

**DEPARTMENT OF THE TREASURY****Office of Foreign Assets Control****31 CFR Part 546****Updates to the Darfur 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 changing the heading of the Darfur Sanctions Regulations to the Sudan Stabilization Sanctions Regulations and amending the renamed regulations to implement a May 4, 2023 Sudan-related Executive Order. This rule also updates or adds new definitions, general licenses, and interpretative guidance, among other regulatory provisions.

**DATES:** This rule is effective March 5, 2024.

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

**SUPPLEMENTARY INFORMATION:****Electronic Availability**

This document and additional information concerning OFAC are available on OFAC's website: <https://ofac.treasury.gov/>.

**Background**

On May 28, 2009, OFAC issued the Darfur Sanctions Regulations, 31 CFR part 546 (74 FR 25432, May 28, 2009) (the "Regulations") to implement Executive Order (E.O.) 13400 of April 26, 2006, "Blocking Property of Persons in Connection with the Conflict in Sudan's Darfur Region" (71 FR 25483, May 1, 2006). The Regulations were issued pursuant to authorities delegated to the Secretary of the Treasury in E.O. 13400, which expanded the scope of the national emergency declared in E.O. 13067 of November 3, 1997, "Blocking Sudanese Government Property and Prohibiting Transactions with Sudan" (62 FR 59989, November 5, 1997) with respect to the policies and actions of the Government of Sudan. Since then, OFAC has amended the Regulations several times. OFAC is now amending the Regulations to implement provisions of E.O. 14098, "Imposing Sanctions on Certain Persons Destabilizing Sudan and Undermining the Goal of a Democratic Transition" (88 FR 29529, May 5, 2023). In addition, OFAC is amending the

Regulations to update or add new definitions, general licenses, and interpretative guidance, among other regulatory provisions. Furthermore, OFAC is renaming the Darfur Sanctions Regulations as the Sudan Stabilization Sanctions Regulations to reflect the expanded scope of the national emergency, as set forth in E.O. 14098.

On May 4, 2023, 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. 14098. In E.O. 14098, the President expanded the scope of the national emergency declared in E.O. 13067, and expanded by E.O. 13400, finding that the situation in Sudan, including the military's seizure of power in October 2021 and the outbreak of inter-service fighting in April 2023, constitutes an unusual and extraordinary threat to the national security and foreign policy of the United States.

Section 1(a) of E.O. 14098 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 U.S. person of: (i) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be responsible for, or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following: (A) actions or policies that threaten the peace, security, or stability of Sudan; (B) actions or policies that obstruct, undermine, delay, or impede, or pose a significant risk of obstructing, undermining, delaying, or impeding, the formation or operation of a civilian transitional government, Sudan's transition to democracy, or a future democratically elected government; (C) actions or policies that have the purpose or effect of undermining democratic processes or institutions in Sudan; (D) censorship or other actions or policies that prohibit, limit, or penalize the exercise of freedoms of expression, association, or peaceful assembly by individuals in Sudan, or that limit access to free and independent news or information in or with respect to Sudan; (E) corruption, including bribery, misappropriation of state assets, and interference with public processes such as government oversight of parastatal budgets and revenues for personal benefit; (F) serious human rights abuse, including serious human rights abuse related to political repression, in or with respect to Sudan; (G) the targeting of women, children, or any other civilians through the commission of acts of

violence (including killing, maiming, torture, or rape or other sexual violence), abduction, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law; (H) the obstruction of the activities of United Nations missions—including peacekeeping missions, as well as diplomatic or humanitarian missions—in Sudan, or of the delivery of, distribution of, or access to humanitarian assistance; or (I) attacks against United Nations missions, including peacekeeping operations; (ii) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be or have been a leader, official, senior executive officer, or member of the board of directors of any entity: (A) that has, or whose members have, engaged in any activity described in subsection (a)(i) of E.O. 14098 relating to the tenure of such leader, official, senior executive officer, or member of the board of directors; or (B) whose property and interests in property are blocked pursuant to E.O. 14098 relating to the tenure of such leader, official, senior executive officer, or member of the board of directors; (iii) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be a spouse or adult child of any person whose property and interests in property are blocked pursuant to E.O. 14098; (iv) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any activity described in section 1(a)(i) of E.O. 14098 or any person whose property and interests in property are blocked pursuant to E.O. 14098; or (v) any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State, 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. 14098. The blocked property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Section 1(b) of E.O. 14098 provides that the prohibitions in section 1(a) of E.O. 14098 apply except to the extent

provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to E.O. 14098, and notwithstanding any contract entered into or any license or permit granted before the date of E.O. 14098.

Section 3 of E.O. 14098 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. 14098, and the receipt of any contribution or provision of funds, goods, or services from any such person.

In Section 4 of E.O. 14098, the President determined that the making of donations of the types of articles 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. 14098 would seriously impair the President's ability to deal with the national emergency declared in E.O. 13067, as expanded. The President therefore prohibited the donation of such items except to the extent provided by statutes, or in regulations, rulings, instructions, orders, directives, or licenses that may be issued pursuant to E.O. 14098.

Section 5 of E.O. 14098 prohibits any transaction 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. 14098, as well as any conspiracy formed to violate such prohibitions.

Section 9 of E.O. 14098 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of E.O. 14098. Section 9 of E.O. 14098 also provides that the Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury.

#### *Current Regulatory Action*

In furtherance of the purposes of E.O. 14098, OFAC is changing the heading of the Darfur Sanctions Regulations, 31 CFR part 546, to the Sudan Stabilization Sanctions Regulations and amending the renamed Regulations to implement E.O. 14098, among other changes. In particular, in subpart B of the Regulations, OFAC is revising § 546.201 to incorporate the new designation criteria provided in E.O. 14098, as well as adding § 546.201(e) to implement any

future Executive orders issued pursuant to E.O. 13067. Accordingly, throughout the Regulations, OFAC is amending all references to § 546.201(a) to references to § 546.201. In addition, OFAC is adding § 546.206 to detail transactions that are exempt from the prohibitions of the Regulations pursuant to section 203(b) of IEEPA (50 U.S.C. 1702(b)).

In subpart C of the Regulations, new definitions are being added to other key terms used throughout the Regulations. Because these new definitions were inserted in alphabetical order, the definitions that were in the prior abbreviated set of regulations have been renumbered. Specifically, OFAC is clarifying that the term *OFAC* means the Office of Foreign Assets Control, providing a definition for *foreign person* at § 546.306, and adding definitional guidance at § 546.300 clarifying that the terms defined in subpart C apply throughout the Regulations. Furthermore, OFAC is updating multiple definitions, including its definition of the term *effective date* at § 546.303.

In subpart D, which contains interpretive sections regarding the Regulations, OFAC is amending several interpretive provisions to align with the aforementioned changes to subpart B, as well as updating several provisions for clarity. OFAC has also added an interpretive provision at § 546.412 to clarify that the property and interests in property of an entity, including any political subdivision, agency, or instrumentality of a governmental entity, are not blocked solely because one or more persons whose property and interests in property are blocked pursuant to § 546.201 is a member, leader, official, senior executive officer, or otherwise exercises control.

Transactions otherwise prohibited by the Regulations but found to be consistent with U.S. policy may be authorized by one of the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. OFAC is updating § 546.502 to conform with current statements of licensing policy and revising § 546.511, which authorizes certain transactions for the official business of certain international organizations and entities, and § 546.513, which authorizes certain transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates, and the extraction, processing, transport, sale, or distribution of water in Sudan. OFAC has also added § 546.508, which authorizes certain payments for legal

services from funds originating outside the United States. In addition, the interpretive provisions that were in the prior set of regulations have been renumbered.

In subpart G of the Regulations, OFAC is revising several sections to describe 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 or issuance of a Finding of Violation. OFAC is adding § 546.705 describing the procedures governing the potential issuance of a Finding of Violation. Finally, in subpart H of the Regulations, OFAC is updating a section heading at § 546.802 to reflect the delegation of certain authorities of the Secretary of the Treasury.

Throughout the Regulations, OFAC is changing references to “the Office of Foreign Assets Control” and “the Director of the Office of Foreign Assets Control” to “OFAC” for purposes of clarity and simplicity.

#### **Public Participation**

Because the Regulations 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), as amended, 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 546**

Administrative practice and procedure, Banks, banking, Blocking of assets, Credit, Foreign trade, Penalties, Reporting and recordkeeping requirements, Sanctions, Securities, Services, Sudan.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 546 as follows:

## PART 546—SUDAN STABILIZATION SANCTIONS REGULATIONS

- 1. Revise the heading of part 546 to read as set forth above.
- 2. The authority citation for part 546 is revised to read as follows:

**Authority:** 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; 22 U.S.C. 287c; Pub. L. 101–410, 104 Stat. 890, as amended (28 U.S.C. 2461 note); E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230; E.O. 13400, 71 FR 25483, 3 CFR, 2006 Comp., p. 220; E.O. 14098, 88 FR 29529.

### Subpart B—Prohibitions

- 3. Revise § 546.201 to read as follows:

#### § 546.201 Prohibited transactions involving blocked property.

(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 the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) *E.O. 13400 Annex*. The persons listed in the Annex to Executive Order 13400 of April 26, 2006.

(2) *E.O. 13400*. Any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

(i) To have constituted a threat to the peace process in Darfur;

(ii) To have constituted a threat to stability in Darfur and the region;

(iii) To be responsible for conduct related to the conflict in Darfur that violates international law;

(iv) To be responsible for heinous conduct with respect to human life or limb related to the conflict in Darfur;

(v) To have directly or indirectly supplied, sold, or transferred arms or any related materiel, or any assistance, advice, or training related to military activities to:

(A) The Government of Sudan;

(B) The Sudan Liberation Movement/Army;

(C) The Justice and Equality Movement;

(D) The Janjaweed; or

(E) Any person (other than a person listed in paragraph (a)(2)(v)(A) through (D) of this section) operating in the states of North Darfur, South Darfur, or West Darfur that is a belligerent, a nongovernmental entity, or an individual;

(vi) To be responsible for offensive military overflights in and over the Darfur region;

(vii) To have materially assisted, sponsored, or provided financial, material, or technological support for, or

goods or services in support of, the activities described in paragraphs (a)(2)(i) through (vi) of this section or any person whose property and interests in property are blocked pursuant to paragraphs (a)(1) through (2) of this section; or

(viii) To be owned or controlled by, or acting or purporting to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to paragraphs (a)(1) through (2) of this section.

(3) *E.O. 14098*. Any foreign person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To be responsible for, or complicit in, or to have directly or indirectly engaged or attempted to engage in, any of the following:

(A) Actions or policies that threaten the peace, security, or stability of Sudan;

(B) Actions or policies that obstruct, undermine, delay, or impede, or pose a significant risk of obstructing, undermining, delaying, or impeding, the formation or operation of a civilian transitional government, Sudan's transition to democracy, or a future democratically elected government;

(C) Actions or policies that have the purpose or effect of undermining democratic processes or institutions in Sudan;

(D) Censorship or other actions or policies that prohibit, limit, or penalize the exercise of freedoms of expression, association, or peaceful assembly by individuals in Sudan, or that limit access to free and independent news or information in or with respect to Sudan;

(E) Corruption, including bribery, misappropriation of state assets, and interference with public processes such as government oversight of parastatal budgets and revenues for personal benefit;

(F) Serious human rights abuse, including serious human rights abuse related to political repression, in or with respect to Sudan;

(G) The targeting of women, children, or any other civilians through the commission of acts of violence (including killing, maiming, torture, or rape or other sexual violence), abduction, forced displacement, or attacks on schools, hospitals, religious sites, or locations where civilians are seeking refuge, or through conduct that would constitute a serious abuse or violation of human rights or a violation of international humanitarian law;

(H) The obstruction of the activities of United Nations missions—including peacekeeping missions, as well as

diplomatic or humanitarian missions—in Sudan, or of the delivery of, distribution of, or access to humanitarian assistance; or

(I) Attacks against United Nations missions, including peacekeeping operations;

(ii) To be or have been a leader, official, senior executive officer, or member of the board of directors of any entity:

(A) That has, or whose members have, engaged in any activity described in paragraph (a)(3)(i) of this section relating to the tenure of such leader, official, senior executive officer, or member of the board of directors; or

(B) Whose property and interests in property are blocked pursuant to this order relating to the tenure of such leader, official, senior executive officer, or member of the board of directors;

(iii) To be a spouse or adult child of any person whose property and interests in property are blocked pursuant to paragraph (a)(3) of this section;

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

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

(b) The prohibitions in this section include, but are not limited to, prohibitions on the following transactions when engaged in by a United States person or within the United States:

(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 otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (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, any person whose property and interests in property are blocked pursuant to this section is prohibited.

This prohibition includes but is not limited to 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 such security 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 security may have or might appear to have assigned, transferred, or otherwise disposed of the security.

(d) The prohibitions in paragraph (a) of this section apply except to the extent provided by statutes, or in regulations, rulings, instructions, 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.

(e) All transactions prohibited pursuant to any Executive order issued after May 4, 2023 pursuant to the national emergency declared in E.O. 13067 of November 3, 1997 and expanded by E.O. 13400 of April 26, 2006 and E.O. 14098 of May 4, 2023 are prohibited pursuant to this part.

**Note 1 to § 546.201.** The names of persons listed in, or designated or identified as blocked pursuant to E.O. 13067, or any further Executive orders issued pursuant to the national emergency declared therein, whose property and interests in property therefore are blocked pursuant to this section, are published in the **Federal Register** and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) using the following identifiers: for E.O. 13400: “[DARFUR]”; for E.O. 14098: “[SUDAN–EO14098]”; and for any further Executive orders issued pursuant to the national emergency declared in E.O. 13067 using the identifier formulation “[SUDAN–E.O.[E.O. number pursuant to which the person's property and interests in property are blocked]].” 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. See § 546.411 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 § 546.201.** Section 203 of the International Emergency Economic Powers Act (50 U.S.C. 1702) 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 section also are published in the **Federal Register** and incorporated into the SDN List using the following identifiers: for E.O. 13400: “[BPI–DARFUR]”; for E.O. 14098,

“[BPI–SUDAN–EO14098]”; and for any further Executive orders issued pursuant to the national emergency declared in E.O. 13067: using the identifier formulation “[BPI–SUDAN–[E.O. number pursuant to which the person's property and interests in property are blocked pending investigation]].”

**Note 3 to § 546.201.** 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, or administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to this section.

- 4. Amend § 546.202 by:
  - a. Revising and republishing paragraph (a);
  - b. In paragraph (b), removing “§ 546.201(a)” and adding in its place “§ 546.201”.
  - c. Revising paragraph (c).
  - d. In paragraph (d)(3)(i), removing “license, or other directive” and adding in its place “order, directive, license.”.
  - e. Redesignating paragraph (e) as paragraph (f).
  - f. Redesignating Note to paragraph (d) of § 546.202 as paragraph (e).
  - g. In newly redesignated paragraph (e), removing “(d)(1) and (d)(2)” and adding in its place “(d)(1) and (2)”.
  - h. Revising newly redesignated paragraph (f);
  - i. Removing “the Director of the Office of Foreign Assets Control” wherever it appears and adding in its place “OFAC”.

The revisions read as follows:

**§ 546.202 Effect of transfers violating the provisions of this part.**

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, ruling, instruction, order, directive, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 546.201, is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or interest in property.

\* \* \* \* \*

(c) Unless otherwise provided, a license or other authorization issued by OFAC before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of this part and any regulation, ruling, instruction, order, directive, or license issued pursuant to this part.

\* \* \* \* \*

(f) Unless licensed pursuant to this part, any attachment, judgment, decree,

lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 546.201.

- 5. Revise § 546.205 to read as follows:

**§ 546.205 Evasions; attempts; causing violations; conspiracies.**

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

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

- 6. Add § 546.206 to read as follows:

**§ 546.206 Exempt transactions.**

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

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

(b) *International Emergency Economic Powers Act.* The prohibitions contained in this part do not apply to any transactions that are exempt pursuant to section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)).

(c) *Official business.* The prohibitions contained in § 546.201(a)(3) do not apply to transactions for the conduct of the official business of the United States Government or the United Nations (and its Specialized Agencies, Programmes, Funds, and Related Organizations) by employees, grantees, or contractors thereof.

**Note 2 to § 546.206.** See § 546.510 for a general license authorizing transactions for the conduct of the official business of the United States Government not otherwise exempt.

**Note 3 to § 546.206.** See § 546.511 for a general license authorizing transactions for the conduct of the official business of certain international organizations and entities not otherwise exempt.

**Subpart C—General Definitions****§§ 546.305 through 546.313**  
**[Redesignated]**

- 7. Redesignate §§ 546.305 through 546.313 as follows:

Old section	New section
546.305	546.308
546.306	546.309
546.307	546.311
546.308	546.312
546.309	546.313
546.310	546.314
546.311	546.315
546.312	546.316
546.313	546.305

- 8. Add § 546.300 to read as follows:

**§ 546.300 Applicability of definitions.**

The definitions in this subpart apply throughout the entire part.

- 9. Revise and republish § 546.302 to read as follows:

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

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibitions in § 546.201 held in the name of a person whose property and interests in property are blocked pursuant to § 546.201, 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 § 546.302:** See § 546.411 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 546.201.

- 10. Revise § 546.303 to read as follows:

**§ 546.303 Effective date.**

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

(1) With respect to a person whose property and interests in property are blocked pursuant to § 546.201(a)(1), 12:01 a.m. eastern daylight time, April 27, 2006;

(2) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 546.201, the earlier of the date of actual or constructive notice that such

person's property and interests in property are blocked.

(b) For the purposes of this section, *constructive notice* is the date that a notice of the blocking of the relevant person's property and interests in property is published in the **Federal Register**.

**§ 546.305 [Amended]**

- 11. Amend newly designated § 546.305 as follows:

■ a. Remove “, as used in § 546.201(a)(2)(vii) of this part,”.

■ b. Remove “ but not limited to”.

- 12. Add § 546.306 to read as follows:

**§ 546.306 Foreign person.**

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

**§ 546.307 [Reserved]**

- 13. Add and reserve § 546.307.

**§ 546.309 [Amended]**

- 14. Revise newly designated § 546.309 as follows:

(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: <https://ofac.treasury.gov/>.

(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: <https://ofac.treasury.gov/>.

- 15. Add § 546.310 to read as follows:

**§ 546.310 OFAC.**

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

**§ 546.312 [Amended]**

- 16. In newly designated § 546.312, remove “, but are not limited to,”.

**§ 546.313 [Amended]**

■ 17. Amend newly designated § 546.313 by removing “ and, without limitation upon the foregoing” and adding, in its place, “. Without limitation on the foregoing, it”.

- 18. Revise newly redesignated § 546.315 to read as follows:

**§ 546.315 U.S. financial institution.**

The term *U.S. financial institution* means any U.S. entity (including its foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, purchasing or

selling foreign exchange, securities, futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money services businesses, operators of credit card systems, trust companies, insurance companies, securities brokers and dealers, futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and 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.

**Subpart D—Interpretations**

- 19. Revise § 546.401 to read as follows:

**§ 546.401 Reference to amended sections.**

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

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

- 20. Revise § 546.402 to read as follows:

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

**§ 546.403 [Amended]**

- 21. Amend § 546.403 as follows:

■ a. In paragraph (a),

■ i. Add “ whose property and interests in property are blocked pursuant to § 546.201” after “away from a person”; and

- ii. Remove “or any other part of this chapter”; and
- b. Remove “§ 546.201(a)” wherever it appears and add in its place “§ 546.201”.
- 22. Revise § 546.404 to read as follows:

**§ 546.404 Transactions ordinarily incident to a licensed transaction.**

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

(1) An ordinarily incident transaction, not explicitly authorized within the terms of the license, by or with a person whose property and interests in property are blocked pursuant to § 546.201; or

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

(b) For example, a license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 546.201, also authorizes other persons to engage in activities that are ordinarily incident and necessary to complete the sale, including transactions by the buyer, broker, transfer agents, and banks, provided that such other persons are not themselves persons whose property and interests in property are blocked pursuant to § 546.201.

**§ 546.405 [Amended]**

- 23. Amend § 546.405 as follows:
  - a. In both places where it occurs, remove “§ 546.201(a)” and add in its place “§ 546.201”.
  - b. In Note to § 546.405, remove “§§ 546.507 and 546.508” and add in its place “§§ 546.507 and 546.509”.

**§ 546.410 [Amended]**

- 24. Amend § 546.410 by removing “bank” and adding in its place “financial institution”.
- 25. Add § 546.412 to read as follows:

**§ 546.412 Entities of which one or more blocked persons is a member, leader, official, senior executive officer, or otherwise exercises control.**

(a) The property and interests in property of an entity, including any political subdivision, agency, or instrumentality of a governmental entity, are not blocked solely because one or more persons whose property and interests in property are blocked pursuant to § 546.201 is a member, leader, official, senior executive officer, or otherwise exercises control.

**Note 1 to paragraph (a).** See § 546.411 concerning the blocked status of property and interests in property of an entity that is directly or indirectly owned, whether individually or in the aggregate, 50 percent or more by one or more persons whose property and interests in property are blocked pursuant to § 546.201.

(b) For example, U.S. persons may not, except as authorized or exempt pursuant to this part, engage in the following transactions with a person whose property and interests in property are blocked pursuant to § 546.201: enter into contracts that are signed by a blocked person, enter into negotiations with a blocked person, or process transactions, directly or indirectly, on behalf of a person whose property and interests in property are blocked pursuant to § 546.201. However, U.S. persons are not prohibited from engaging in a routine interaction with an agency in which a blocked person is an official, but which does not involve the blocked person directly or indirectly.

**Note 2 to § 546.412.** OFAC encourages U.S. persons to be cautious in engaging in transactions with any entity of which a person whose property and interests in property are blocked pursuant to § 546.201 is a member, leader, official, senior executive officer, or otherwise exercises control to ensure that U.S. persons are not engaged in transactions, directly or indirectly, with a blocked person, except as authorized or exempt pursuant to this part.

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

- 26. Redesignate §§ 546.508 through 546.512 as follows:

Old section	New section
546.508	546.509
546.509	546.510
546.510	546.511
546.511	546.512
546.512	546.513

- 27. Revise and republish § 546.501 to read as follows:

**§ 546.501 General and specific licensing procedures.**

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Sudan Stabilization Sanctions Regulations sanctions page on OFAC’s website: <https://ofac.treasury.gov>.

- 28. Revise § 546.502 to read as follows:

**§ 546.502 Effect of license or other authorization.**

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

(b) No regulation, ruling, instruction, order, directive, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, order, directive, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, order, directive, 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, order, directive, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, order, directive, or license authorizing any transaction 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, order, directive, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property that would not otherwise exist under ordinary principles of law.

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

(e) No license or other authorization contained in or issued pursuant to this part authorizes transfers of or payments from blocked property or debits to blocked accounts unless the license or other authorization explicitly authorizes the transfer of or payment from blocked property or the debit to a blocked account.

(f) Any payment relating to a transaction authorized in or pursuant to this part that is routed through the U.S. financial system should reference the

relevant OFAC general or specific license authorizing the payment to avoid the blocking or rejection of the transfer.

■ 29. Revise § 546.507 to read as follows:

**§ 546.507 Provision of certain legal services.**

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 546.201 is authorized, provided that any receipt of payment of professional fees and reimbursement of incurred expenses must be authorized pursuant to § 546.508, which authorizes certain payments for legal services from funds originating outside the United States; via specific license; or otherwise pursuant to this part:

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

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

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

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

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

(b) The provision of any other legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 546.201, 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 paragraph (a) of this section. Additionally, U.S. persons who provide services authorized by paragraph (a) of this section do not need to obtain specific authorization to contract for related services that are ordinarily incident to the provision of those legal

services, such as those provided by private investigators or expert witnesses, or to pay for such services. See § 546.404.

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

**Note 1 to § 546.507.** Pursuant to part 501, subpart E, of this chapter, U.S. persons seeking administrative reconsideration or judicial review of their designation or the blocking of their property and interests in property may apply for a specific license from OFAC to authorize the release of certain blocked funds for the payment of professional fees and reimbursement of incurred expenses for the provision of such legal services where alternative funding sources are not available.

■ 30. Add § 546.508 to read as follows:

**§ 546.508 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 § 546.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 546.201, 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 § 546.507(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) Nothing in this paragraph (a) authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 546.201, any other part of this chapter, or any Executive order or statute has an interest.

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

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

(2) If applicable:

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

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

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

(3) These records must be furnished to OFAC on demand consistent with § 501.602 of this chapter.

■ 31. Revise newly redesignated § 546.509 to read as follows:

**§ 546.509 Emergency medical services.**

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

■ 32. Amend newly redesignated § 546.511 by:

■ a. In paragraph (a)(5), removing “and”;

■ b. In paragraph (a)(6), removing “.” and adding in its place “; and”; and

■ c. Adding paragraph (a)(7).

The addition reads as follows:

**§ 546.511 Official business of certain international organizations and entities.**

\* \* \* \* \*

(a) \* \* \*

(7) The African Union, including the African Union Commission and other subsidiary bodies and organs.

\* \* \* \* \*

■ 33. Revise newly redesignated § 546.513 to read as follows:

**§ 546.513 Transactions related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components, or software updates, and the extraction, processing, transport, sale, or distribution of water in Sudan.**

(a) All transactions prohibited by this part that are related to the provision of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices to Sudan or to persons in third countries purchasing specifically for resale to Sudan, or to an individual whose property and interests in property are blocked pursuant to this part in quantities consistent with personal, non-commercial use, are authorized.

(b) All transactions prohibited by this part that are related to the extraction, processing, transport, sale, or distribution of water, including the

maintenance or repair of water pipelines, are authorized.

(c) For the purposes of this general license, agricultural commodities, medicine, and medical devices are defined as follows:

(1) *Agricultural commodities.*

Agricultural commodities are products:

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

(ii) That are intended for ultimate use in Sudan as:

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

(B) Seeds for food crops;

(C) Fertilizers or organic fertilizers; or

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

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

(3) *Medical devices.* A medical device is an item that falls within the definition of “device” in section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321).

**Note 1 to § 546.513.** This general license does not relieve any person authorized thereunder from complying with any other applicable laws or regulations.

### Subpart G—Penalties and Findings of Violation

■ 34. Revise the heading of subpart G to read as set forth above.

■ 35. Revise § 546.701 to read as follows:

#### § 546.701 Penalties.

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

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

(2) IEEPA provides for a maximum civil penalty not to exceed the greater of

\$368,136 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

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

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

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

(c) Pursuant to 18 U.S.C. 1001, whoever, in any matter within the 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; or makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, imprisoned, or both.

(d) Section 5(b) of the United Nations Participation Act, as amended (22 U.S.C. 287c(b)) (UNPA), provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to Section 5(a) of the UNPA shall, upon conviction, be fined not more than \$1,000,000 and, if a natural person, be imprisoned for not more than 20 years, or both.

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

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

■ 36. Revise § 546.702 to read as follows:

#### § 546.702 Pre-Penalty Notice; settlement.

(a) *When required.* If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any regulation, ruling, instruction, order, directive, or license issued by or pursuant to the direction or authorization of the Secretary of the

Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) and determines that a civil monetary penalty is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency’s intent to impose a monetary penalty. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, *see* appendix A to part 501 of this chapter.

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

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

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

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) *Form and method of response.* A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof (electronic signature is acceptable), contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and include the OFAC identification number listed on the Pre-Penalty Notice. The response must be sent to OFAC’s Enforcement Division by mail or courier or email and must be postmarked or

date-stamped in accordance with paragraph (b)(2) of this section.

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

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

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

■ 37. Add § 546.705 to read as follows:

**§ 546.705 Findings of Violation.**

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

(i) Determines that there has occurred a violation of any provision of this part, or a violation of the provisions of any regulation, ruling, instruction, order, directive, or license issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*);

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

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

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

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

(2) *Deadline for response; default determination.* A response to an initial Finding of Violation must be made within 30 days as set forth in paragraphs (b)(2)(i) and (ii) of this section. The failure to submit a response within 30 days shall be deemed to be a waiver of

the right to respond, and the initial Finding of Violation will become final and will constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

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

(ii) *Extensions of time for response.* If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

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

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

(c) *Determination*—(1) *Determination that a Finding of Violation is warranted.* If, after considering the response, OFAC

determines that a final Finding of Violation should be issued, OFAC will issue a final Finding of Violation that will inform the violator of its decision. A final Finding of Violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

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

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

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

**Subpart H—Procedures. [Amended]**

■ 38. Revise and republish § 546.802 to read as follows:

**§ 546.802 Delegation of certain authorities of the Secretary of the Treasury**

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13400, Executive Order 14098, and any further Executive orders relating to the national emergency declared in Executive Order 13067, may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

**§ § 546.503, 546.704. [Amended]**

■ 39. In addition to the amendments set forth above, in 31 CFR part 546, remove the words “the Director of the Office of Foreign Assets Control” and add, in their place, the words “OFAC” in the following places:

- a. Section 546.503; and
- b. Section 546.704.

**§ § 546.203, 546.204, 546.408, 546.703. [Amended]**

■ 40. In addition to the amendments set forth above, in 31 CFR part 546, remove the words “the Office of Foreign Assets Control” and add, in their place, the words “OFAC” in the following places:

- a. Section 546.203(a) and (c);

- b. Section 546.204(b);
- c. Section 546.408; and
- d. Section 546.703.

**§§ 546.203, 546.204, 546.406, 546.408, 546.409, 546.504, and 546.506. [Amended]**

■ 41. In addition to the amendments set forth above, in 31 CFR part 546, remove the words “546.201(a)” and add, in their place, the words “546.201” in the following places:

- a. Section 546.203(a), (c), (d), and (f);
- b. Section 546.204(a) and (b);
- c. Section 546.406;
- d. Section 546.408;
- e. Section 546.409;
- f. Section 546.504; and
- g. Section 546.506.

**Bradley T. Smith,**

*Director, Office of Foreign Assets Control.*

[FR Doc. 2024-04500 Filed 3-1-24; 8:45 am]

BILLING CODE 4810-AL-P

## DEPARTMENT OF VETERANS AFFAIRS

### 38 CFR Part 3

#### Processing Applications for Health Care, Sergeant First Class Heath Robinson Honoring Our Promise To Address Comprehensive Toxics Act of 2022, or the Honoring Our PACT Act of 2022

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notification of sub-regulatory guidance.

**SUMMARY:** This notice informs the public of the Department of Veterans Affairs (VA) implementation of the Honoring our PACT Act of 2022, which expands health care to three new cohorts of toxic-exposed veterans.

**DATES:** The guidance is effective upon publication. VA invites comments on this notice and its plan for implementation. To ensure VA considers your comment, comments are to be submitted on or before April 4, 2024.

**ADDRESSES:** Comments must be submitted through [www.regulations.gov](http://www.regulations.gov). Except as provided below, comments received before the close of the comment period will be available at [www.regulations.gov](http://www.regulations.gov) for public viewing, inspection, or copying, including any personally identifiable or confidential business information that is included in a comment. We post the comments received before the close of the comment period on [www.regulations.gov](http://www.regulations.gov) as soon as possible after they have been received. VA will not post on [www.regulations.gov](http://www.regulations.gov) public

comments that make threats to individuals or institutions or suggest that the commenter will take actions to harm an individual. VA encourages individuals not to submit duplicative comments; however, we will post comments from multiple unique commenters even if the content is identical or nearly identical to other comments. Any public comment received after the comment period's closing date is considered late and will not be considered.

**FOR FURTHER INFORMATION CONTACT:**

Ralph Weishaar, Director, Business Support Office, VHA Member Services (15MEM) Business Policy, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, 202-461-9700 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On August 10, 2022, the President signed into law the Honoring our PACT Act of 2022 (the PACT Act), Public Law 117-168. Section 103(a)(1) of the PACT Act amended section 1710(e)(1) of title 38, United States Code (U.S.C.) to establish eligibility for hospital care, medical services, and nursing home care for three new cohorts of toxic-exposed veterans. Sections 1710(e)(1)(G) through (I) describe these three new cohorts of toxic-exposed veterans as follows:

- Cohort 1: Veterans who participated in a toxic exposure risk activity while serving on active duty, active duty for training, or inactive duty training. (See 38 U.S.C. 1710(e)(1)(G)).
- Cohort 2: Covered veterans as defined in 38 U.S.C. 1119(c). (See 38 U.S.C. 1710(e)(1)(H)). Covered veterans are those veterans who:
  - Performed active military, naval, air, or space service on or after August 2, 1990, while assigned to a duty station in (including airspace above): Bahrain, Iraq, Kuwait, Oman, Qatar, Saudi Arabia, Somalia, or the United Arab Emirates; or
  - Performed active military, naval, air, or space service on or after September 11, 2001, while assigned to a duty station in (including airspace above) Afghanistan, Djibouti, Egypt, Jordan, Lebanon, Syria, Yemen, Uzbekistan, or any other country determined relevant by VA (note: VA has not determined any other country relevant at this time).

- Cohort 3: Veterans who deployed in support of Operation Enduring Freedom, Operation Freedom's Sentinel, Operation Iraqi Freedom, Operation New Dawn, Operation Inherent Resolve, and Resolute Support Mission. (See 38 U.S.C. 1710(e)(1)(I)).

Section 1710(e)(6)(A), as added by section 103(a) of the PACT Act, established a specific schedule for eligibility for these veterans depending upon their cohort and their date of discharge or release from the Armed Forces. However, section 1710(e)(6)(B)(i) authorizes VA to modify, to an earlier date, the start dates of VA health care eligibility for the three new cohorts of toxic-exposed veterans. The Secretary has determined modifying these dates is appropriate based on the number of veterans receiving hospital care, medical services, and nursing home care under section 1710(e)(1)(G) through (I) and the resources available to VA.

Consequently, VA is announcing that, effective March 5, 2024, veterans in the three cohorts described above, corresponding to section 1710(e)(1)(G) through (I), are eligible to enroll in VA health care on this basis. Modifying the phased-in schedule to an earlier single eligibility expansion date will provide an all-at-once approach for newly eligible veterans based on the amendments made by section 103(a) of the PACT Act.

To help expedite the VA health care Priority Group upgrade process, VA is developing and will implement system enhancements to VHA's Enrollment System (VES) to assess the enrollment records of veterans who VA enrolled in Priority Group 6 based on their status as a combat veteran (as described in 38 U.S.C. 1710(e)(1)(D)) to determine their eligibility for continued assignment to Priority Group 6 based on their qualification in Cohort 2 or 3. Additionally, VES will assess the enrollment records of veterans enrolled in Priority Groups 7 and 8 to determine their eligibility for assignment to Priority Group 6 under Cohort 2 or 3. By the end of fiscal year 2024, VA will begin conducting targeted outreach to veterans currently enrolled in Priority Groups 7 and 8 whom VA could not determine eligibility for assignment to Priority Group 6 based on being in Cohorts 1, 2, or 3. VA will provide guidance to these veterans on the new authorities, along with instructions on how to submit a VA Form 10-10EZR, Health Benefits Update Form, for consideration of an upgrade to their enrollment Priority Group.

#### Eligibility Based on Toxic Exposure Risk Activity (TERA)

*Background:* Cohort 1 veterans are those who participated in a toxic exposure risk activity (TERA) while serving on active duty, active duty for training, or inactive duty training. If the veteran only participated in a TERA