

§ 597.802

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.

[62 FR 52495, Oct. 8, 1997, as amended at 68 FR 53660, Sept. 11, 2003]

§ 597.802 Delegation by the Secretary of the Treasury.

Any action which the Secretary of the Treasury is authorized to take pursuant to 8 U.S.C. 1189 or 18 U.S.C. 2339B, as added by Public Law 104-132, 110 Stat. 1248-1253, sections 302 and 303, may be taken by the Director of the Office of Foreign Assets Control, or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 597.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act of information collections relating to record-keeping and reporting requirements, to licensing procedures (including those pursuant to statements of licensing policy), and to 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.

PART 598—FOREIGN NARCOTICS KINGPIN SANCTIONS REGULATIONS

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

Sec.

598.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

598.201 Applicability of sanctions.
598.202 Prohibited transactions.
598.203 [Reserved]

31 CFR Ch. V (7-1-23 Edition)

598.204 Evasions; attempts; conspiracies.
598.205 Effect of transfers violating the provisions of this part.
598.206 Holding of funds in interest-bearing accounts; investment and reinvestment.
598.207 Expenses of maintaining blocked tangible property; liquidation of blocked property.

Subpart C—General Definitions

598.300 Applicability of definitions.
598.301 Blocked account; blocked property.
598.302 Effective date.
598.303 Entity.
598.304 Foreign Narcotics Kingpin Designation Act.
598.305 Foreign person.
598.306 [Reserved]
598.307 Interest.
598.308 Licenses; general and specific.
598.309 Narcotic drug; controlled substance; listed chemical.
598.310 Narcotics trafficking.
598.311 Person.
598.312 Property; property interest.
598.313 Significant foreign narcotics trafficker.
598.314 Specially designated narcotics trafficker.
598.315 [Reserved]
598.316 Transfer.
598.317 United States.
598.318 United States person; U.S. person.
598.319 U.S. financial institution.
598.320 Finance.
598.321 OFAC.

Subpart D—Interpretations

598.401 Reference to amended sections.
598.402 Effect of amendment.
598.403 Termination and acquisition of an interest in blocked property.
598.404 Setoffs prohibited.
598.405 Transactions incidental to a licensed transaction.
598.406 Provision of services.
598.407 Offshore transactions involving blocked property.
598.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.
598.409 Credit extended and cards issued by financial institutions to a specially designated narcotics trafficker.
598.410 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.
598.411 Charitable contributions.

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

598.501 General and specific licensing procedures.
598.502 Effect of license.

- 598.503 Exclusion from licenses.
- 598.504 Payments and transfers to blocked accounts in U.S. financial institutions.
- 598.505 Investment and reinvestment of certain funds.
- 598.506 Entries in certain accounts for normal service charges authorized.
- 598.507 Provision of certain legal services.
- 598.508 Payments for legal services from funds originating outside the United States.
- 598.509 Payment of legal fees and expenses at public expense.
- 598.510 Certain transactions for maintenance, employment, and related banking services for blocked individuals physically located in the United States.
- 598.511 Certain transactions for the expenses of maintaining blocked tangible property.
- 598.512 Emergency medical services.
- 598.513 Official business of the United States Government.
- 598.514 Official business of certain international organizations and entities.
- 598.515 Authorizing Certain Transactions in Support of Nongovernmental Organizations' Activities.
- 598.516 Transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates for personal, non-commercial use.

Subpart F—Reports

- 598.601 Records and reports.

Subpart G—Penalties

- 598.701 Penalties.
- 598.702 Prepenalty notice.
- 598.703 Response to prepenalty notice; informal settlement.
- 598.704 Penalty imposition or withdrawal.
- 598.705 Administrative collection; referral to United States Department of Justice.
- 598.706 Judicial review of civil penalty.

Subpart H—Procedures

- 598.801 Procedures.
- 598.802 Availability of information pursuant to the Freedom of Information Act.
- 598.803 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

- 598.901 Paperwork Reduction Act notice.

AUTHORITY: 3 U.S.C. 301; 21 U.S.C. 1901–1908; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note).

SOURCE: 65 FR 41336, July 5, 2000, unless otherwise noted.

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

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

(a) This part is separate from, and independent of, the other parts of this chapter, including part 536 of this chapter, “Narcotics Trafficking Sanctions Regulations,” with the exception of part 501 of this chapter, the provisions 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 contexts 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.

(b) No license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 598.201 Applicability of sanctions.

A specially designated narcotics trafficker is subject to any and all sanctions authorized by the Foreign Narcotics Kingpin Designation Act and implemented in this part. The application of sanctions on any specially designated narcotics trafficker will remain in effect until revoked by the President pursuant to section 804(h)(2) of the Foreign Narcotics Kingpin Designation Act, waived by the President pursuant to section 804(g)(1) of that Act, or revoked by the Secretary of the Treasury pursuant to section 805(e)(1)(A) of that Act.

§ 598.202 Prohibited transactions.

(a) 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

§ 598.203

control of any U.S. person, of a specially designated narcotics trafficker are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

NOTE 1 TO PARAGRAPH (a): *See* § 598.314 and the notes to that section for the definition and information about the public listing of specially designated narcotics traffickers and OFAC's Specially Designated Nationals and Blocked Persons List (SDN List). *See* paragraph (c) of § 598.314 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.

NOTE 2 TO PARAGRAPH (a): Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, and administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(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, a specially designated narcotics trafficker 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

31 CFR Ch. V (7–1–23 Edition)

securities may have or might appear to have assigned, transferred, or otherwise disposed of the securities.

(d) The prohibitions in paragraph (a) 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.

[86 FR 26667, May 17, 2021]

§ 598.203 [Reserved]

§ 598.204 Evasions; attempts; conspiracies.

(a) Any transaction on or after the effective date that 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.

[86 FR 26667, May 17, 2021]

§ 598.205 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 interest in property of a specially designated narcotics trafficker 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 property interests.

(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 interest in property of a specially designated narcotics trafficker, unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of

the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the Foreign Narcotics Kingpin Designation Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Property transfers that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control 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 was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license issued pursuant to this part and was not so licensed, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control 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, direction, or license issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; 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 TO PARAGRAPH (d) OF § 598.205: 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 or authorized pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date there existed an interest of a specially designated narcotics trafficker.

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

(a) Except as provided in paragraphs (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 § 598.202 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 § 598.202 may continue to be held

§ 598.207

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 paragraphs (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 § 598.202 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 real or personal property, 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 immediate financial or economic benefit or access to any person whose property and interests in property are blocked pursuant to § 598.202, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

[86 FR 26667, May 17, 2021]

§ 598.207 Expenses of maintaining blocked tangible 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 tangible property blocked pursuant to § 598.202 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 § 598.202 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-

31 CFR Ch. V (7–1–23 Edition)

bearing account in the name of the owner of the property.

[86 FR 26668, May 17, 2021]

Subpart C—General Definitions

§ 598.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

[86 FR 26668, May 17, 2021]

§ 598.301 Blocked account; blocked property.

The terms *blocked account* and *blocked property* shall mean any account or property subject to the prohibitions in § 598.202 held in the name of a specially designated narcotics trafficker, 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.

NOTE 1 TO § 598.301: See § 598.314 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 specially designated narcotics traffickers.

[86 FR 26668, May 17, 2021]

§ 598.302 Effective date.

The term *effective date* refers to the effective date of the applicable prohibitions and directives of this part, which is December 3, 1999, or, in the case of specially designated narcotics traffickers designated after that date, the earlier of the date on which actual or constructive notice of such designation is received.

§ 598.303 Entity.

The term *entity* means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any form of business collaboration.

§ 598.304 Foreign Narcotics Kingpin Designation Act.

The term *Foreign Narcotics Kingpin Designation Act* means the Foreign Narcotics Kingpin Designation Act, Pub. L. 106–120, title 8, 113 Stat. 1606, 1626–

Office of Foreign Assets Control, Treasury

§ 598.313

1636 (codified at 21 U.S.C. 1901–1908, 8 U.S.C. 1182(a)(2)(C)).

§ 598.305 Foreign person.

The term *foreign person* means any citizen or national of a foreign state, wherever located, or any entity not organized under the laws of the United States, but does not include a foreign state.

[86 FR 26668, May 17, 2021]

§ 598.306 [Reserved]

§ 598.307 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.

§ 598.308 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 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 § 598.308: See § 501.801 of this chapter on licensing procedures.

[86 FR 26668, May 17, 2021]

§ 598.309 Narcotic drug; controlled substance; listed chemical.

The terms *narcotic drug*, *controlled substance*, and *listed chemical* have the meanings given those terms in section 102 of the Controlled Substances Act (21 U.S.C. 802).

§ 598.310 Narcotics trafficking.

The term *narcotics trafficking* means any illicit activity to cultivate, produce, manufacture, distribute, sell, finance, or transport narcotic drugs, controlled substances, or listed chemicals, or otherwise endeavor or attempt

to do so, or to assist, abet, conspire, or collude with others to do so.

§ 598.311 Person.

The term *person* means an individual or entity.

§ 598.312 Property; property interest.

The terms *property* and *property interest* include but are not limited to 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, whether present, future, or contingent.

§ 598.313 Significant foreign narcotics trafficker.

The term *significant foreign narcotics trafficker* means any foreign person that plays a significant role in international narcotics trafficking that the President has determined to be appropriate for sanctions and has publicly identified under section 804(b) or section 804(h)(1) of the Foreign Narcotics Kingpin Designation Act.

[86 FR 26668, May 17, 2021]

§ 598.314

31 CFR Ch. V (7–1–23 Edition)

§ 598.314 Specially designated narcotics trafficker.

The term *specially designated narcotics trafficker* means:

(a) Significant foreign narcotics traffickers; and

(b) Foreign persons designated by the Secretary of the Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, and the Secretary of State, because they are found to be:

(1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a specially designated narcotics trafficker;

(2) Owned, controlled, or directed by, or acting for or on behalf of, a specially designated narcotics trafficker; or

(3) Playing a significant role in international narcotics trafficking; and

(c) Entities owned in the aggregate, directly or indirectly, 50 percent or more by one or more specially designated narcotics traffickers.

NOTE 1 TO § 598.314: The names of persons determined to fall within paragraph (a) or (b) of this definition, whose property and interests in property therefore are blocked pursuant to this part, are published in the FEDERAL REGISTER and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier "[SDNTK]." 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. Entities that fall within paragraph (c) of this section are also persons whose property and interests in property are blocked pursuant to this part, regardless of whether they are identified by OFAC or appear on the SDN List.

NOTE 2 TO § 598.314: The Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908), in Section 806 (21 U.S.C. 1905), authorizes the blocking of property and interests in property of a person during the pendency of an investigation. The names of persons whose property and interests in property are blocked pending investigation pursuant to this part also are published in the FEDERAL REGISTER and incorporated into the SDN List with the identifier "[BPI-SDNTK]."

NOTE 3 TO § 598.314: Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this part.

[86 FR 26668, May 17, 2021]

§ 598.315 [Reserved]

§ 598.316 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 upon the foregoing, the term *transfer* includes 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; 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.

§ 598.317 United States.

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

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

The term *United States person* or *U.S. person* means any United States citizen or national, permanent resident alien, an entity organized under the laws of the United States (including its foreign branches), or any person within the United States.

§ 598.319 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including a foreign branch) 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, as principal or agent. This term includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and 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 branches, offices, and agencies of foreign financial institutions which are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 598.320 Finance.

The term *finance* includes engaging in any transaction involving funds, other assets, property, or interest in property, that are derived, obtained, or retained from, directly or indirectly, narcotic drugs, controlled substances, or listed chemicals. This includes the transporting, transmitting, or transferring of any such assets, property, or interests in property that creates the appearance that the funds, assets, or property were legitimately acquired, furthers the illicit activity, conceals or disguises the assets, avoids reporting requirements, or otherwise promotes the carrying on of illicit activity, such as money laundering.

NOTE 1 TO § 598.320: The definition of *finance* listed above is specific to this part and not any other parts of Chapter 31. See § 598.101.

[86 FR 26669, May 17, 2021]

§ 598.321 OFAC.

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

[86 FR 26669, May 17, 2021]

Subpart D—Interpretations**§ 598.401 Reference to amended sections.**

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

§ 598.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or 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.

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

(a) Whenever a transaction licensed pursuant to this part results in the transfer of property (including any property interest) away from a specially designated narcotics trafficker, the transferred property will no longer be considered property in which that person has or has had an interest. Provided no other specially designated narcotics trafficker has any interest in the transferred property following the transfer, the transferred property will

§ 598.404

no longer be considered property blocked pursuant to § 598.202.

(b) Unless otherwise specifically provided in a license issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a specially designated narcotics trafficker, such property shall be deemed to be property in which that person has an interest, and such property is therefore blocked pursuant to § 598.202.

§ 598.404 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 § 598.202 if effected after the effective date.

[86 FR 26669, May 17, 2021]

§ 598.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect to the licensed transaction is also authorized by the license. Except as specifically authorized by the terms of a license, prohibited transactions by specially designated narcotics traffickers and debits to accounts blocked pursuant to § 598.202 are not considered incidental to a licensed transaction and therefore remain prohibited.

§ 598.406 Provision of services.

(a) The prohibitions on transactions contained in § 598.202 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 a specially designated narcotics trafficker; or

(2) With respect to property interests of a specially designated narcotics trafficker.

(b) 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 a specially designated narcotics trafficker.

NOTE 1 TO § 598.406: See §§ 598.507 and 598.513 on licensing policy with regard to the provi-

31 CFR Ch. V (7–1–23 Edition)

sion of certain legal and emergency medical services.

[86 FR 26669, May 17, 2021]

§ 598.407 Offshore transactions involving blocked property.

The prohibitions in § 598.202 on transactions or dealings involving blocked property, as defined in § 598.301, apply to transactions by any U.S. person in a location outside the United States.

[86 FR 26669, May 17, 2021]

§ 598.408 Alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker.

(a) A change or alleged change in ownership or control of an entity designated as a specially designated narcotics trafficker shall not be the basis for removal of that entity from the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN List") unless, upon investigation by the Office of Foreign Control and submission of evidence by the entity, it is demonstrated to the satisfaction of the Director of the Office of Foreign Assets Control that the transfer to a bona fide purchaser at arm's length, or other means of changing ownership or control, is legitimate and that the entity no longer meets the criteria for designation under § 598.314. Evidence submitted must conclusively demonstrate that all ties with other specially designated narcotics traffickers have been completely severed, and may include, but is not limited to, articles of incorporation; identification of new directors, officers, shareholders, and sources of capital; and contracts evidencing the sale of the entity to its new owners.

(b) Any continuing substantial financial obligations on the part of the new owners to any specially designated narcotics traffickers, including long-term payment plans, leases, or rents, will be considered as evidence of continuing control of the entity by the specially designated narcotics trafficker. Purchase of a designated entity without ongoing substantial financial obligations to a specially designated narcotics trafficker may nonetheless be a basis for subsequent designation of the

purchaser, if the transaction is determined materially to assist in or provide financial support for the international narcotics trafficking activities of specially designated narcotics traffickers for purposes of § 598.314(b)(1). For example, any acquisition transaction resulting in a direct cash transfer to or other enrichment of a specially designated narcotics trafficker could lead to designation of the purchaser. Mere change in name of an entity will not be considered as constituting a change of the entity's status.

[65 FR 41336, July 5, 2000, as amended at 76 FR 38545, June 30, 2011]

§ 598.409 Credit extended and cards issued by financial institutions to a specially designated narcotics trafficker.

The prohibition in § 598.202 on dealing in property subject to that section prohibits 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 a specially designated narcotics trafficker.

[86 FR 26669, May 17, 2021]

§ 598.410 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S. persons or other persons, including payment for goods or services exported prior to the effective date of the blocking, except as authorized pursuant to this part.

§ 598.411 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, a specially designated narcotics trafficker. For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a specially designated narcotics trafficker 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.

[86 FR 26669, May 17, 2021]

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

§ 598.501 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.

[65 FR 41336, July 5, 2000, as amended at 68 FR 53660, Sept. 11, 2003]

§ 598.502 Effect of license.

(a) No license contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control pursuant to this part, authorizes or validates any transaction effected prior to the issuance of the license, unless the prior transaction is specifically authorized in such license.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited by this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part authorizes any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited by this part has the effect of removing from the transaction a prohibition or prohibitions contained in this part, but only to the extent specifically stated by its terms. Unless the regulation, ruling,

§ 598.503

instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest that would not otherwise exist under ordinary principles of law in or with respect to any property.

§ 598.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

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

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

NOTE TO § 598.504: Please refer to part 501, subpart C of this chapter for mandatory reporting requirements regarding financial transfers. See also § 598.206 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 598.505 Investment and reinvestment of certain funds.

Subject to the requirements of § 598.206, U.S. financial institutions are authorized to invest and reinvest assets held in blocked accounts in the name of a specially designated nar-

31 CFR Ch. V (7–1–23 Edition)

cotics trafficker, 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 in no case may funds be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments are not 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 specially designated narcotics trafficker.

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

(a) U.S. financial institutions are authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charges* includes but is not limited to charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; 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.

§ 598.507 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of a specially designated narcotics trafficker is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to §§ 598.508 and 598.509, which authorize certain types of payments for legal

services; 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 when 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; 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 specially designated narcotics traffickers, not otherwise authorized in this part, requires the issuance of a specific license.

(c) 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 this paragraph. Additionally, U.S. persons who provide services authorized by this paragraph 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. *See* § 598.405.

(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 § 598.202(a), is

prohibited unless licensed pursuant to this part.

NOTE 1 TO § 598.507: 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 necessary for the payment of professional fees and reimbursement of incurred expenses where alternative funding sources are not available.

[86 FR 26669, May 17, 2021]

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

(a) *Professional fees and incurred expenses.* (1) Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 598.507(a) to or on behalf of a specially designated narcotics trafficker is authorized from funds originating outside the United States, provided that the funds do not originate from:

(i) A source within the United States;

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

(iii) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 598.507(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.

(2) This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 598.507(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

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

(ii) If applicable;

(A) 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;

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

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

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) *Email (preferred method): OFAC.Regulations.Reports@treasury.gov;* or

(ii) *U.S. mail:* OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

[86 FR 26670, May 17, 2021]

§ 598.509 Payment of legal fees and expenses at public expense.

U.S. persons that are attorneys, law firms, or legal services organizations are authorized to receive payment of professional fees and reimbursement of incurred expenses from public funds for the provision of legal services authorized by § 598.507(a).

[86 FR 26670, May 17, 2021]

§ 598.510 Certain transactions for maintenance, employment, and related banking services for blocked individuals physically located in the United States.

(a) Individuals who are specially designated narcotics traffickers who are in U.S. custody or incarcerated in jails, prisons, or similar facilities in the United States (“covered individuals”), are authorized to engage in the following transactions within the United States:

(1) Purchasing, making payment for, and receiving goods and services for their maintenance and the maintenance of their spouse or persons who are sharing or who would ordinarily share a common dwelling as a family with them, located in the United States, including food, clothing, housing, medical care, education, transportation, insurance, and utilities;

(2) Obtaining or continuing employment and engaging in all transactions ordinarily incident to such employment, including receipt of salary and benefits;

(3) Establishing accounts with a U.S. financial institution, or a commissary-type account with a prison, jail, or other similar facility, located in the United States, for use in connection with the transactions authorized in paragraph (a)(1) and (a)(2) of this section; and

(4) Receiving and making funds transfers in furtherance of the authorized transactions set forth in paragraphs (a)(1) through (3) of this section from unblocked funds originating within or outside the United States, provided that any funds received may not originate from any individual or entity whose property or interests in property are blocked pursuant to any part of this chapter or any Executive order or statute, other than the covered individual or his or her spouse or persons who are sharing or who would ordinarily share a common dwelling as a family with the covered individual.

(b) Any financial institution that has established any account pursuant to paragraph (a)(3) of this section, excluding commissary-type accounts with prisons, jails, or other similar facilities, must provide the name and address of the financial institution, the name of the account holder, and the account number to OFAC within 10 business days of the establishment of the account.

(c) This general license does not authorize any funds transfers to any location outside the United States.

NOTE 1 TO PARAGRAPH (c): A covered individual has an interest in any funds remaining in a commissary-type account with a prison, jail, or other similar facility established pursuant to paragraph (a)(3) of this section after the covered individual is released from custody or incarceration.

NOTE 2 TO PARAGRAPH (c): In the case of individuals who are in custody or incarcerated, funds transfers must be authorized by and consistent with the conditions, protocols, and other requirements established by the jail, prison, or other facility.

NOTE 3 TO § 598.510: The authorization in this section only applies to laws and regulations administered by OFAC and should not be interpreted to excuse compliance with

Office of Foreign Assets Control, Treasury

§ 598.514

other applicable laws or regulations, including the immigration laws of the United States.

[86 FR 26670, May 17, 2021]

§ 598.511 Certain transactions for the expenses of maintaining blocked tangible property.

(a) Specially designated narcotics traffickers are authorized to engage in the following transactions:

(1) Making payment for and receiving goods and services for the maintenance of tangible property blocked pursuant to § 598.202(a); and

(2) Receiving and making funds transfers in furtherance of the authorized transactions set forth in paragraph (a)(1) of this section from unblocked funds originating outside the United States, provided that any funds received may not originate from any individual or entity whose property or interests in property are blocked pursuant to any part of this chapter or any Executive order or statute, other than the specially designated narcotics trafficker(s) who owns the property.

(b)(1) Any person making payment for or receiving goods and services for the maintenance of tangible property blocked pursuant to § 598.202(a) authorized by paragraph (a)(1) of this section must file a report on the transactions with OFAC within 30 days of the first transaction related to that property. Such reports shall include the following numbered sections and information:

(i) Estimated or actual dollar value of the transaction(s), as determined by the value of the payment, goods, or services;

(ii) A description of the blocked property;

(iii) The parties involved;

(iv) The type and scope of transactions conducted; and

(iv) The dates and duration of the transactions.

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) *Email (preferred method):* OFAC.Regulations.Reports@treasury.gov; or

(ii) *U.S. mail:* OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue NW, Freedman's Bank Building, Washington, DC 20220.

[86 FR 26671, May 17, 2021]

§ 598.512 Emergency medical services.

The provision and receipt of non-scheduled emergency medical services that are prohibited by this part are authorized.

[86 FR 26671, May 17, 2021]

§ 598.513 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.

[87 FR 78482, Dec. 21, 2022]

§ 598.514 Official business of certain international organizations and entities.

(a) Except as provided in paragraph (b) of this section, all transactions prohibited by this part that are for the conduct of the official business of the following entities by employees, grantees, or contractors thereof are authorized:

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

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

(3) 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;

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

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

§ 598.515

31 CFR Ch. V (7–1–23 Edition)

(b) This section does not authorize funds transfers initiated or processed with knowledge or reason to know that the intended beneficiary of such transfers is a person blocked pursuant to this part, other than for the purpose of effecting the payment of taxes, fees, or import duties, or the purchase or receipt of permits, licenses, or public utility services.

[87 FR 78482, Dec. 21, 2022]

§ 598.515 Authorizing Certain Transactions in Support of Nongovernmental Organizations' Activities.

(a) Except as provided in paragraph (c) of this section, all transactions prohibited by this part that are ordinarily incident and necessary to the activities described in paragraph (b) of this section by a nongovernmental organization are authorized, provided that the nongovernmental organization is not a specially designated narcotics trafficker.

(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, including combating illiteracy, increasing access to education, international exchanges, and assisting education reform projects;

(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) This section does not authorize funds transfers initiated or processed with knowledge or reason to know that the intended beneficiary of such transfers is a specially designated narcotics trafficker, other than for the purpose of effecting the payment of taxes, fees, or import duties, or the purchase or receipt of permits, licenses, or public utility services.

(d) Specific licenses may be issued on a case-by-case basis to authorize nongovernmental 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 directly benefiting the civilian population.

NOTE 1 TO § 598.515. This section does not relieve any person authorized thereunder from complying with any other applicable laws or regulations.

[87 FR 78506, Dec. 21, 2022]

§ 598.516 Transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates for personal, non-commercial use.

(a) All transactions prohibited by this part that are related to the provision, directly or indirectly, of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to an individual who is a specially designated narcotics trafficker are authorized, provided the items are in quantities consistent with personal, non-commercial use.

(b) For the purposes of this section, agricultural commodities, medicine,

and medical devices are defined as follows:

(1) *Agricultural commodities.* For the purposes of this section, agricultural commodities are:

(i) Products 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 or organic fertilizers; or

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

(2) *Medicine.* For the purposes of this section, medicine is 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 devices.* For the purposes of this section, a medical device is an item that falls within the definition of “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

NOTE 1 TO § 598.516. This section does not relieve any person authorized thereunder from complying with any other applicable laws or regulations.

[87 FR 78506, Dec. 21, 2022]

Subpart F—Reports

§ 598.601 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

§ 598.701 Penalties.

(a) Attention is directed to section 807 of the Foreign Narcotics Kingpin Designation Act, which is applicable to violations of the provisions of any license, rule, or regulation issued by or pursuant to the direction or authorization of the Secretary of Treasury pursuant to this part or otherwise under that Act. Section 807 of the Foreign Narcotics Kingpin Designation Act, as adjusted pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Public Law 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) Whoever willfully violates the provisions of the Foreign Narcotics Kingpin Designation Act, or any license, rule, or regulation issued pursuant to that Act, or willfully neglects or refuses to comply with any order of the President issued under that Act, shall be imprisoned for not more than 10 years, fined in the amount provided in title 18, United States Code, or both, or, in the case of an entity, fined not more than \$10,000,000;

(2) Any officer, director, or agent of any entity who knowingly participates in a violation of the provisions of the Foreign Narcotics Kingpin Designation Act, shall be imprisoned for not more than 30 years, fined not more than \$5,000,000, or both;

(3) A civil penalty not to exceed the amount set forth in section 807 of the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908) per violation may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of the Foreign Narcotics Kingpin Designation Act.

(4) The maximum civil penalty is \$1,771,754 per violation.

(b) *Adjustments to penalty amounts.* (1) The current civil penalty cap may be adjusted for inflation 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 this part are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is directed to 18 U.S.C. 1001, which provides that whoever, in

§ 598.702

any matter within the jurisdiction of any department or agency 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, or imprisoned not more than five years, or both.

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

[65 FR 41336, July 5, 2000, as amended at 68 FR 61361, Oct. 28, 2003; 81 FR 43077, July 1, 2016; 82 FR 10439, Feb. 10, 2017; 83 FR 11881, Mar. 19, 2018; 84 FR 27719, June 14, 2019; 85 FR 19888, Apr. 9, 2020; 86 FR 14539, Mar. 17, 2021; 87 FR 7373, Feb. 9, 2022; 88 FR 2234, Jan. 13, 2023]

§ 598.702 Prepenalty notice.

(a) *When required.* If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Foreign Narcotics Kingpin Designation Act, and the Director determines that further proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. This prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

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

(2) *Right to respond.* The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within 30 days of the date of mailing of the notice as to why a monetary penalty should not be imposed or why, if imposed, the monetary

31 CFR Ch. V (7–1–23 Edition)

penalty should be in a lesser amount than proposed.

§ 598.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response.* The respondent shall have 30 days from the date of mailing of the prepenalty notice to make a written response to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of response.* The written response need not be in any particular form, but must contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(c) *Informal settlement.* In addition or as an alternative to a written response to a prepenalty notice issued pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30-day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 598.704 Penalty imposition or withdrawal.

(a) *No violation.* If, after considering any response to a prepenalty notice and any relevant facts, the Director of

the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation.* If, after considering any response to a prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition of the monetary penalty to the respondent. The issuance of a written notice of the imposition of a monetary penalty shall constitute final agency action.

(1) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice.

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

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

In the event that the respondent does not pay a penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of a penalty notice, 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.

§ 598.706 Judicial review of civil penalty.

A civil penalty imposed pursuant to this subpart G is subject to judicial review only to the extent provided in 5 U.S.C. 702.

Subpart H—Procedures

§ 598.801 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 Privacy Act (5 U.S.C. 552a), see part 501, subpart E of this chapter.

[65 FR 41336, July 5, 2000, as amended at 68 FR 53660, Sept. 11, 2003]

§ 598.802 Availability of information pursuant to the Freedom of Information Act.

Any record or information obtained or created in the implementation of this part is not subject to disclosure under section 552(a)(3) of the Freedom of Information Act. Information required to be made available to the public under other provisions of the Freedom of Information Act (5 U.S.C. 552) will be made available in accordance with § 501.805(a) of this chapter.

§ 598.803 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to the Foreign Narcotics Kingpin Designation Act, the Presidential Memorandum of May 15, 2015: Delegation of Functions Under the Foreign Narcotics Kingpin Designation Act, or the Presidential Memorandum of May 31, 2013: Delegation of Functions Under Subsection 804(h)(2)(A) of the Foreign Narcotics Kingpin Designation Act may be taken by the Director of the OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

[86 FR 26671, May 17, 2021]

Subpart I—Paperwork Reduction Act

§ 598.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (“OMB”) under the Paperwork Reduction Act of 1995

Pt. 599

31 CFR Ch. V (7–1–23 Edition)

(44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see §501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

**PART 599—ILLICIT DRUG TRADE
SANCTIONS REGULATIONS**

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

Sec.

599.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

599.201 Prohibited transactions.

599.202 Effect of transfers violating the provisions of this part.

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

599.204 Expenses of maintaining blocked tangible property; liquidation of blocked property.

599.205 Exempt transactions.

Subpart C—General Definitions

599.300 Applicability of definitions.

599.301 Blocked account; blocked property.

599.302 Effective date.

599.303 Entity.

599.304 Financial, material, or technological support.

599.305 Financial institution.

599.306 Foreign person.

599.307 [Reserved]

599.308 Interest.

599.309 Knowingly; knows.

599.310 Licenses; general and specific.

599.311 Means of production.

599.312 OFAC.

599.313 Person.

599.314 Proliferation of illicit drugs.

599.315 Property; property interest.

599.316 Transfer.

599.317 United States.

599.318 United States person; U.S. person.

599.319 U.S. financial institution.

Subpart D—Interpretations

599.401 [Reserved]

599.402 Effect of amendment.

599.403 Termination and acquisition of an interest in blocked property.

599.404 Transactions ordinarily incident to a licensed transaction.

599.405 Setoffs prohibited.

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

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

599.501 General and specific licensing procedures.

599.502 Effect of license or other authorization.

599.503 Exclusion from licenses.

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

599.505 Entries in certain accounts for normal service charges.

599.506 Provision of certain legal services.

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

599.508 Emergency medical services.

599.509 Official business of the United States Government.

599.510 Official business of certain international organizations and entities.

599.511 Certain transactions for maintenance, employment, and related banking services for blocked individuals physically located in the United States.

599.512 Authorizing Certain Transactions in Support of Nongovernmental Organizations' Activities.

599.513 Transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates for personal, non-commercial use.

Subpart F—Reports

599.601 Records and reports.

**Subpart G—Penalties and Findings of
Violation**

599.701 Penalties and Findings of Violation.

Subpart H—Procedures

599.801 Procedures.

599.802 Delegation of certain authorities of the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

599.901 Paperwork Reduction Act notice.

APPENDIX A TO PART 599—EXECUTIVE ORDER 14059 OF DECEMBER 15, 2021

AUTHORITY: 3 U.S.C. 301; 21 U.S.C. 2301 *et seq.*; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 14059, 86 FR 71549, December 15, 2021.

SOURCE: 87 FR 77712, Dec. 20, 2022, unless otherwise noted.