account.

The term *payable-through account* means a correspondent account maintained by a U.S. financial institution for a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

§510.322 Person.

The term *person* means an individual or entity.

§510.323 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of

title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 510.324 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, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it 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, receipt, agreement, 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 fiduciary; the creation or transfer of any lien; the issuance, docketing, 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 of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition,

transportation, importation, exportation, or withdrawal of any security.

§ 510.325 United States.

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

§ 510.326 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.

§ 510.327 U.S. depository institution.

The term *U.S. depository institution* means any entity (including its foreign branches) organized under the laws of the United States or any jurisdiction within the United States, or any agency, office, or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies, and United States bank holding companies) and is subject to regulation by federal or state banking authorities.

§ 510.328 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or other extensions of credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes 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 commodities 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

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branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 510.329 U.S.-registered money transmitter.

The term *U.S.-registered money transmitter* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office, or branch of a foreign entity located in the United States, that is a money transmitter, as defined in 31 CFR 1010.100(ff)(5), and that is registered pursuant to 31 CFR 1022.380.

§ 510.330 U.S.-registered broker or dealer in securities.

The term *U.S.-registered broker or dealer in securities* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States (including its foreign branches), or any agency, office, or branch of a foreign entity located in the United States, that:

- (a) Is a "broker" or "dealer" in securities within the meanings set forth in the Securities Exchange Act of 1934;
- (b) Holds or clears customer accounts; and
- (c) Is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

Subpart D—Interpretations

§ 510.401 Reference to amended sections.

(a) Reference to any section in this part is a reference to the same as currently amended, unless the reference includes a specific date. *See* 44 U.S.C. 1510.

(b) Reference to any ruling, order, instruction, direction or license issued pursuant to this part is a reference to the same as currently amended unless otherwise so specified.

§ 510.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification,

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or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

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

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a), such property shall no longer be deemed to be property blocked pursuant to § 510.201(a), unless there exists in the property another interest that is blocked pursuant to § 510.201(a), the transfer of which has not been effected pursuant to license or other authorization.

(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 whose property and interests in property are blocked pursuant to § 510.201(a), such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 510.404 Transactions ordinarily incident to a licensed transaction.

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

(1) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a);

(2) An ordinarily incident transaction, not explicitly authorized within the terms of the license, involving a debit to a blocked account or a transfer of blocked property; or

(3) An ordinarily incident transaction, not explicitly authorized within the terms of the license, with a foreign financial institution that is subject to sanctions pursuant to § 510.210 when the transaction is one that is prohibited by § 510.210.

(b) For example, a license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 510.201(a), also authorizes other persons to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks, provided that such other persons are not themselves persons whose property and interests in property are blocked pursuant to § 510.201(a).

§ 510.405 Exportation and reexportation of goods, services, or technology.

(a) The prohibition on the exportation and reexportation of goods, services, or technology contained in § 510.206 applies to services performed on behalf of a person in North Korea or the Government of North Korea or where the benefit of such services is otherwise received in North Korea, if such services are performed:

(1) In the United States; or

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

(b) The benefit of services performed anywhere in the world on behalf of the Government of North Korea is presumed to be received in North Korea.

(c) The prohibitions contained in § 510.201 apply to services performed in the United States or by U.S. persons, wherever located, including by a foreign branch of an entity located in the United States:

(1) On behalf of or for the benefit of the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in

property are blocked pursuant to § 510.201(a); or

(2) With respect to property interests of the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

(d)(1) For example, U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to any person in North Korea or to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

(2) For example, a U.S. person is engaged in a prohibited exportation of services to North Korea when it extends credit to a third-country firm specifically to enable that firm to manufacture goods for sale to North Korea or the Government of North Korea.

NOTE 1 TO § 510.405: See §§ 510.507 and 510.509 on licensing policy with regard to the provision of certain legal and emergency medical services.

§ 510.406 Offshore transactions involving blocked property.

The prohibitions in § 510.201 on transactions or dealings involving blocked property (including a blocked account) apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a) or any property blocked by § 510.201(d).

§ 510.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 510.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

NOTE 1 TO § 510.407: See also § 510.502(e), which provides that no license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to

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blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

§ 510.408 Charitable contributions.

Unless specifically authorized by OFAC pursuant to this part, no charitable contribution of funds, goods, services, or technology, including contributions to relieve human suffering, such as food, clothing, or medicine, may be made by, to, or for the benefit of, or received from, the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a) if made by, to, or in the name of, or received from or in the name of, such a person; if made by, to, or in the name of, or received from or in the name of, an entity or individual acting for or on behalf of, or owned or controlled by, such a person; or if made in an attempt to violate, to evade, or to avoid the bar on the provision of contributions by, to, or for the benefit of such a person, or the receipt of contributions from such a person.

NOTE 1 TO § 510.408: Separate authorization by the Department of Commerce under the Export Administration Regulations (EAR), 15 CFR part 730 through 774, may be required if the charitable contributions are subject to the EAR.

§ 510.409 Credit extended and cards issued by financial institutions to a person whose property and interests in property are blocked.

The prohibition in § 510.201 on dealing in property subject to that section and the prohibition in § 510.206 on exporting services to North Korea prohibit U.S. financial institutions from performing under any existing credit agreements, including charge cards, debit cards, or other credit facilities issued by a financial institution to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

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§ 510.410 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 510.201 if effected after the effective date.

§ 510.411 Entities owned by one or more persons whose property and interests in property are blocked.

(a) Persons whose property and interests in property are blocked pursuant to § 510.201(a) have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 510.201(a), regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

(b) This section, which deals with the consequences of ownership of entities, in no way limits the definition of the Government of North Korea in § 510.311, which includes within its definition other persons whose property and interests in property are blocked but who are not on the SDN List.

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

With respect to § 510.211, a prohibited facilitation or approval of a transaction by a foreign person occurs, among other instances, when a U.S. 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 North Korea or the Government of North Korea without the approval of the U.S. person, where such transaction previously required approval by the U.S. person and such transaction by the foreign affiliate would be prohibited by this part if performed directly by a U.S. person or from the United States;

(b) Refers to a foreign person purchase orders, requests for bids, or similar business opportunities involving North Korea or the Government of North Korea 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 U.S. person or from the United States.

§510.413 Significant activity or activities; significant transaction(s); significant financial service(s).

In determining, for purposes of §§510.201(a) and 510.210, whether an activity or activities, transaction(s), or financial service(s) are significant, the Secretary of the Treasury or the Secretary's designee may consider the totality of the facts and circumstances. As a general matter, the Department of the Treasury may consider some or all of the following factors:

(a) *Size, number, and frequency.* The size, number, and frequency of the activity or activities, transaction(s), or financial service(s) conducted or performed over a period of time, including whether the activity or activities, transaction(s), or financial service(s) are increasing or decreasing over time and the rate of increase or decrease.

(b) *Nature.* The nature of the activity or activities, transaction(s), or financial service(s), including the type, complexity, and commercial purpose of the activity or activities, transaction(s), or financial service(s).

(c) *Level of awareness; pattern of conduct.* (1) Whether the activity or activities, transaction(s), or financial service(s) are performed with the involvement or approval of management or only by clerical personnel; and

(2) Whether the activity or activities, transaction(s), or financial service(s) are part of a pattern of conduct or the result of a business development strategy.

(d) *Nexus.* The proximity between the foreign financial institution engaging in the activity or activities, transaction(s), or financial service(s) and North Korea or a person blocked pursuant to §510.201, a person sanctioned pursuant to §510.210, or trade with North Korea.

ant to §510.201, a person sanctioned pursuant to §510.210, or trade with North Korea.

(e) *Impact.* The impact of the activity or activities, transaction(s), or financial service(s) on the relevant U.S. sanctions program objectives including:

(1) The economic or other benefit conferred or attempted to be conferred on North Korea or a person blocked pursuant to §510.201, or sanctioned pursuant to §510.210; and

(2) Whether and how the activity or activities, transaction(s), or financial service(s) contribute(s) to North Korea's nuclear and ballistic missile programs, commission of serious human rights abuses, use of funds generated through international trade to support its nuclear and missile programs and weapons proliferation, money laundering and other illicit activities, procurement of luxury goods, human rights violations, and violations of United Nations Security Council Resolutions.

(f) *Deceptive practices.* Whether the activity or activities, transaction(s), or financial service(s) involve(s) an attempt to obscure or conceal the actual parties or true nature of the activity or activities, transaction(s), or financial service(s) or to evade sanctions.

(g) *Other relevant factors.* Such other factors that the Department of the Treasury deems relevant on a case-by-case basis in determining the significance of an activity or activities, transaction(s), or financial service(s).

[85 FR 20162, Apr. 10, 2020]

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

§510.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E, of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the North

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Korea sanctions page on OFAC's website: www.treasury.gov/ofac.

§ 510.502 Effect of license or other authorization.

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, authorizes or validates any transaction effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency. For example, exports of goods, services, or technical data that are not prohibited by this part or that do not require a license by OFAC nevertheless may require authorization by the U.S. Department of Commerce, the U.S. Department of State, or other agencies of the U.S. Government.

(e) No license or other authorization contained in or issued pursuant to this part authorizes transfers of or pay-

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ments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

§ 510.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

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

Any payment of funds or transfer of credit in which the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a) has any interest that comes within the possession or control of a U.S. financial institution, or any payment of funds or transfer of credit, subject to § 510.201(d) 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 be made only to another blocked account held in the same name.

NOTE 1 TO § 510.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 510.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 510.505 Entries in certain accounts for normal service charges.

(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 owed it by the owner of that blocked account.

(b) As used in this section, the term *normal service charges* shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 510.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 510.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 510.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at 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 accrues (*e.g.*, through pledging or other use) to the Government of North Korea or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

§ 510.507 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of the

Government of North Korea, the Workers' Party of Korea, any other person whose property and interests in property are blocked pursuant to § 510.201(a) or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, or any person in North Korea, or in circumstances in which the benefit is otherwise received in North Korea, is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be authorized: Pursuant to § 510.508, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

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

(2) Representation of persons named as defendants in or otherwise made parties to legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(3) Initiation and conduct of legal, arbitration, or administrative proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons or North Korea; and

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

(b) The provision of any other legal services to or on behalf of the Government of North Korea, the Workers' Party of Korea, any other person whose property and interests in property are blocked pursuant to § 510.201(a) or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, or any person in North Korea, or in circumstances in which the benefit is otherwise received in North Korea, not

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otherwise authorized in this part, requires the issuance of a specific license.

(c) Consistent with § 510.404, U.S. persons do not need to obtain specific authorization to provide related services, such as making filings and providing other administrative services, that are ordinarily incident to the provision of services authorized by paragraph (a) of this section. Additionally, U.S. persons who provide services authorized by paragraph (a) of this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services.

(d) Entry into a settlement agreement or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to § 510.201, or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, is prohibited unless licensed pursuant to this part.

NOTE 1 TO § 510.507: Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available. For more information, see OFAC's *Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings*, which is available on OFAC's website at: www.treasury.gov/ofac.

§ 510.508 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 510.507(a) to or on behalf of the Government of North Korea, the Workers'

Party of Korea, any other person whose property and interests in property are blocked pursuant to § 510.201(a) or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, or any person in North Korea, or in circumstances in which the benefit is otherwise received in North Korea, is authorized from funds originating outside the United States, provided that the funds received by U.S. persons as payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 510.507(a) do not originate from:

(1) A source within the United States;

(2) Any source, wherever located, within the possession or control of a U.S. person; or

(3) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 510.507(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order or statute.

NOTE 1 TO PARAGRAPH (a): Nothing in this paragraph (a) authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 510.201(a), any other part of this chapter, or any Executive order has an interest.

(b) *Records.* Consistent with §§ 501.601 and 501.602 of this chapter, U.S. persons who receive payments pursuant to paragraph (a) of this section must retain for ten years from the date of the relevant payment, and furnish to OFAC on demand, a record that specifies the following for each payment:

(1) The individual or entity from whom the funds originated and the amount of funds received; and

(2) If applicable:

(i) The names of any individuals or entities providing related services to the U.S. person receiving payment in connection with authorized legal services, such as private investigators or expert witnesses;

(ii) A general description of the services provided; and

(iii) The amount of funds paid in connection with such services.

[83 FR 9187, Mar. 5, 2018, as amended at 89 FR 103642, Dec. 19, 2024]

§ 510.509 Emergency medical services.

The provision and receipt of non-scheduled emergency medical services that are otherwise prohibited by this part or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008 are authorized.

§ 510.510 North Korean mission to the United Nations and employees of the United Nations.

(a) Except as provided in paragraph (c) of this section, the provision of goods or services in the United States to the official mission of the Government of North Korea to the United Nations (the mission) and payment for such goods or services are authorized, provided that:

(1) The goods or services are for the conduct of the official business of the mission, or for personal use of the employees of the mission, their families, or persons forming part of their household, and are not for resale;

(2) The transaction does not involve the purchase, sale, financing, or refinancing of real property;

(3) The transaction does not involve the purchase, sale, financing, or refinancing of luxury goods;

(4) The transaction is not otherwise prohibited by law; and

(5) Funds transfers to or from the mission or the employees of the mission, their families, or persons forming part of their household are conducted through an account at a U.S. financial institution specifically licensed by OFAC.

(b) Except as provided in paragraph (c) of this section, the provision of goods or services in the United States to the employees of the mission or of the United Nations, their families, or persons forming part of their household, and payment for such goods or services, are authorized, provided that:

(1) The goods or services are for personal use of the employees of the mission or of the United Nations, their families, or persons forming part of their household, and are not for resale;

(2) The transaction does not involve the purchase, sale, financing, or refinancing of luxury goods;

(3) The transaction is not otherwise prohibited by law; and

(4) Funds transfers to or from employees of the mission, their families, or persons forming part of their household are conducted through an account at a U.S. financial institution specifically licensed by OFAC.

(c) This section does not authorize U.S. financial institutions to open and operate accounts for, or extend credit to, the mission of the Government of North Korea or to the employees of the mission, their families, or persons forming part of their household. U.S. financial institutions are required to obtain specific licenses to operate accounts for, or extend credit to, the mission or to the employees of the mission, their families, or persons forming part of their household.

NOTE 1 TO §510.510: Nothing in this section authorizes the transfer of any property to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to §510.201(a) other than the mission, nor does this section authorize any debit to a blocked account.

§ 510.511 Noncommercial, personal remittances.

(a)(1) U.S. persons are authorized to send and receive and U.S. depository institutions, U.S.-registered brokers or dealers in securities, and U.S.-registered money transmitters are authorized to process transfers of funds to or from North Korea or for or on behalf of an individual ordinarily resident in North Korea, other than an individual whose property and interests in property are blocked pursuant to §510.201(a), in cases in which the transfers involve noncommercial, personal remittances, up to a maximum of \$5,000 per year.

(2) Noncommercial, personal remittances do not include charitable donations of funds to or for the benefit of an entity or funds transfers for use in supporting or operating a business, including a family-owned business.

(b) The transferring institutions identified in paragraph (a) of this section may rely on the originator of a

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funds transfer with regard to compliance with paragraph (a) of this section, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance with paragraph (a) of this section.

(c) An individual who is a U.S. person is authorized to carry funds as a non-commercial, personal remittance, as described in paragraph (a) of this section, to an individual in North Korea or ordinarily resident in North Korea, other than an individual whose property and interests in property are blocked pursuant to §510.201(a), provided that the individual who is a U.S. person is carrying the funds on his or her behalf, not on behalf of another person.

§510.512 Certain transactions in support of nongovernmental organizations' activities.

(a) Except as provided in paragraph (d) of this section, and subject to the reporting requirements set forth in paragraph (e) of this section, all transactions, including the payment of reasonable and customary taxes, fees, and import duties to, and purchase or receipt of permits, licenses, or public utility services from, the Government of North Korea that are ordinarily incident and necessary to the activities described in paragraph (b) of this section by a nongovernmental organization (NGO) are authorized, provided that the NGO is not a person whose property and interests in property are blocked pursuant to this part.

NOTE 1 TO PARAGRAPH (a). The authorization in paragraph (a) of this section includes the exportation or reexportation of items (commodities, software, or technology) not subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR) that are ordinarily incident and necessary to activities described in paragraph (b) of this section, except for items described in paragraph (d)(3) of this section. Pursuant to 15 CFR 746.4(a), a license from the Department of Commerce is required to export or reexport any item subject to the EAR to North Korea, except food and medicine designated as EAR99, unless a license exception applies.

(b) The activities referenced in paragraph (a) of this section are non-commercial activities designed to directly benefit the civilian population that fall into one of the following categories:

(1) Activities to support humanitarian projects to meet basic human needs, including disaster, drought, or flood relief; food, nutrition, or medicine distribution; the provision of health services; assistance for vulnerable or displaced populations, including individuals with disabilities and the elderly; and environmental programs;

(2) Activities to support democracy building, including activities to support rule of law, citizen participation, government accountability and transparency, human rights and fundamental freedoms, access to information, and civil society development projects;

(3) Activities to support education at or below a secondary school level, including combating illiteracy, increasing access to education at the primary or secondary school level, and assisting education reform projects, provided that such education excludes the subjects of math, sciences, technology, engineering, and computer programming;

(4) Activities to support non-commercial development projects directly benefiting civilians, including those related to health, food security, and water and sanitation;

(5) Activities to support environmental and natural resource protection, including the preservation and protection of threatened or endangered species, responsible and transparent management of natural resources, and the remediation of pollution or other environmental damage; and

(6) Activities to support disarmament, demobilization, and reintegration (DDR) programs and peacebuilding, conflict prevention, and conflict resolution programs.

(c) U.S. depository institutions, U.S.-registered brokers or dealers in securities, and U.S.-registered money transmitters are authorized to process transfers of funds on behalf of U.S. or third-country NGOs, including transfers of funds to or from North Korea, in support of the activities authorized by paragraph (a) of this section.

(d) This section does not authorize the following transactions:

(1) The exportation or reexportation of services to, charitable donations that fall into one of the following categories:

transactions involving the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to §510.201, except as ordinarily incident and necessary to an activity authorized in paragraph (a) of this section;

(2) Partnerships or partnership agreements with any military, intelligence, or law enforcement entity owned or controlled by the Government of North Korea, except as necessary to export or import items to or from North Korea that are licensed or otherwise authorized pursuant to this part or pursuant to the EAR; or

(3) Exportation or reexportation of any item that would not be designated as EAR99 if it were located in the United States, unless exempt or authorized.

(e) NGOs relying on the authorization in paragraph (a) of this section must submit a report to the U.S. Department of State via email at *DPRK-NGO-GL-Notification-DL@state.gov* no fewer than 30 days before commencement of the authorized activity with the following:

(1) *UN Security Council 1718 Committee ('1718 Committee')* report. (i) If the NGO has received 1718 Committee approval with respect to its activities to be conducted pursuant to this section, a copy of such approval along with the exemption request submitted to the 1718 Committee; or

(ii) If the NGO has not received 1718 Committee approval with respect to its activities to be conducted pursuant to this section, either:

(A) A copy of any 1718 Committee exemption request or notification that has been or will be submitted to the 1718 Committee with respect to the NGO's activities; or

(B) A detailed explanation of why the NGO's proposed activities do not require such an exemption or notification, including:

(1) Items the NGO plans to transport to North Korea related to activities described in paragraph (b) of this section, including items for personal use by persons regularly employed by the NGO;

(2) Estimated or actual dollar value of the transaction(s), as determined by

the value of goods, services, or contracts;

(3) The parties involved, including any persons owned, controlled, or acting on behalf of the Government of North Korea or the Workers Party of Korea, as well as financial institutions that may be involved in processing such transactions;

(4) The type and scope of activities conducted; and

(5) The dates or duration of the activities.

(2) *U.S. Department of State confirmation.* The U.S. Department of State may notify an NGO within the 2-week period following submission of the report described in this paragraph (e) to inform the NGO that it may not rely upon this section.

(f) Specific licenses may be issued on a case-by-case basis to authorize NGOs or other entities to engage in other activities designed to directly benefit the civilian population, including support for the removal of landmines and economic development projects to directly benefit the civilian population of North Korea.

NOTE 2 TO §510.512. This section does not relieve any person authorized thereunder from complying with any other applicable laws or regulations.

[89 FR 12234, Feb. 16, 2024]

§510.513 Official business of the United States Government.

All transactions prohibited by this part that are for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof are authorized.

NOTE 1 TO §510.513. Section 510.213(e) exempts transactions for the conduct of the official business of the United States Government by employees, grantees, or contractors thereof to the extent such transactions are subject to the prohibitions contained in §§510.201(a)(1), (a)(3)(iv) through (vi), and (d), 510.206, and 510.208 through 510.211.

[87 FR 78471, Dec. 21, 2022]

§510.514 Official business of certain international organizations and entities.

All transactions prohibited by this part that are for the conduct of the official business of the following entities

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by employees, grantees, or contractors thereof are authorized:

(a) The United Nations, including its Programmes, Funds, and Other Entities and Bodies, as well as its Specialized Agencies and Related Organizations;

(b) The International Centre for Settlement of Investment Disputes (ICSID) and the Multilateral Investment Guarantee Agency (MIGA);

(c) The African Development Bank Group, the Asian Development Bank, the European Bank for Reconstruction and Development, and the Inter-American Development Bank Group (IDB Group), including any fund entity administered or established by any of the foregoing;

(d) The International Committee of the Red Cross and the International Federation of Red Cross and Red Crescent Societies; and

(e) The Global Fund to Fight AIDS, Tuberculosis, and Malaria, and Gavi, the Vaccine Alliance.

NOTE 1 TO § 510.514. Section 510.213(e) exempts transactions for the conduct of the official business of the United Nations by employees, grantees, or contractors thereof to the extent such transactions are subject to the prohibitions contained in §§ 510.201(a)(1), (a)(3)(iv) through (vi), and (d), 510.206, and 510.208 through 510.211.

NOTE 2 TO § 510.514. Separate authorization from the Department of Commerce may be required for the export or reexport of items related to such transactions, if the items are subject to the Export Administration Regulations, 15 CFR parts 730 through 774.

[87 FR 78471, Dec. 21, 2022]

§ 510.515 Third-country diplomatic and consular funds transfers.

(a) Except as provided in paragraph (b) of this section, U.S. depository institutions, U.S.-registered brokers or dealers in securities, and U.S.-registered money transmitters are authorized to process funds transfers necessary for the operating expenses or other official business of third-country diplomatic or consular missions in North Korea.

(b) This section does not authorize funds transfers involving accounts blocked pursuant to § 510.201(d).

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§ 510.516 Transactions related to telecommunications and mail.

(a)(1) Except as provided in paragraph (a)(2) of this section, all transactions necessary for the receipt and transmission of telecommunications involving North Korea are authorized.

(2) This section does not authorize:

(i) The provision, sale, or lease of telecommunications equipment or technology; or

(ii) The provision, sale, or lease of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity).

(b) All transactions of common carriers incident to the receipt or transmission of mail and packages between the United States and North Korea are authorized provided that the importation or exportation of such mail and packages is exempt from or authorized pursuant to this part.

§ 510.517 Certain transactions related to patents, trademarks, copyrights, and other intellectual property.

(a) All of the following transactions in connection with a patent, trademark, copyright, or other form of intellectual property protection in the United States or North Korea are authorized, including exportation of services to North Korea, payment for such services, and payment to persons in North Korea directly connected to such intellectual property protection:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright, or other form of intellectual property protection;

(2) The receipt of a patent, trademark, copyright, or other form of intellectual property protection;

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

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

(b) This section authorizes the payment of fees to the U.S. Government or the Government of North Korea, and of the reasonable and customary fees and charges to attorneys or representatives

within the United States or North Korea, in connection with the transactions authorized in paragraph (a) of this section, except that payment effected pursuant to the terms of this paragraph (b) may not be made from a blocked account.

§510.518 Calling of certain vessels and landing of certain aircraft.

(a) Vessels and aircraft in which a foreign person has an interest that have called or landed at a port or place in North Korea within the previous 180 days, and vessels in which a foreign person has an interest that have engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, are authorized to call or land at a port or place in the United States in the following circumstances only:

(1) The vessel is in distress and seeks refuge in the United States;

(2) The vessel's call at a port in North Korea was due solely to its distress and the resulting need to seek refuge;

(3) The aircraft is engaging in a non-traffic stop or an emergency landing in the United States; or

(4) The aircraft's landing in North Korea was due solely to an emergency landing.

(b) For purposes of this section, a *nontraffic stop* includes a stop for any purpose other than taking on or discharging cargo, passengers, or mail.

§510.519 Transactions related to closing a correspondent or payable-through account.

(a) During the 10-day period beginning on the effective date of the prohibition in §510.210 on the opening or maintaining of a correspondent account or a payable-through account for a foreign financial institution listed on the List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List), U.S. financial institutions that maintain correspondent accounts or payable-through accounts for the foreign financial institution are authorized to:

(1) Process only those transactions through the account, or permit the foreign financial institution to execute only those transactions through the

account, that are for the purpose of, and necessary for, closing the account; and

(2) Transfer the funds remaining in the correspondent account or the payable-through account to an account of the foreign financial institution located outside of the United States and close the correspondent account or the payable-through account.

(b) A report must be filed with OFAC within 30 days of the closure of an account, providing full details on the closing of each correspondent account or payable-through account maintained by a U.S. financial institution for a foreign financial institution whose name is added to the CAPTA List. Such report must include complete information on the closing of the account and on all transactions processed or executed through the account pursuant to this section, including the account outside of the United States to which funds remaining in the account were transferred. The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(1) *Email (preferred method):* OFACReport@treasury.gov; or

(2) *U.S. mail:* Attention: Compliance Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

(c) Specific licenses may be issued on a case-by-case basis to authorize transactions outside the scope or time period authorized in paragraph (a) of this section by a U.S. financial institution with respect to a correspondent account or a payable-through account maintained by the U.S. financial institution for a foreign financial institution whose name is added to the CAPTA List. License applications should be filed in conformance with §501.801 of the Reporting, Procedures and Penalties Regulations, 31 CFR part 501.

(d) Nothing in this section authorizes the opening of a correspondent account or a payable-through account for a foreign financial institution whose name appears on the CAPTA List.

NOTE 1 TO §510.519: This section does not authorize a U.S. financial institution to

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unblock property or interests in property, or to engage in any transaction or dealing in property or interests in property, blocked pursuant to any other part of this chapter in the process of closing a correspondent account or a payable-through account for a foreign financial institution whose name has been added to the CAPTA List. *See* § 510.101.

[83 FR 9187, Mar. 5, 2018, as amended at 84 FR 30870, June 28, 2019; 89 FR 15741, Mar. 5, 2024]

§ 510.520 Transactions ordinarily incident to the exportation or reexportation to North Korea of items licensed or otherwise authorized by the Department of Commerce, and related services.

All transactions ordinarily incident to the exportation or reexportation of items (commodities, software, or technology) to North Korea, including transactions with the Government of North Korea or any other person whose property and interests in property are blocked pursuant to § 510.201, and services provided outside North Korea to install, repair, or replace such items, are authorized, provided that the exportation or reexportation of such items to North Korea is licensed or otherwise authorized by the Department of Commerce.

[89 FR 12234, Feb. 16, 2024]

§ 510.521 Exportation or reexportation to North Korea of certain agricultural commodities, medicine, medical devices, and replacement parts and components.

(a) All transactions prohibited by § 510.206 that are related to the exportation or reexportation to North Korea of agricultural commodities, medicine, medical devices, or replacement parts or components for medical devices, in each case that are not subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR), are authorized, provided that the agricultural commodities, medicine, medical devices, or replacement parts or components:

- (1) Would be designated as EAR99 if they were located in the United States;
- (2) Are not luxury goods as set forth in 15 CFR 746.4(b)(1), including identified as examples of luxury goods in 17 CFR part 746, supplement no. 1;
- (3) Are approved for exportation or reexportation to North Korea by the

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Security Council Committee established pursuant to United Nations Security Council resolution 1718 (2006), to the extent such approval is required;

(4) Are not exported or reexported to any military, intelligence, or law enforcement purchaser or importer; and

(5) Replacement parts are limited to a one-for-one export or reexport basis (*i.e.*, only one replacement part can be exported or reexported to replace a broken or non-operational part).

NOTE 1 TO PARAGRAPH (a). Separate authorization from OFAC is required for export or reexport by a U.S. person to North Korea of items that are not subject to the EAR, other than agricultural commodities, medicine, medical devices, or replacement parts or components for medical devices as described in this paragraph. *See* § 510.512 for a general license authorizing certain transactions by nongovernmental organizations, including exports and reexports of certain items that are not subject to the EAR.

(b) For the purposes of this section, agricultural commodities, medicine, and medical devices are defined as follows:

(1) *Agricultural commodities*. The term *agricultural commodities* means products:

(i) That fall within the term “agricultural commodity” as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602); and

(ii) That are intended for ultimate use as:

(A) Food for humans (including raw, processed, and packaged foods; live animals; vitamins and minerals; food additives or supplements; and bottled drinking water) or animals (including animal feeds);

(B) Seeds for food crops;

(C) Fertilizers for the purposes of food production; or

(D) Reproductive materials (such as live animals, fertilized eggs, embryos, and semen) for the production of food animals.

(2) *Medicine*. The term *medicine* means an item that falls within the definition of the term “drug” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

(3) *Medical device*. The term *medical device* means an item that:

(i) Falls within the definition of “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321); and

(ii) Is not on the List of Medical Devices Requiring Specific Authorization, which is maintained on OFAC's website (www.treasury.gov/ofac) on the North Korea Sanctions page.

NOTE 2 TO § 510.521. Pursuant to 17 CFR 746.4(a), a license from the Department of Commerce is required to export or reexport any item subject to the EAR to North Korea, except food and medicine designated as EAR99, unless a license exception applies.

[89 FR 12235, Feb. 16, 2024]

§ 510.522 Journalistic activities and establishment of news bureaus in North Korea.

(a) Subject to the conditions set forth in paragraph (b) of this section, news reporting organizations that are United States persons, and individuals who are United States persons regularly employed by news reporting organizations either as journalists (including photojournalists) or as supporting broadcast or technical personnel, are authorized to engage in the following transactions in North Korea, provided that such transactions are ordinarily incident and necessary to their journalistic activities or the establishment or operation of a news bureau in North Korea:

(1) Hiring and compensating support staff in North Korea (e.g., stringers, translators, interpreters, camera operators, technical experts, freelance producers, or drivers), persons to handle logistics, or other office personnel as needed;

(2) Leasing or renting office space;

(3) Purchasing, leasing, or renting North Korean-origin goods and services (e.g., mobile phones and related airtime), selling such goods when no longer needed to persons other than the Government of North Korea or Worker's Party of Korea, or importing them into the United States;

(4) Renting and using telecommunications facilities in North Korea and paying fees or taxes related to the dissemination of information and transmission of news feeds (e.g., fees for satellite uplink facilities, or live news feeds);

(5) Exporting and reexporting to North Korea, and subsequently reexporting from North Korea, equipment that is not subject to the Export Administration Regulations (15 CFR parts

730 through 774) (EAR), and that is ordinarily incident and necessary to journalistic activities, provided that:

(i) Such equipment would be designated as EAR99 if it were located in the United States;

(ii) The exportation or reexportation is approved by the Security Council Committee established pursuant to United Nations Security Council resolution 1718 (2006), to the extent such approval is required; and

(iii) Such equipment remains under the effective control and in the physical possession of the news reporting organization or journalist exporting such equipment while it is in North Korea and is reexported from North Korea to the United States or a third country when no longer needed for journalistic activities in North Korea; and

(6) Paying for all expenses ordinarily incident and necessary to journalistic activities, including sales or employment taxes to the Government of North Korea.

NOTE 1 TO PARAGRAPH (a). This section does not relieve any person authorized thereunder from complying with any other applicable laws or regulations. Pursuant to 15 CFR 746.4(a), a license from the Department of Commerce is required to export or reexport any item (commodities, software, or technology) subject to the EAR to North Korea, except food and medicine designated as EAR99, unless a license exception applies.

NOTE 2 TO PARAGRAPH (a). See § 510.520 for a general license authorizing transactions ordinarily incident to the exportation or reexportation to North Korea of items that are licensed or otherwise authorized by the Department of Commerce.

(b) For the purposes of this section, the term "news reporting organization" means an entity whose primary purpose is the gathering and dissemination of news to the general public.

NOTE 3 TO § 510.522. As of September 1, 2017, the U.S. Department of State has restricted the use of U.S. passports to travel into, in, or through North Korea. See 22 CFR 51.63. U.S. nationals who wish to travel to or within North Korea for the extremely limited purposes that are set forth in Federal regulations must apply for a passport with a special validation from the Department of State. See travel.state.gov for additional details.

[89 FR 12235, Feb. 16, 2024]

Subpart F—Reports

§ 510.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Finding of Violation

§ 510.701 Penalties.

(a) Section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) (IEEPA) is applicable to violations of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under IEEPA.

(1) A civil penalty not to exceed the amount set forth in section 206 of IEEPA may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition issued under IEEPA.

(2) IEEPA provides for a maximum civil penalty not to exceed the greater of \$377,700 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(3) A person who willfully commits, willfully attempts to commit, willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, or prohibition may, upon conviction, be fined not more than \$1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(b)(1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(c) Pursuant to 18 U.S.C. 1001, whoever, in any matter within the jurisdic-

tion 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 entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (UNPA), provides that any person who willfully violates or evades 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 \$10,000 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 her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(e) Violations involving transactions described at section 203(b)(1), (3), and (4) of IEEPA shall be subject only to the penalties set forth in paragraph (d) of this section.

(f) Violations of this part may also be subject to other applicable laws.

[83 FR 9187, Mar. 5, 2018, as amended at 84 FR 27716, June 14, 2019; 85 FR 19886, Apr. 9, 2020; 86 FR 14536, Mar. 17, 2021; 87 FR 7371, Feb. 9, 2022; 88 FR 2231, Jan. 13, 2023; 89 FR 2141, Jan. 12, 2024; 90 FR 3690, Jan. 15, 2025]

§ 510.702 Pre-Penalty Notice; settlement.

(a) *When required.* If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, 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 (50 U.S.C. 1705) (IEEPA) and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond*. An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to OFAC. For a description of the information that should be included in such a response, see appendix A to part 501 of this chapter.

(2) *Deadline for response*. A response to a Pre-Penalty Notice must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond.

(i) *Computation of time for response*. A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response*. 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 discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response*. A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient

to indicate that it is in response to the Pre-Penalty Notice, and include the OFAC identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Enforcement Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) *Settlement*. Settlement discussion may be initiated by OFAC, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see appendix A to part 501 of this chapter.

(d) *Guidelines*. Guidelines for the imposition or settlement of civil penalties by OFAC are contained in appendix A to part 501 of this chapter.

(e) *Representation*. A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

[62 FR 9960, Mar. 5, 1997, as amended at 89 FR 15741, Mar. 5, 2024]

§ 510.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 510.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

§ 510.705 Finding of Violation.

(a) *When issued.* (1) OFAC may issue an initial Finding of Violation that identifies a violation if OFAC:

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any license, ruling, regulation, order, directive, 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;

(ii) Considers it important to document the occurrence of a violation; and

(iii) Based on the Guidelines contained in appendix A to part 501 of this chapter, concludes that an administrative response is warranted but that a civil monetary penalty is not the most appropriate response.

(2) An initial Finding of Violation shall be in writing and may be issued whether or not another agency has taken any action with respect to the matter. For additional details concerning issuance of a Finding of Violation, see appendix A to part 501 of this chapter.

(b) *Response*—(1) *Right to respond.* An alleged violator has the right to contest an initial Finding of Violation by providing a written response to OFAC.

(2) *Deadline for response; default determination.* A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judi-

cial review of that final agency action in federal district court.

(i) *Computation of time for response.* A response to an initial Finding of Violation must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served. If the initial Finding of Violation was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) *Extensions of time for response.* 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 discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to an initial Finding of Violation need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, contain information sufficient to indicate that it is in response to the initial Finding of Violation, and include the OFAC identification number listed on the initial Finding of Violation. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(4) *Information that should be included in response.* Any response should set forth in detail why the alleged violator either believes that a violation of the regulations did not occur and/or why a Finding of Violation is otherwise unwarranted under the circumstances, with reference to the General Factors Affecting Administrative Action set forth in the Guidelines contained in appendix A to part 501. The response should include all documentary or other evidence available to the alleged violator that supports the arguments set forth in the response. OFAC will consider all relevant materials submitted in the response.

(c) *Determination*—(1) *Determination that a Finding of Violation is warranted.* If, after considering the response, OFAC determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

(2) *Determination that a Finding of Violation is not warranted.* If, after considering the response, OFAC determines a Finding of Violation is not warranted, then OFAC will inform the alleged violator of its decision not to issue a final Finding of Violation.

NOTE 1 TO PARAGRAPH (c)(2): A determination by OFAC that a final Finding of Violation is not warranted does not preclude OFAC from pursuing other enforcement actions consistent with the Guidelines contained in appendix A to part 501 of this chapter.

(d) *Representation.* A representative of the alleged violator may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific alleged violations contained in the initial Finding of Violation must be preceded by a written letter of representation, unless the initial Finding of Violation was served upon the alleged violator in care of the representative.

Subpart H—Procedures

§510.801 Procedures.

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

§510.802 Delegation of certain authorities of the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13466 of June 26, 2008, Executive Order 13551 of August

30, 2010, Executive Order 13570 of April 18, 2011, Executive Order 13687 of January 2, 2015, Executive Order 13722 of March 15, 2016, Executive Order 13810 of September 20, 2017, and any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, and any action that the Secretary of the Treasury is authorized to take pursuant to Presidential Memorandum of May 18, 2016: Delegation of Certain Functions and Authorities under the North Korea Policy Enhancement Act of 2016, Presidential Memorandum of September 29, 2017: Delegation of Certain Functions and Authorities under the Countering America's Adversaries Through Sanctions Act of 2017, the Ukraine Freedom Support Act of 2014, and the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014, and Presidential Memorandum of February 21, 2020: Delegation of Certain Functions and Authorities under the National Defense Authorization Act for Fiscal Year 2020, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[85 FR 20162, Apr. 10, 2020]

Subpart I—Paperwork Reduction Act

§510.901 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, licensing procedures, 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.