

6044, 6045, 6049, 6050A, 6050N, or 6050W whether or not the amount of the reportable payment is less than the amount for which an information return is required. If tax is withheld under section 3406, the statement must show the amount of the payment withheld upon;

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION

■ **Par. 12.** The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 13.** Section 301.6721-1(g) is amended by:

- 1. Removing the language “or” at the end of paragraph (g)(3)(xii).
- 2. Redesignating paragraphs (g)(3)(viii), (g)(3)(ix), (g)(3)(x), (g)(3)(xi), (g)(3)(xii) and (g)(3)(xiii) as (g)(3)(ix), (g)(3)(x), (g)(3)(xi), (g)(3)(xii), (g)(3)(xiii) and (g)(3)(xiv).
- 3. Adding the language “or” at the end of newly designated paragraph (g)(3)(xiii).
- 4. Adding new paragraph (g)(3)(viii).
The addition reads as follows:

§ 301.6721-1 Failure to file correct information returns.

* * * * *

(g)* * *
(3)* * *

(viii) Section 6050W (relating to information returns with respect to payments made in settlement of payment card and third party network transactions (effective for information returns required to be filed for calendar years beginning after December 31, 2010)),

* * * * *

■ **Par. 14.** Section 301.6722-1 is amended by:

- 1. Removing the language “and” at the end of paragraph (d)(2)(xviii).
- 2. Redesignating paragraphs (d)(2)(xvi), (d)(2)(xvii), (d)(2)(xviii) and (d)(2)(xix) as (d)(2)(xvii), (d)(2)(xviii), (d)(2)(xix) and (d)(2)(xx).
- 3. Adding new paragraph (d)(2)(xvi).
- 4. Adding the language “and” at the end of the newly designated paragraph (d)(2)(xix).

The addition reads as follows:

§ 301.6722-1 Failure to furnish correct payee statements.

* * * * *

(d)* * *
(2)* * *

(xvi) Section 6050W (relating to information returns with respect to payments made in settlement of payment card and third party network transactions (effective for information

returns required to be filed for calendar years beginning after December 31, 2010), generally the recipient copy),

* * * * *

Steven T. Miller,
Deputy Commissioner for Services and Enforcement.

Approved: August 3, 2010.

Michael Mundaca,
Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2010-20200 Filed 8-13-10; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 561

Iranian Financial Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) is promulgating the Iranian Financial Sanctions Regulations, to implement provisions of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, which require the Secretary of the Treasury to prescribe certain regulations. These regulations also implement other related provisions of the aforementioned legislation.

DATES: *Effective date:* August 16, 2010.

Comment date: You may submit comments on or before October 15, 2010.

ADDRESSES: These regulations are not subject to the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) that require notice of proposed rulemaking, opportunity for public participation, and a delayed effective date. Nevertheless, OFAC welcomes the submission of comments on this final rule. Please note that the submission of comments will not affect the final rule’s effective date, nor will OFAC be required to respond to the comments submitted or to amend or republish this final rule. You may submit comments by any of the following methods:

Federal eRulemaking Portal:
<http://www.regulations.gov>.

Follow the instructions for submitting comments.

Fax: Attn: Request for Comments (Iranian Financial Sanctions Regulations) Office of Prgm Policy & Implementation, 202/622-1657.

Mail: Attn: Request for Comments (Iranian Financial Sanctions Regulations): Office of Prgm Policy & Implementation, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Instructions: All submissions received must be in writing and include the agency name and the **Federal Register** Doc. Number that appears at the end of this document. OFAC will not accept comments accompanied by a request that all or a part of the submission be treated confidentially because of its business proprietary nature or for any other reason. Comments received will be made available to the public via regulations.gov or upon request, without change and including any personal information provided.

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

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC’s Web site (<http://www.treas.gov/ofac>). Certain general information pertaining to OFAC’s sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, *tel.:* 202/622-0077.

Background

On July 1, 2010, the President signed into law the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111-195) (“CISADA”). In signing CISADA, the President stated that this act builds upon the recently adopted United Nations Security Council Resolution (“UNSCR”) 1929 (2010) and its strong foundation for new multilateral sanctions and provides a powerful tool against Iran’s development of nuclear weapons and support of terrorism. The President pointed out that the Government of Iran, for years, has violated its commitments under the NPT and defied United Nations Security Council resolutions calling on Iran to cease its proliferation-related activities and imposing sanctions for Iran’s failure to do so.

The President went on to describe UNSCR 1929 as providing the toughest

and most comprehensive multilateral sanctions against the Government of Iran to date. UNSCR 1929, among other things, calls upon States to prohibit in their territories the opening of new branches, subsidiaries, or representative offices of Iranian banks; to prohibit Iranian banks from establishing or maintaining correspondent relationships with banks in their jurisdiction; and to prevent the provision of financial services, including insurance or re-insurance, if they have reasonable grounds to believe that these activities could contribute to Iran's proliferation-sensitive nuclear activities or the development of nuclear weapon delivery systems. CISADA builds upon UNSCR 1929 by strengthening existing sanctions under the Iran Sanctions Act of 1996 (Pub. L. 104-172, 50 U.S.C. 1701 note) and adding new mandatory sanctions on foreign financial institutions that facilitate Iran's proliferation-related activities or support for terrorism or that do significant business with Iran's Islamic Revolutionary Guard Corps ("IRGC") or certain other blocked persons.

Specifically, section 104(c) of CISADA requires the Secretary of the Treasury, not later than 90 days after the date of CISADA's enactment, to prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account for a foreign financial institution that the Secretary finds knowingly: (1) Facilitates the efforts of the Government of Iran, including the IRGC or its agents or affiliates, to acquire or develop weapons of mass destruction ("WMD") or delivery systems for WMD or to provide support for foreign terrorist organizations or acts of international terrorism; (2) facilitates the activities of a person subject to financial sanctions pursuant to UNSCRs 1737 (2006), 1747 (2007), 1803 (2008), or 1929 (2010), or any other resolution adopted by the Security Council that imposes sanctions with respect to Iran; (3) engages in money laundering to carry out an activity described in (1) or (2); (4) facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity described in (1) or (2); or (5) facilitates a significant transaction or transactions or provides significant financial services for (i) the IRGC or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) ("IEEPA"), or (ii) a financial

institution whose property and interests in property are blocked pursuant to IEEPA in connection with Iran's proliferation of WMD or delivery systems for WMD, or Iran's support for international terrorism. Section 104(c) of CISADA further states that the civil and criminal penalties provided for in IEEPA shall apply to a person that violates the regulations prescribed under that section.

Section 104(d) of CISADA requires the Secretary of the Treasury, not later than 90 days after the date of CISADA's enactment, to prescribe regulations to prohibit any person owned or controlled by a U.S. financial institution from knowingly engaging in transactions with or benefitting the IRGC or any of its agents or affiliates whose property or interests in property are blocked pursuant to IEEPA. Section 104(d) further states that the civil penalties provided for in IEEPA shall apply to a U.S. financial institution if a person owned or controlled by the U.S. financial institution violates the regulations prescribed under that section and the U.S. financial institution knew or should have known of that violation.

Section 104(h) of CISADA requires the Secretary of the Treasury to consult with the Secretary of State in implementing sections 104(c) and 104(d) of CISADA and the regulations prescribed under these subsections. Pursuant to section 104(h) of CISADA, the Secretary of the Treasury also may consult in his sole discretion with such other agencies and departments and such other interested parties as the Secretary considers appropriate.

To implement these provisions of CISADA, OFAC is promulgating the Iranian Financial Sanctions Regulations, 31 CFR part 561 (the "Regulations").

Section 561.101 of the Regulations clarifies the relation of this part to other laws and regulations. Section 561.201 of the Regulations implements subsection 104(c) of CISADA, while § 561.202 of the Regulations implements subsection 104(d) of CISADA. The names of foreign financial institutions that are found by the Secretary of the Treasury to knowingly engage in the activities described in § 561.201(a) of the Regulations, and for which U.S. financial institutions may not open or maintain correspondent accounts or payable-through accounts in the United States, will be published in the **Federal Register** and listed in appendix A to part 561.

Subpart C of the Regulations defines key terms used throughout the Regulations, and subpart D contains interpretive sections regarding the

Regulations. Section 561.404 of subpart D of the Regulations sets forth the types of factors that, as a general matter, the Secretary of the Treasury will consider in determining, for purposes of paragraph (a)(5) of § 561.201, whether transactions or financial services are significant. Subpart E of the Regulations contains certain licensing provisions, including a general license in § 561.504 authorizing transactions related to winding down and closing a correspondent account or a payable-through account.

Subpart F of the Regulations refers to subpart C of part 501 for applicable recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty. Subpart G also refers to appendix A of part 501 for a more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of authority by the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting, Procedures and Penalties Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505-0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 561

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

■ For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 561 to 31 CFR chapter V to read as follows:

PART 561—IRANIAN FINANCIAL SANCTIONS REGULATIONS

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

Sec.

561.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

561.201 Prohibitions with respect to correspondent accounts or payable-through accounts of certain foreign financial institutions.

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

Subpart C—General Definitions

561.301 Effective date.
 561.302 UNSC Resolution 1737.
 561.303 UNSC Resolution 1747.
 561.304 UNSC Resolution 1803.
 561.305 UNSC Resolution 1929.
 561.306 Correspondent account.
 561.307 Payable-through account.
 561.308 Foreign financial institution.
 561.309 U.S. financial institution.
 561.310 Money laundering.
 561.311 Agent.
 561.312 Act of international terrorism.
 561.313 Financial services.
 561.314 Knowingly.
 561.315 Person.
 561.316 Entity.
 561.317 Money service businesses.

Subpart D—Interpretations

561.401 Reference to amended sections.
 561.402 Effect of amendment.
 561.403 Facilitation of certain efforts, activities, or transactions by foreign financial institutions.
 561.404 Significant transaction or transactions; significant financial services.
 561.405 Entities owned by a person whose property and interests in property are blocked.

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

561.501 General and specific licensing procedures.
 561.502 Effect of license or authorization.
 561.503 Exclusion from licenses.
 561.504 Transactions related to closing a correspondent account or payable-through account.

Subpart F—Reports

561.601 Records and reports.

Subpart G—Penalties

561.701 Penalties.
 561.702 Pre-Penalty Notice; settlement.
 561.703 Penalty imposition.
 561.704 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

561.801 Procedures.

561.802 Delegation by the Secretary of the Treasury.

561.803 Consultations.

Subpart I—Paperwork Reduction Act

561.901 Paperwork Reduction Act notice. Appendix A to Part 561—[Reserved]

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 111–195, 124 Stat. 1312.

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

§ 561.101 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 or the conditions imposed pursuant to 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

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

Upon a finding by the Secretary of the Treasury that a foreign financial institution knowingly engages in one or more of the activities described in paragraphs (a)(1) through (a)(5) of this section, consistent with the Secretary of the Treasury's authorities under the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195), either the Secretary of the Treasury will issue an order or regulation imposing one or more strict conditions, as set forth in paragraph (b) of this section, on the opening or maintaining of a correspondent account or a payable-through account in the United States for that foreign financial institution, or, as

set forth in paragraph (c) of this section, the name of that foreign financial institution will be added to Appendix A to this part, and a U.S. financial institution shall be prohibited from opening or maintaining a correspondent account or a payable-through account in the United States for that foreign financial institution.

(a) A foreign financial institution engages in an activity described in this paragraph if, in any location or currency, the foreign financial institution knowingly:

(1) Facilitates the efforts of the Government of Iran (including efforts of Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates)—

(i) To acquire or develop weapons of mass destruction or delivery systems for weapons of mass destruction; or

(ii) To provide support for organizations designated as foreign terrorist organizations under section 219(a) of the Immigration and Nationality Act (8 USC 1189(a)) or support for acts of international terrorism, as defined in section 561.312 of this part;

(2) Facilitates the activities of a person subject to financial sanctions pursuant to United Nations Security Council Resolutions 1737, 1747, 1803, or 1929, or any other resolution adopted by the Security Council that imposes sanctions with respect to Iran;

Note to paragraph (a)(2) of § 561.201: Persons subject to financial sanctions pursuant to the United Nations Security Council resolutions listed in paragraph (a)(2) of § 561.201 include individuals and entities listed in the Annex to UNSC Resolution 1737, Annex I of UNSC Resolution 1747, Annexes I and III of UNSC Resolution 1803, and Annexes I, II, and III of UNSC Resolution 1929; and individuals and entities designated by the Security Council or by the Committee established pursuant to UNSC Resolution 1737 (the "Committee") as being engaged in, directly associated with or providing support for Iran's proliferation sensitive nuclear activities, or the development of nuclear weapon delivery systems; and individuals and entities acting on behalf of or at the direction of those so listed or designated; and entities owned or controlled by those so listed or designated; and individuals and entities determined by the Security Council or the Committee to have assisted listed or designated individuals or entities in evading sanctions of, or in violating the provisions of, UNSC Resolutions 1737, 1747, 1803, or 1929.

(3) Engages in money laundering to carry out an activity described in paragraphs (a)(1) or (a)(2) of this section;

(4) Facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity described in paragraphs (a)(1) or (a)(2) of this section; or

(5) Facilitates a significant transaction or transactions or provides significant financial services for—

(i) Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 USC 1701 *et seq.*); or

(ii) A financial institution whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism.

Note to paragraph (a)(5) of § 561.201: The names of persons whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 USC 1701 *et seq.*) are published on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN" list) (which is accessible via the Office of Foreign Assets Control's Web site), published in the **Federal Register**, and incorporated into Appendix A to this chapter. Agents or affiliates of Iran's Islamic Revolutionary Guard Corps ("IRGC") whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act are identified by a special reference to the "IRGC" at the end of their entries on the SDN list, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and interests in property are blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544, will have the tag "[NPWMD][IRGC]" at the end of its entry on the SDN list. Financial institutions whose property and interests in property are blocked pursuant to parts 544 or 594 of this chapter in connection with Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction or Iran's support for international terrorism also are identified by tags which reference this part in addition to part 544 or part 594, as the case may be, located at the end of their entries on the SDN list (e.g., [NPWMD][IFSR] or [SDGT][IFSR]). OFAC's electronic SDN list can be found at the following URL: <http://www.treas.gov/offices/enforcement/ofac/sdn/sdnlist.txt>. In addition, see § 561.405 concerning entities that may not be listed on the SDN list but whose property and interests in property are nevertheless blocked.

(b) The Secretary of the Treasury by order or regulation may impose one or more strict conditions on the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary finds engages in one or more of the activities

described in paragraph (a) of this section. The prohibition in paragraph (c) of this section on the opening or maintaining of a correspondent account or a payable-through account in the United States for a foreign financial institution shall not apply if the Secretary of the Treasury has imposed one or more strict conditions pursuant to this paragraph on the opening or maintaining of a correspondent account or payable-through account for that foreign financial institution, and such condition or conditions remain in effect. Such conditions may include, but are not limited to, the following:

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

(2) 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;

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

(4) 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.

Note to paragraph (b) of § 561.201: The actual condition(s) to be imposed will be specified upon the identification of the foreign financial institution in the order or regulation issued by the Secretary of the Treasury.

(c) Except to the extent paragraph (b) of this section applies, and except as otherwise authorized pursuant to this part, a U.S. financial institution shall not open or maintain a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary of the Treasury finds engages in one or more of the activities described in paragraph (a) of this section. The names of foreign financial institutions that are found by the Secretary of the Treasury to engage in one or more of the activities described in paragraph (a) of this section, and for which U.S. financial institutions may not open or maintain correspondent accounts or payable-through accounts as provided in this paragraph, will be listed in Appendix A to this part.

§ 561.202 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 is prohibited from knowingly engaging in any transaction with or benefitting Iran's Islamic Revolutionary Guard Corps or any of its agents or affiliates whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 USC 1701 *et seq.*).

Note 1 to § 561.202: The names of persons whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 USC 1701 *et seq.*) are published on the Office of Foreign Assets Control's Specially Designated Nationals and Blocked Persons List ("SDN" list) (which is accessible via the Office of Foreign Assets Control's Web site), published in the **Federal Register**, and incorporated into Appendix A to this chapter. Agents or affiliates of Iran's Islamic Revolutionary Guard Corps ("IRGC") whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 USC 1701 *et seq.*) are identified by a special reference to the "IRGC" at the end of their entries on the SDN list, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, an affiliate of the IRGC whose property and interests in property are blocked pursuant to the Weapons of Mass Destruction Proliferators Sanctions Regulations, 31 CFR part 544, will have the tag "[NPWMD][IRGC]" at the end of its entry on the SDN list. OFAC's electronic SDN list can be found at the following URL: <http://www.treas.gov/offices/enforcement/ofac/sdn/sdnlist.txt>. In addition, see § 561.405 concerning entities that may not be listed on the SDN list but whose property and interests in property are nevertheless blocked.

Note 2 to § 561.202: 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. 1705(b)) if any person that it owns or controls violates the prohibition set forth in this section and the U.S. financial institution knew or should have known of such violation. See § 561.701(a)(2).

Subpart C—General Definitions

§ 561.301 Effective date.

(a) The effective date of a prohibition or condition imposed pursuant to § 561.201 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) The effective date of the prohibition contained in § 561.202 with respect to Iran's Islamic Revolutionary Guard Corps and any of its agents or affiliates whose property and interests in property are blocked as of August 16, 2010 is August 16, 2010;

(c) The effective date of the prohibition contained in § 561.202 with respect to an agent or affiliate of Iran's Islamic Revolutionary Guard Corps whose property and interests in property become blocked after August 16, 2010 is the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked.

§ 561.302 UNSC Resolution 1737.

The term *UNSC Resolution 1737* means United Nations Security Council Resolution 1737, adopted December 23, 2006.

§ 561.303 UNSC Resolution 1747.

The term *UNSC Resolution 1747* means United Nations Security Council Resolution 1747, adopted March 24, 2007.

§ 561.304 UNSC Resolution 1803.

The term *UNSC Resolution 1803* means United Nations Security Council Resolution 1803, adopted March 3, 2008.

§ 561.305 UNSC Resolution 1929.

The term *UNSC Resolution 1929* means United Nations Security Council Resolution 1929, adopted June 9, 2010.

§ 561.306 Correspondent account.

For purposes of this part, 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.

§ 561.307 Payable-through account.

For purposes of this part, 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.

§ 561.308 Foreign financial institution.

For purposes of this part, 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 but is not limited to depository institutions, banks, savings banks, money service businesses, 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 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, or the North American Development Bank.

§ 561.309 U.S. financial institution.

For purposes of this part, the term *U.S. financial institution* means any U.S. 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 but is not limited to depository institutions, banks, savings banks, money service businesses, trust companies, insurance 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 that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

§ 561.310 Money laundering.

For purposes of this part, the term *money laundering* means engaging in deceptive practices to obscure the nature of transactions involving the movement of illicit cash or illicit cash equivalent proceeds into, out of, or through a country, or into, out of, or through a financial institution, such that the transactions are made to appear legitimate.

§ 561.311 Agent.

For purposes of this part, the term *agent* includes an entity established by a person for purposes of conducting transactions on behalf of the person in order to conceal the identity of the person.

§ 561.312 Act of international terrorism.

For purposes of this part, the term *act of international terrorism* has the same definition as that provided under section 14 of the Iran Sanctions Act of 1996 (50 U.S.C. 1701 note). As of the date of publication in the **Federal Register** of the final rule adding this part to 31 CFR chapter V, August 16, 2010, the term *act of international terrorism* means an act which is violent or dangerous to human life and that is a violation of the criminal laws of the United States or of any state or that would be a criminal violation if committed within the jurisdiction of the United States or any state and which appears to be intended to intimidate or coerce a civilian population; to influence the policy of a government by intimidation or coercion; or to affect the conduct of a government by assassination or kidnapping.

§ 561.313 Financial services.

For purposes of paragraph (a)(5) of § 561.201, the term *financial services* includes loans, transfers, accounts, insurance, investments, securities, guarantees, foreign exchange, letters of credit, and commodity futures or options.

§ 561.314 Knowingly.

For purposes of this part, 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.

§ 561.315 Person.

The term *person* means an individual or entity.

§ 561.316 Entity.

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

§ 561.317 Money service businesses.

For purposes of this part, the term *money service businesses* means any agent, agency, branch, or office of any person doing business, whether or not on a regular basis or as an organized business concern, in one or more of the capacities listed in 31 CFR 103.11(uu)(1) through (uu)(5). The term does not include a bank or a person registered with, and regulated or examined by, the Securities and Exchange Commission or

the Commodity Futures Trading Commission.

Subpart D—Interpretations

§ 561.401 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, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 561.402 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 the Office of Foreign Assets Control 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.

§ 561.403 Facilitation of certain efforts, activities, or transactions by foreign financial institutions.

For purposes of § 561.201, the term *facilitate* used with respect to certain efforts, activities, or transactions refers to the provision of assistance by a foreign financial institution for those efforts, activities, or transactions, including, but not limited to, the provision of currency, financial instruments, securities, or any other transmission of value; purchasing; selling; transporting; swapping; brokering; financing; approving; guaranteeing; or the provision of other services of any kind; or the provision of personnel; or the provision of software, technology, or goods of any kind.

§ 561.404 Significant transaction or transactions; significant financial services.

In determining, for purposes of paragraph (a)(5) of § 561.201, whether a transaction is significant, whether transactions are significant, or whether financial services are significant, the Secretary of the Treasury may consider the totality of the facts and circumstances. As a general matter, the Secretary may consider some or all of the following factors:

(a) *Size, Number, and Frequency*: The size, number, and frequency of transactions or financial services performed over a period of time, including whether the transactions or

financial services are increasing or decreasing over time and the rate of increase or decrease.

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

(c) *Level of Awareness; Pattern of Conduct*:

(1) Whether the transaction(s) or financial service(s) are performed with the involvement or approval of management or only by clerical personnel; and

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

(d) *Nexus*: The proximity between the party to the transaction or transactions or the provider of the financial services and a blocked person described in paragraph (a)(5)(i) or (ii) of § 561.201. For example, a transaction or financial service in which a foreign financial institution provides brokerage or clearing services to such a blocked person in a direct customer relationship generally would be of greater significance than a transaction or financial service a foreign financial institution provides to such a blocked person in an indirect or tertiary relationship.

(e) *Impact*: The impact of the transaction(s) or financial services on the objectives of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, including:

(1) The economic or other benefit conferred or attempted to be conferred on a blocked person described in paragraph (a)(5)(i) or (ii) of § 561.201;

(2) Whether and how the transaction(s) or financial services contribute to the proliferation of weapons of mass destruction or delivery systems for such weapons, to support for international terrorism, or to the suppression of human rights; and

(3) Whether the transaction(s) or financial services support humanitarian activity or involve the payment of basic expenses as specified in and authorized pursuant to UNSC Resolution 1737 or the payment of extraordinary expenses that have been authorized by the Sanctions Committee established pursuant to UNSC Resolution 1737.

(f) *Deceptive Practices*: Whether the transaction(s) or financial services involve an attempt to obscure or conceal the actual parties or true nature of the transaction(s) or financial service(s).

(g) *Other Relevant Factors*: Such other factors that the Secretary deems relevant on a case-by-case basis in determining

the significance of a transaction, transactions, or financial services.

§ 561.405 Entities owned by a person whose property and interests in property are blocked.

A person whose property and interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, 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 the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), regardless of whether the entity itself is listed in Appendix A to this chapter.

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

§ 561.501 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 or conditions imposed pursuant to this part are considered actions taken pursuant to this part.

§ 561.502 Effect of license or authorization.

(a) No license or other authorization contained in this part, or otherwise issued by the Office of Foreign Assets Control, 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 the Office of Foreign Assets Control 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 which would not otherwise exist under ordinary principles of law.

§ 561.503 Exclusion from licenses.

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 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 actual or constructive notice of the exclusions or restrictions.

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

(a) During the 10-day period beginning on the effective date of the prohibition in § 561.201(c) on the opening or maintaining of a correspondent account or a payable-through account for a foreign financial institution listed in Appendix A to this part, 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) Specific licenses may be issued on a case-by-case basis to authorize transactions 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 listed in Appendix A to this part that are outside the scope of the transactions authorized in paragraph (a) of this section and/or that occur beyond the [10-day] period authorized in that paragraph.

(c) Nothing in this section authorizes the opening of a correspondent account or payable-through account for a foreign financial institution listed in Appendix A to this part.

Note to § 561.504: This section does not authorize a U.S. financial institution to 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 listed in Appendix A to this part. See § 561.101.

Subpart F—Reports

§ 561.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter.

Subpart G—Penalties

§ 561.701 Penalties.

(a) *Civil Penalties.* (1) As set forth in section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) (“CISADA”), a civil penalty not to exceed the amount set forth in section 206(b) of the International Emergency Economic Powers Act (“IEEPA”) (50 U.S.C. 1705(b)) may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any order or regulation issued pursuant to § 561.201(b) or of the prohibition in § 561.201(c) or of any license set forth in or issued pursuant to this part concerning such order, regulation, or prohibition.

(2) As set forth in section 104(d) of CISADA, a civil penalty not to exceed the amount set forth in section 206(b) of IEEPA may be imposed on a U.S. financial institution if:

(i) A person owned or controlled by the U.S. financial institution violates, attempts to violate, conspires to violate, or causes a violation of the prohibition in § 561.202 or of any order, regulation, or license set forth in or issued pursuant to this part concerning such prohibition; and

(ii) The U.S. financial institution knew or should have known that the person violated, attempted to violate, conspired to violate, or caused a violation of such prohibition.

Note to paragraph (a) of § 561.701: As of the date of publication in the **Federal Register** of the final rule adding this part to 31 CFR chapter V, August 16, 2010, IEEPA provides for a maximum civil penalty not to exceed the greater of \$250,000 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.

(b) *Criminal Penalty.* As set forth in section 104(c) of CISADA, a person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any order or regulation issued pursuant to § 561.201(b) or of the prohibition in § 561.201(c) shall, 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.

(c) *Adjustments to penalty amounts.*

(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.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that “whoever, in any matter within the jurisdiction 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; 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.

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

§ 561.702 Pre-Penalty Notice; settlement.

(a) *When required.* If the Office of Foreign Assets Control 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, 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 IEEPA and determines that a civil monetary penalty may be warranted, the Office of Foreign Assets Control may 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)(1) *Right to respond.* An alleged violator has the right to respond to a Pre-Penalty Notice by making a written presentation to the Office of Foreign Assets Control. 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 of the date of service of

the Pre-Penalty Notice. The failure to submit a response within the applicable time period set forth in this paragraph (b) 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 the Office of Foreign Assets Control 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 the Office of Foreign Assets Control, 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 the Office of Foreign Assets Control, only upon specific request to the Office of Foreign Assets Control.

(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, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the Office of Foreign Assets Control 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 the Office of Foreign Assets Control Enforcement Penalties 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 the Office of Foreign Assets Control, 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 the Office of Foreign Assets Control 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 the Office of Foreign Assets Control 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.

§ 561.703 Penalty imposition.

If, after considering any timely written response to the Pre-Penalty Notice and any relevant facts, the Office of Foreign Assets Control determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, the Office of Foreign Assets Control 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.

§ 561.704 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, 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.

Subpart G—Procedures

§ 561.801 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.

§ 561.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to section 104(c), (d), or (i) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195), and any action of the Secretary of the Treasury described in this part, 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.

§ 561.803 Consultations.

In implementing section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (Pub. L. 111–195) and this part, the Secretary of the Treasury shall consult with the Secretary of State and may, in the sole discretion of the Secretary of the Treasury, consult with such other agencies and departments and such other interested parties as the Secretary considers appropriate.

Subpart I—Paperwork Reduction Act

§ 561.901 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 (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.

Appendix A to Part 561—[Reserved]

Dated: August 11, 2010.

John E. Smith,

Associate Director, Office of Foreign Assets Control.

Approved: August 11, 2010.

Stuart A. Levey,

Under Secretary, Office of Terrorism and Financial Intelligence, Department of the Treasury.

[FR Doc. 2010–20238 Filed 8–13–10; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2010–0666]

RIN 1625–AA11

Regulated Navigation Area; Boom Deployment Strategy Testing, Great Bay, NH

AGENCY: Coast Guard, DHS.

ACTION: Temporary interim rule with request for comments.

SUMMARY: The Coast Guard is temporarily establishing a regulated navigation area (RNA) in navigable waters near Great Bay, New Hampshire. This temporary regulation is in effect while the New Hampshire Department