

eligibility and status as a prevailing party and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if applicable, findings on whether the Secretary's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust.

(b) *For an application involving an allegedly excessive agency demand.* The decision shall include written findings and conclusions on the applicant's eligibility and an explanation of the reasons why the agency's demand was or was not determined to be substantially in excess of the underlying decision in the matter and whether the Secretary's demand was or was not unreasonable. That determination shall be based upon all the facts and circumstances of the case.

(c) *Awards.* The judge presiding over an EAJA proceeding or the Commission on review may reduce the amount to be awarded, or deny any award, to the extent that the party during the course of the proceedings engaged in conduct which unduly and unreasonably protracted the final resolution of the matter in controversy.

(1) Awards shall be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(2) An award for the fee of an attorney or agent under this paragraph (c) shall not exceed the hourly rate specified in 5 U.S.C. 504(b)(1)(A), except to account for inflation since the last update of the statute's maximum award upon the request of the applicant as documented in the application pursuant to § 2204.303. An award to compensate an expert witness shall not exceed the highest rate at which the Secretary pays expert witnesses. However, an award may include the reasonable expenses of the attorney, agent or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(3) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the following shall be considered:

(i) If the attorney, agent, or witness is in private practice, his or her customary fee for similar services, or, if an employee of the applicant, the fully allocated cost of the services;

(ii) The prevailing rate for similar services in the community in which the

attorney, agent, or witness ordinarily perform services;

(iii) The time actually spent in the representation of the applicant;

(iv) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(v) Such other factors as may bear on the value of the services provided.

(4) The reasonable cost of any study, analysis, engineering report, test, project, or similar matter prepared on behalf of the party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

#### § 2204.407 Commission review.

Either the applicant or the Secretary may seek review of the judge's decision on the fee application, and the Commission may grant such a petition for review or direct review of the decision on the Commission's own initiative. Review by the Commission shall be in accordance with §§ 2200.91 and 2200.92 of this chapter.

#### § 2204.408 Judicial review.

Judicial review of final decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

#### § 2204.409 Stay of decision concerning award.

Any proceedings on an application for fees under this part shall be automatically stayed until the adversary adjudication has become a final disposition.

#### § 2204.410 Waiver.

After reasonable notice to the parties, the judge or the Commission may waive, for good cause shown, any provision contained in this part as long as the waiver is consistent with the terms and purpose of the EAJA.

#### § 2204.411 Payment of award.

An applicant seeking payment of an award shall submit to the officer designated by the Secretary a copy of the Commission's final decision granting the award, accompanied by a certification that the applicant will not seek review of the decision in the United States courts.

**Cynthia L. Attwood,**  
*Chairman.*

**Amanda Wood Laihow,**  
*Commissioner.*

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### 31 CFR Parts 536 and 598

### Narcotics Trafficking Sanctions Regulations and Foreign Narcotics Kingpin 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 Narcotics Trafficking Sanctions Regulations and the Foreign Narcotics Kingpin Sanctions Regulations to add or amend general licenses with respect to payments for legal services, certain transactions for personal maintenance, certain transactions for maintenance of blocked tangible property, and emergency medical services. In addition, OFAC is amending certain prohibitions, definitions, and interpretive sections contained in these sets of regulations. OFAC is also updating certain regulatory provisions and making other technical and conforming edits.

**DATES:** This rule is effective May 17, 2021.

**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.treasury.gov/ofac](http://www.treasury.gov/ofac)).

##### Background

OFAC administers two sanctions programs with respect to narcotics trafficking. The Narcotics Trafficking Sanctions Regulations, 31 CFR part 536 (NTSR), implement Executive Order (E.O.) 12978 of October 21, 1995, "Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers" (60 FR 54579, October 24, 1995), as amended by E.O. 13286 of February 28, 2003, "Amendment of Executive Orders, and Other Actions, in Connection With the Transfer of Certain Functions to the Secretary of Homeland Security" (68 FR 10619, March 3, 2003), in which the President declared a national emergency, and imposed sanctions, with respect to "the actions

of significant foreign narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm that they cause in the United States and abroad.”

The Foreign Narcotics Kingpin Sanctions Regulations, 31 CFR part 598 (FNKSR), implement the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908), which provides authority for the application of sanctions to significant foreign narcotics traffickers and their organizations operating worldwide.

### Current Regulatory Action

OFAC is adopting this final rule amending the NTSR and the FNKSR with respect to general licenses for payments for legal services, certain transactions for personal maintenance, certain transactions for maintenance of blocked tangible property, and emergency medical services, as set forth in more detail below. OFAC is also amending certain prohibitions, definitions, and interpretive sections, updating certain regulatory provisions, and making other technical and conforming edits, as also described below.

*Payments for legal services.* Section 536.506 of the NTSR and § 598.507 of the FNKSR authorize U.S. persons to provide certain legal services to or on behalf of a specially designated narcotics trafficker (SDNT), as defined in § 536.312 and § 598.314, respectively, provided that any payment of professional fees and reimbursement of incurred expenses must be specifically licensed. OFAC is amending the NTSR and the FNKSR to authorize certain permissible payment mechanisms for legal services without the need for a specific license. With these amendments, OFAC incorporates two mechanisms for payment for legal services. As set forth in the regulations, these new mechanisms for the payment of legal services are subject to additional reporting and recordkeeping requirements and other conditions and limitations.

First, new § 536.507 of the NTSR and new § 598.508 of the FNKSR now authorize payments from funds originating outside the United States and that do not come from a U.S. person or any person whose property and interests in property are blocked, other than the person to whom or on whose behalf the authorized legal services are provided.

Second, new § 536.508 of the NTSR and new § 598.509 of the FNKSR now authorize payment of professional fees and reimbursement of incurred expenses from public funds in

connection with authorized legal services rendered on behalf of blocked persons.

*Certain transactions for personal maintenance.* OFAC also is adding general licenses in new § 536.509 of the NTSR and new § 598.510 of the FNKSR, authorizing SDNTs who are in U.S. custody or incarcerated in the United States to engage in certain personal maintenance transactions. Specifically, these new general licenses authorize SDNTs in U.S. custody or incarcerated in the United States to engage in certain transactions 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, including receiving goods and services, engaging in employment, and establishing accounts at U.S. financial institutions. These new general licenses are subject to additional reporting and recordkeeping requirements and other conditions and limitations set forth in those sections.

*Certain transactions for maintenance of tangible blocked property.* OFAC is adding general licenses at new § 536.510 of the NTSR and new § 598.511 of the FNKSR, authorizing SDNTs to make payment for, and receive goods and services for the maintenance of, tangible property blocked pursuant to § 536.201 of the NTSR and § 598.202(a) of the FNKSR, consistent with §§ 536.206 of the NTSR and 598.207 of the FNKSR. These new general licenses are subject to additional reporting and recordkeeping requirements and other conditions and limitations set forth in those sections.

*Emergency medical services.* OFAC is amending the general license in § 536.511 of the NTSR to expand the existing authorization and adding a general license in new § 598.512 of the FNKSR, each authorizing the provision and receipt of nonscheduled emergency medical services. Revised § 536.511 of the NTSR no longer requires that payment for such services be specifically licensed.

*Definitions.* OFAC is adding and amending several definitions. To clarify the term *narcotics trafficking* as used in §§ 536.311 and 598.310, OFAC is adding, in new § 536.318 of the NTSR and new § 598.320 of the FNKSR, a definition of the term *finance*. OFAC is also adding, in § 536.319, definitions of the terms *narcotic drug*, *controlled substance*, and *listed chemical*.

OFAC also is amending the definition of *foreign person* in § 536.304 of the NTSR and § 598.305 of the FNKSR to add the qualifier “wherever located” to clarify that the term includes foreign and dual nationals regardless of their

location. OFAC is amending the definition of *specially designated narcotics trafficker* in § 536.312 of the NTSR and § 598.314 of the FNKSR to clarify that these terms include entities directly or indirectly owned 50 percent or more by one or more specially designated narcotics traffickers, whether individually or in the aggregate, as well as updating the definition of the terms *blocked account* and *blocked property* in § 536.301 of the NTSR and § 598.301 of the FNKSR, to add a note referencing the definition of *specially designated narcotics trafficker*. OFAC is adding, in new § 536.319 of the NTSR and new § 598.321 of the FNKSR, a definition of the term *OFAC* to mean the Department of the Treasury’s Office of Foreign Assets Control.

*Prohibited transactions and interpretive sections.* OFAC is updating the regulatory provisions with respect to prohibited transactions involving blocked property in § 536.201 of the NTSR. OFAC is similarly updating the FNKSR by consolidating two existing sections into revised § 598.202 and removing and reserving § 598.203. In § 536.204 and § 598.204, OFAC is clarifying the terms evasions, attempts, and conspiracies in the NTSR and the FNKSR to be consistent with the definitions of these terms in other OFAC sanctions regulations. In new § 536.410 of the NTSR and new § 598.411 of the FNKSR, OFAC is clarifying that these prohibitions include 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, and the receipt of any contribution or provision of funds, goods, or services from any such person. Pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the NTSR include an exception to this prohibition for donations of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, because E.O. 12978, as amended, does not include a presidential determination to the contrary.

*Updated delegation of authority by the Secretary of the Treasury.* This rule also updates the delegation of authority in § 598.803 of the FNKSR to add the Presidential Memorandum of May 15, 2015: Delegation of Functions Under the Foreign Narcotics Kingpin Designation Act and the Presidential Memorandum of May 31, 2013: Delegation of Functions Under Subsection 804(h)(2)(A) of the Foreign Narcotics Kingpin Designation Act.

*Other technical and conforming changes.* OFAC is updating certain

regulatory provisions and making other technical and conforming changes. OFAC is updating and conforming the language in § 536.203 of the NTSR and § 598.206 of the FNKSR related to the holding of funds in interest-bearing accounts and investment and reinvestment. In new § 536.206 of the NTSR and new § 598.207 of the FNKSR, OFAC is adding a standard provision relating to expenses of maintaining blocked tangible property and liquidation of blocked property. OFAC is updating and combining the definitions of the terms *general license*, *license*, and *specific license* in §§ 536.305, 536.308, and 536.313 of the NTSR and §§ 598.306, 598.308, and 598.315 of the FNKSR, as well as adding § 536.300 to the NTSR and § 598.300 to the FNKSR to clarify that the definitions described in Subpart C of each part apply to the entire part. OFAC is updating the language of and making conforming edits to §§ 598.404, 598.407, and 598.409 of the FNKSR to reference § 598.202 instead of § 598.203. OFAC is also updating the language of § 536.406 in the NTSR and § 598.406 in the FNKSR, including adding a note referencing the emergency medical services authorization. In § 536.506 of the NTSR and § 598.507 of the FNKSR, OFAC is updating regulatory provisions relating to the provision of legal services. Finally, OFAC is updating the authorities citation of the NTSR.

#### Public Participation

Because the NFSR and the FNKSR involve a foreign affairs function, the provisions of E.O. 12866 of September 30, 1993, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), 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 NTSR and the FNKSR 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

##### 31 CFR Part 536

Administrative practice and procedure, Banks, Banking, Blocking of assets, Credit, Currency, Drug traffic control, Foreign investments in U.S., Narcotics trafficking, Foreign trade, Penalties, Reporting and recordkeeping requirements, Sanctions, Securities, Specially designated narcotics traffickers, Transfer of assets.

##### 31 CFR Part 598

Administrative practice and procedure, Banks, Banking, Blocking of assets, Credit, Currency, Drug traffic control, Foreign investments in U.S., Narcotics trafficking, Foreign trade, Penalties, Reporting and recordkeeping requirements, Sanctions, Securities, Significant foreign narcotics traffickers, Specially designated narcotics traffickers, Transfer of assets.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR parts 536 and 598 as follows:

#### PART 536—NARCOTICS TRAFFICKING SANCTIONS REGULATIONS

- 1. The authority citation for part 536 continues to read as follows:

**Authority:** 3 U.S.C. 301; 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. 12978, 60 FR 54579, 3 CFR, 1995 Comp., p. 415; E.O. 13286, 68 FR 10619, 3 CFR, 2003 Comp., p. 166.

#### Subpart B—Prohibitions

- 2. Revise § 536.201 to read as follows:

##### § 536.201 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 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.

(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, other than donations of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering; 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 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.

**Note 1 to § 536.201:** See § 536.312 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 § 536.312(d) concerning entities that may not be listed on the SDN List but whose property and interests in property are nevertheless blocked pursuant to this section.

**Note 2 to § 536.201:** 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 this section.

- 3. Revise § 536.203 to read as follows:

##### § 536.203 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 § 536.201 shall hold or place such funds in a blocked interest-bearing account located in the United States.

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

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

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

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

(c) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

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

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 536.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with 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 § 536.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as 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 financial or economic benefit or access to a specially designated narcotics trafficker, nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

■ 4. Revise § 536.204 to read as follows:

**§ 536.204 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.

■ 5. Add § 536.206 to subpart B to read as follows:

**§ 536.206 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 § 536.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 536.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

**Subpart C—General Definitions**

■ 6. Add § 536.300 to subpart C to read as follows:

**§ 536.300 Applicability of definitions.**

The definitions in this subpart apply throughout the entire part.

■ 7. Revise § 536.301 to read as follows:

**§ 536.301 Blocked account; blocked property.**

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibitions in § 536.201 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 § 536.301:** See § 536.312 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.

■ 8. Revise § 536.304 to read as follows:

**§ 536.304 Foreign person.**

The term *foreign person* means any citizen or national of a foreign state (including any such individual who is also a citizen or national of the United States), wherever located, or any entity not organized solely under the laws of the United States or existing solely in the United States, but does not include a foreign state.

**§ 536.305 [Removed and Reserved]**

■ 9. Remove and reserve § 536.305.

■ 10. Revise § 536.308 to read as follows:

**§ 536.308 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](http://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](http://www.treasury.gov/ofac).

**Note 1 to § 536.308:** See § 501.801 of this chapter on licensing procedures.

■ 11. Revise § 536.312 to read as follows:

**§ 536.312 Specially designated narcotics trafficker.**

The term *specially designated narcotics trafficker* means:

(a) Persons listed in the Annex to Executive Order 12978 of October 24, 1995, as amended;

(b) Foreign persons designated by the Secretary of the Treasury, in consultation with the Attorney General, Secretary of Homeland Security, and the Secretary of State, because they are found:

(1) To play a significant role in international narcotics trafficking centered in Colombia; or

(2) Materially to assist in, or provide financial or technological support for or goods or services in support of, the narcotics trafficking activities of specially designated narcotics traffickers;

(c) Persons determined by the Secretary of the Treasury, in consultation with the Attorney General, Secretary of Homeland Security, and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, any other specially designated narcotics trafficker; and

(d) Entities owned in the aggregate, directly or indirectly, 50 percent or

more by one or more specially designated narcotics traffickers.

**Note 1 to § 536.312:** The names of persons determined to fall within paragraph (a), (b), or (c) of this section, whose property and interests in property therefore are blocked pursuant to § 536.201, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier “[SDNT].” The SDN List is accessible through the following page on OFAC's website: [www.treasury.gov/sdn](http://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 (d) of this section are also persons whose property and interests in property are blocked pursuant to this part, whether or not they are identified by OFAC or appear on the SDN List.

**Note 2 to § 536.312:** The International Emergency Economic Powers Act (50 U.S.C. 1701–1706), in Section 203 (50 U.S.C. 1702), authorizes the blocking of the 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 § 536.201 also are published in the **Federal Register** and incorporated into the SDN List with the identifier “[BPI–SDNT].”

**Note 3 to § 536.312:** 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.

#### § 536.313 [Removed and Reserved]

- 12. Remove and reserve § 536.313.
- 13. Add § 536.318 to subpart C to read as follows:

#### § 536.318 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 § 536.318:** The definition of finance listed above is specific to this part and not any other parts of Chapter 31. See § 536.101.

- 14. Add § 536.319 to subpart C to read as follows:

#### § 536.319 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).

- 15. Add § 536.320 to subpart C to read as follows:

#### § 536.320 OFAC.

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

#### Subpart D—Interpretations

- 16. Revise § 536.406 to read as follows:

#### § 536.406 Provision of services.

(a) The prohibitions on transactions contained in § 536.201 apply to services performed in the United States or by U.S. persons, wherever located, including by a foreign branch of an entity located in the United States:

(1) On behalf of or for the benefit of 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 § 536.406:** See §§ 536.506 and 536.511 on licensing policy with regard to the provision of certain legal and emergency medical services.

- 17. Revise § 536.407 to read as follows:

#### § 536.407 Offshore transactions involving blocked property.

The prohibitions in § 536.201 on transactions or dealings involving blocked property, as defined in § 536.301, apply to transactions by any U.S. person in a location outside the United States.

- 18. Revise § 536.409 to read as follows:

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

The prohibition in § 536.201 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.

- 19. Add § 536.410 to subpart D to read as follows:

#### § 536.410 Charitable contributions.

Unless specifically authorized by OFAC pursuant to this part, no charitable contribution of funds, goods, services, or technology, except donations of articles, such as food, clothing, and medicine, intended to relieve human suffering, 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.

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

- 20. Revise § 536.506 to read as follows:

#### § 536.506 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of specially designated narcotics traffickers is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 536.507 or 536.508, which authorize certain payments for legal services; via specific licenses; or otherwise pursuant to this part:

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

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

(3) Initiation and conduct of legal, arbitration, or administrative

proceedings before any U.S. federal, state, or local court or agency;

(4) Representation of persons before any U.S. federal, state, or local court or agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such persons; 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 section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal services, such as those provided by private investigators or expert witnesses, or to pay for such services. *See* § 536.405.

(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 § 536.201 is prohibited unless licensed pursuant to this part.

**Note 1 to § 536.506:** Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available

**§ 536.507 [Redesignated as § 536.511]**

■ 21. Redesignate § 536.507 as § 536.511.

■ 22. Add new § 536.507 to subpart E to read as follows:

**§ 536.507 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 § 536.506(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 § 536.506(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) Nothing in this paragraph authorizes payments for legal services using funds in which a specially designated narcotics trafficker, or any other person whose property and interests in property are blocked pursuant to any other part of this chapter, or any Executive order or statute has an interest.

(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.

■ 23. Add § 536.508 to subpart E to read as follows:

**§ 536.508 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 § 536.506(a).

■ 24. Add § 536.509 to subpart E to read as follows:

**§ 536.509 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 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 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 § 536.509:** The authorization in this section only applies to laws and regulations administered by OFAC and should not be interpreted to excuse compliance with other applicable laws or regulations, including the immigration laws of the United States.

■ 25. Add § 536.510 to subpart E to read as follows:

**§ 536.510 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 blocked tangible property required pursuant to § 536.206; 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 § 536.201 and 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 and annually thereafter. 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

(v) 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.

■ 26. Revise newly redesignated § 536.511 to read as follows:

**§ 536.511 Emergency medical services.**

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

**PART 598—FOREIGN NARCOTICS KINGPIN SANCTIONS REGULATIONS**

■ 27. The authority citation for part 598 is revised to read as follows:

**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).

**Subpart B—Prohibitions**

■ 28. Revise § 598.202 to read as follows:

**§ 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 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 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.

**§ 598.203 [Removed and Reserved]**

■ 29. Remove and reserve § 598.203.

■ 30. Revise § 598.204 to read as follows:

**§ 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.

■ 31. Revise § 598.206 to read as follows:

**§ 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 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.

■ 32. Add § 598.207 to subpart B to read as follows:

**§ 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-bearing account in the name of the owner of the property.

**Subpart C—General Definitions**

■ 33. Add § 598.300 to subpart C to read as follows:

**§ 598.300 Applicability of definitions.**

The definitions in this subpart apply throughout the entire part.

■ 34. Revise § 598.301 to read as follows:

**§ 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.

■ 35. Revise § 598.305 to read as follows:

**§ 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.

**§ 598.306 [Removed and Reserved]**

■ 36. Remove and reserve § 598.306.

■ 37. Revise § 598.308 to read as follows:

**§ 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](http://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](http://www.treasury.gov/ofac).

**Note 1 to § 598.308:** See § 501.801 of this chapter on licensing procedures.

■ 38. Revise § 598.313 to read as follows:

**§ 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 (21 U.S.C. 1903(b) or (h)(1)).

**Note 1 to § 598.313:** On May 15, 2015, the functions conferred upon the President by sections 804(b) and (h) of the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1903(b) and (h)), were delegated to the Secretary of the Treasury.

■ 39. Revise § 598.314 to read as follows:

**§ 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](http://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.

#### § 598.315 [Removed and Reserved]

■ 40. Remove and reserve § 598.315.

■ 41. Add § 598.320 to subpart C to read as follows:

#### § 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.

■ 42. Add § 598.321 to subpart C to read as follows:

#### § 598.321 OFAC.

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

#### Subpart D—Interpretations

■ 43. Revise § 598.404 to read as follows:

#### § 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.

■ 44. Revise § 598.406 to read as follows:

#### § 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 provision of certain legal and emergency medical services.

■ 45. Revise § 598.407 to read as follows:

#### § 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.

■ 46. Revise § 598.409 to read as follows:

#### § 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.

■ 47. Add § 598.411 to subpart D to read as follows:

#### § 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.

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

■ 48. Revise § 598.507 to read as follows:

#### § 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.

■ 49. Add § 598.508 to subpart E to read as follows:

**§ 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.

■ 50. Add § 598.509 to subpart E to read as follows:

**§ 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).

■ 51. Add § 598.510 to subpart E to read as follows:

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

■ 52. Add § 598.511 to subpart E to read as follows:

**§ 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

(v) 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.

■ 53. Add § 598.512 to subpart E to read as follows:

**§ 598.512 Emergency medical services.**

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

■ 54. Revise § 598.803 to read as follows:

**§ 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.

Dated: May 12, 2021.

**Bradley T. Smith,**

*Acting Director, Office of Foreign Assets Control.*

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 310**

[Docket ID: DoD-2018-OS-0055]

**RIN 0790-AK41**

**Privacy Act of 1974; Implementation**

**AGENCY:** Office of the Secretary of Defense, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** The Office of the Secretary of Defense is finalizing the rule to exempt from the Privacy Act some records maintained in the DoD Defense Manpower Data Center system of records titled "Synchronized Predeployment and Operational Tracker Enterprise Suite (SPOT-ES) Records." A system of records notice for this system

has been published in the **Federal Register**.

**DATES:** This final rule is effective June 16, 2021.

**FOR FURTHER INFORMATION CONTACT:** Ms. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPDD), 1155 Defense Pentagon, Washington, DC 20311-1155, or by phone at (571) 372-0478.

**SUPPLEMENTARY INFORMATION:** On August 21, 2018, the Department of Defense published a proposed rule titled "Privacy Act of 1974; Implementation," which proposed to exempt some records maintained in DMDC 18 DoD, "Synchronized Predeployment and Operational Tracker Enterprise Suite (SPOT-ES) Records" (83 FR 42234-42235) from subsection (d) of the Privacy Act. The public comment period ended on September 20, 2018. At the end of the public comment period, DoD did not receive any pertinent public comments.

DoD now has a single DoD-level Privacy Program rule at 32 CFR part 310 (84 FR 14728-14811) that contains all the codified information required for the Department. That revised Privacy Program rule also includes all DoD component exemption rules. The OSD/JS Privacy Program regulation at 32 CFR part 311, last updated on October 30, 2009 (74 FR 56114), was no longer required and was removed from the CFR on August 7, 2019 (84 FR 38552). A system of records notice for this system was published in the **Federal Register** on August 21, 2018 (83 FR 42262-42266).

This modification to 32 CFR part 310 adds a new Privacy Act exemption rule for the Synchronized Redeployment and Operational Tracker Enterprise Suite (SPOT-ES), which is used at installations to manage, track, account for, monitor, and report on contracts, companies, and contractor employees supporting contingency operations, humanitarian assistance operations, peace operations, disaster relief operations, military exercises, events, and other activities that require contractor support. Contract scope, installations, and/or activities requiring contractor support as documented in SPOT-ES may be classified under Executive Order (E.O.) 13526, "Classified National Security Information." Information classified under E.O. 13526, as implemented by DoD Manual (DoDM) 5200.01 Volumes 1 and 3, and DoD Instruction (DoDI) 5200.01, may be exempt pursuant to 5 U.S.C. 552a(k)(1). Granting unfettered access to information that is properly classified pursuant to those authorities