

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 501****Amendment of Applicable Schedule Amount**

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is issuing this final rule to make a technical amendment to the definition of the term "applicable schedule amount" in its regulations. In recent years, OFAC has adjusted its civil monetary penalties (CMPs) as required by the Federal Civil Penalties Inflation Adjustment Act, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. While OFAC's "applicable schedule amount" values are not civil monetary penalties that are required to be adjusted pursuant to such statute, OFAC is updating the definition of the term "applicable schedule amount" so that it will automatically rise with OFAC's CMPs, removing the necessity of updating the applicable schedule amount on an annual basis.

DATES: This rule is effective January 21, 2022.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, tel.: 202-622-2480; Assistant Director for Regulatory Affairs, tel.: 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

This document and additional information concerning OFAC are available on OFAC's website: www.treas.gov/ofac.

Background

On September 8, 2008, OFAC issued as an interim final rule the "Economic Sanctions Enforcement Guidelines" (Enforcement Guidelines) as appendix A to the Reporting, Procedures and Penalties Regulations at 31 CFR part 501 (73 FR 51933, September 8, 2008). On November 9, 2009, OFAC re-issued as a final rule the Enforcement Guidelines (74 FR 57593, November 9, 2009). OFAC's Enforcement Guidelines provide a general framework for the enforcement of all economic sanctions programs administered by OFAC. Section V.B.2.a.ii. of the Enforcement Guidelines states that the base amount

of a proposed civil penalty in a Pre-Penalty Notice shall be the "applicable schedule amount," subject to certain caps noted in that section, where the case is deemed non-egregious and the apparent violation has come to OFAC's attention by means other than a voluntary self-disclosure. Section I.B. of the Enforcement Guidelines provides a definition of "applicable schedule amount."

Separately, as required by the Federal Civil Penalties Inflation Adjustment Act (1990 Pub. L. 101-410, 104 Stat. 890; 28 U.S.C. 2461 note), as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Pub. L. 114-74, 129 Stat. 599, 28 U.S.C. 2461 note) (the FCPIA Act), OFAC has adjusted its CMPs seven times since the FCPIA Act went into effect on November 2, 2015: An initial catch-up adjustment on August 1, 2016 (81 FR 43070, July 1, 2016); an additional initial catch-up adjustment related to CMPs for failure to comply with a requirement to furnish information, the late filing of a required report, and failure to maintain records that were inadvertently omitted from the August 1, 2016 initial catch-up adjustment on October 5, 2020 (85 FR 54911, September 3, 2020); and annual adjustments on February 10, 2017 (82 FR 10434, February 10, 2017); March 19, 2018 (83 FR 11876, March 19, 2018); June 14, 2019 (84 FR 27714, June 14, 2019); April 9, 2020 (85 FR 19884, April 9, 2020); and March 17, 2021 (86 FR 14534, March 17, 2021).

OFAC's applicable schedule amount values in the Enforcement Guidelines, while not required to be adjusted pursuant to the FCPIA Act, correspond in certain ways with OFAC's CMPs. As a result, OFAC issued final rules on August 11, 2020 (85 FR 48474, August 11, 2020) and April 12, 2021 (86 FR 18895, April 12, 2021) amending the definition of "applicable schedule amount" in section I.B. of appendix A to 31 CFR part 501 to adjust applicable schedule amount values for transactions valued at \$200,000 or more to correspond with recent CMP adjustments required by the FCPIA Act.

By a separate rule, OFAC will publish its annual adjustment of CMPs pursuant to the FCPIA Act for 2022. Today, OFAC is amending the definition of "applicable schedule amount" in section I.B. of appendix A to 31 CFR part 501 to automatically adjust the applicable schedule amount value for transactions valued at \$200,000 or more as new CMP adjustments are published. Specifically, OFAC is amending section I.B.7. such that in the case of transactions valued at \$200,000 or more,

the applicable schedule amount is equivalent to the statutory maximum civil penalty per violation of the International Emergency Economic Powers Act (50 U.S.C. 1701-1706, at 1705) listed in section V.B.2.a.v of appendix A to 31 CFR part 501. This change is not required pursuant to the FCPIA Act; however, OFAC is making this change to ensure the applicable schedule amount value continues to correspond appropriately to OFAC's CMPs as the CMPs are adjusted annually pursuant to the FCPIA Act. In addition, OFAC is making technical edits to the authority citation to conform to **Federal Register** guidance.

Public Participation

Because this final rule imposes no obligations on any person, but only amends OFAC's enforcement policy and procedures based on existing substantive rules, provisions of 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. Further, this final rule is not a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). 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 Paperwork Reduction Act does not apply because this rule does not impose information collection requirements that would require the approval of the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

List of Subjects in 31 CFR Part 501

Administrative practice and procedure, Banks, Banking, Blocking of assets, Exports, Foreign trade, Licensing, Penalties, Sanctions.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 501 as follows:

PART 501—REPORTING, PROCEDURES AND PENALTIES REGULATIONS

- 1. The authority citation for part 501 is revised to read as follows:

Authority: 8 U.S.C. 1189; 18 U.S.C. 2332d, 2339B; 19 U.S.C. 3901-3913; 21 U.S.C. 1901-1908; 22 U.S.C. 287c, 2370(a), 6009, 6032, 7205, 8501-8551; 31 U.S.C. 321(b); 50 U.S.C. 1701-1706, 4301-4341; Pub. L. 101-410, 104 Stat. 890, as amended (28 U.S.C. 2461 note).

- 2. In appendix A to part 501, revise section I.B.7. to read as follows:

Appendix A to Part 501—Economic Sanctions Enforcement Guidelines.

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1. Definitions

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B. * * *

7. The statutory maximum civil penalty per violation of IEEPA listed in section V.B.2.a.v. of this appendix with respect to a transaction valued at \$200,000 or more.

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Andrea M. Gacki,*Director, Office of Foreign Assets Control.*

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DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 590****Transnational Criminal Organizations 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 amending the Transnational Criminal Organizations Sanctions Regulations and reissuing them in their entirety to further implement a July 24, 2011 Executive order and a March 15, 2019 Executive order related to transnational criminal organizations. This final rule replaces the regulations that were published in abbreviated form on January 12, 2012 and amended on July 23, 2019, and includes additional interpretive guidance, definitions, general licenses, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is amending and reissuing the Transnational Criminal Organizations Sanctions Regulations in their entirety.

DATES: This rule is effective January 21, 2022.

FOR FURTHER INFORMATION CONTACT: OFAC: Assistant Director for Licensing, 202-622-2480; Assistant Director for Regulatory Affairs, 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, 202-622-2490.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

This document and additional information concerning OFAC are

available on OFAC's website: www.treas.gov/ofac.

Background

On January 12, 2012, OFAC issued the Transnational Criminal Organizations Sanctions Regulations, 31 CFR part 590 (77 FR 1864, January 12, 2012) (the "Regulations"), to implement Executive Order (E.O.) 13581 of July 24, 2011, "Blocking Property of Transnational Criminal Organizations" (76 FR 44757, July 27, 2011), pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13581. The Regulations were initially issued in abbreviated form for the purpose of providing immediate guidance to the public. OFAC amended the Regulations on July 23, 2019 (84 FR 35307, July 23, 2019) to implement E.O. 13863 of March 15, 2019, "Taking Additional Steps to Address the National Emergency With Respect to Significant Transnational Criminal Organizations" (84 FR 10255, March 19, 2019), which amended E.O. 13581. OFAC is amending and reissuing the Regulations as a more comprehensive set of regulations that includes additional interpretive guidance and definitions, general licenses, and other regulatory provisions that will provide further guidance to the public. Due to the number of regulatory sections being updated or added, OFAC is reissuing the Regulations in their entirety.

E.O. 13581

On July 24, 2011, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), issued E.O. 13581. In E.O. 13581, the President found that the activities of significant transnational criminal organizations, such as those listed in the Annex to E.O. 13581, have reached such scope and gravity that they threaten the stability of international political and economic systems. The President further found that such organizations are becoming increasingly sophisticated and dangerous to the United States; they are increasingly entrenched in the operations of foreign governments and the international financial system, thereby weakening democratic institutions, degrading the rule of law, and undermining economic markets. The President stated these organizations facilitate and aggravate violent civil conflicts and increasingly facilitate the activities of other dangerous persons. The President determined that the activities of significant transnational criminal organizations constitute an unusual and extraordinary threat to the national security, foreign policy, and

economy of the United States and declared a national emergency to deal with that threat.

Section 1(a) of E.O. 13581 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person of: (i) The persons listed in the Annex to E.O. 13581; and (ii) any person determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State: (A) To be a foreign person that constitutes a significant transnational criminal organization; (B) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of any person whose property and interests in property are blocked pursuant to E.O. 13581; or (C) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to E.O. 13581. The property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

In Section 1(b) of E.O. 13581, the President determined that the making of donations of certain articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, as specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to E.O. 13581 would seriously impair the President's ability to deal with the national emergency declared in E.O. 13581. The President therefore prohibited the donation of such items except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to E.O. 13581.

Section 1(c) of E.O. 13581 provides that the prohibition on any transaction or dealing in blocked property or interests in property includes 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 E.O. 13581, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 2 of E.O. 13581 prohibits any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in E.O. 13581, as