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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 541

Zimbabwe 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 adopting as final, with changes, the Zimbabwe Sanctions Regulations that previously were published in an interim final rule. These changes primarily amend the Zimbabwe Sanctions Regulations to implement Executive Order 13391 of November 22, 2005, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe," and Executive Order 13469 of July 25, 2008, "Blocking Property of Additional Persons Undermining Democratic Processes or Institutions in Zimbabwe."

DATES: Effective: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Assistant Director for Licensing, tel.: 202/622-2480, Assistant Director for Policy, tel.: 202/622-6746, Assistant Director for Regulatory Affairs, tel.: 202/622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, OFAC, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's website (www.treasury.gov/ofac). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Background

OFAC originally issued the Zimbabwe Sanctions Regulations, 31 CFR Part 541, on July 29, 2004 (the "Regulations"), as an interim final rule to implement Executive Order 13288 of March 6, 2003, "Blocking Property of Persons Undermining Democratic Processes or Institutions in Zimbabwe" (68 FR 11457, March 10, 2003) (E.O. 13288), effective at 12:01 eastern standard time on March 7, 2003. In E.O. 13288, the President, invoking the authority of,

inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) (IEEPA), determined that the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions, contributing to the deliberate breakdown in the rule of law in Zimbabwe, to politically motivated violence and intimidation in that country, and to political and economic instability in the southern African region, constitute an unusual and extraordinary threat to the foreign policy of the United States and declared a national emergency to deal with that threat. In E.O. 13288, the President ordered the blocking, with certain exceptions, of 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 United States persons, including their overseas branches, of: (1) the persons listed in the Annex to E.O. 13288; and (2) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be owned or controlled by, or acting or purporting to act directly or indirectly for or on behalf of, any of the persons listed in the Annex to E.O. 13288. The property and interests in property of these persons may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

OFAC is adopting as a final rule the interim final rule originally issued on July 29, 2004 (69 FR 45246), with changes to implement two more recent Executive orders and update the Regulations as set forth below.

On November 22, 2005, the President, invoking the authority of, inter alia, IEEPA, issued Executive Order 13391 (70 FR 71201, November 25, 2005) (E.O. 13391), effective at 12:01 a.m. eastern standard time on November 23, 2005. In E.O. 13391, the President took additional steps

with respect to the continued actions and policies of certain persons who undermine Zimbabwe's democratic processes or institutions and with respect to the national emergency described and declared in E.O. 13288.

Section 1 of E.O. 13391 provides that the Annex to E.O. 13288, which contained the names of 77 individuals, is replaced and superseded in its entirety by the Annex to E.O. 13391, containing the names of 128 individuals and 33 entities.

Section 2 of E.O. 13391 amends E.O. 13288 by renumbering section 6 of E.O. 13288 as section 8, and by replacing sections 1 through 5 of E.O. 13288 with new sections 1 through 7. New section 1(a) of E.O. 13288, as amended by E.O. 13391 (amended E.O. 13288) 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 United States persons, including their overseas branches, of: (1) the persons listed in the Annex to amended E.O. 13288; and (2) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State: (i) to have engaged in actions or policies to undermine Zimbabwe's democratic processes or institutions; (ii) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, such actions or policies or any person whose property and interests in property are blocked pursuant to amended E.O. 13288; (iii) to be or have been an immediate family member of any person whose property and interests in property are blocked pursuant to amended E.O. 13288; or (iv) 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 amended E.O.

13288. The property and interests in property of these persons may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

In new section 1(b) of amended E.O. 13288, the President determined that the making of donations of certain articles, such as food, clothing, and medicine, intended to be used to relieve human suffering, as specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)), by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to amended E.O. 13288, would seriously impair his ability to deal with the national emergency declared in E.O. 13288. The President, therefore, prohibited the donation of such items unless authorized by OFAC.

New section 1(c) of amended E.O. 13288 replaces old section 2(a) and provides that the prohibition on any transaction or dealing in blocked property or interests in property includes, but is not limited to, 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 amended E.O. 13288, and the receipt of any contribution or provision of funds, goods, or services from any such person.

New sections 2(a) and 2(b) of amended E.O. 13288 renumber old sections 2(b) and 2(c), and prohibit any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in amended E.O. 13288 as well as any conspiracy formed to violate such prohibitions.

New section 5 of amended E.O. 13288 replaces old section 4 and 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 amended E.O. 13288. Section 5 of amended E.O. 13288 also provides that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. Government.

On July 25, 2008, the President, invoking the authority of, inter alia, IEEPA, issued Executive Order 13469 (73 FR 43841, July 29, 2008) (E.O. 13469). In E.O. 13469, the President found that the continued actions and policies of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions, manifested in the fundamentally undemocratic election held on June 27, 2008, to commit acts of violence and other human rights abuses against political opponents, and to engage in public corruption, including by misusing public authority, constitute an unusual and extraordinary threat to the foreign policy of the United States. To deal with that threat, the President expanded the scope of the national emergency declared in E.O. 13288 and relied upon for additional steps taken in E.O. 13391.

Section 1(a) of E.O. 13469 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 United States persons, including their overseas branches, of any person determined by the Secretary of the Treasury, after consultation with the Secretary of State: (i) to be a senior official of the Government of Zimbabwe; (ii) to be owned or controlled by, directly or indirectly, the Government of Zimbabwe or an official or officials of the

Government of Zimbabwe; (iii) to have engaged in actions or policies to undermine Zimbabwe's democratic processes or institutions; (iv) to be responsible for, or to have participated in, human rights abuses related to political repression in Zimbabwe; (v) to be engaged in, or to have engaged in, activities facilitating public corruption by senior officials of the Government of Zimbabwe; (vi) to be a spouse or dependent child of any person whose property and interests in property are blocked pursuant to E.O. 13288, E.O. 13391, or E.O. 13469; (vii) to have materially assisted, sponsored, or provided financial, material, logistical or technical support for, or goods or services in support of, the Government of Zimbabwe, any senior official thereof, or any person whose property and interests in property are blocked pursuant to E.O. 13288, E.O. 13391, or E.O. 13469; or (viii) 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. 13288, E.O. 13391, or E.O. 13469. The property and interests in property of the persons described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Sections 1(b) and 1(c) of E.O. 13469 contain provisions nearly identical to the same sections in amended E.O. 13288. Section 1(d) of E.O. 13469 states that the provisions of E.O. 13288 and E.O. 13391 remain in effect, and that E.O. 13469 does not affect any action taken pursuant to those orders. Sections 2 and 5 of E.O. 13469 also contain provisions nearly identical to the same sections in amended E.O. 13288.

OFAC today is amending the Regulations to implement the relevant provisions of E.O. 13391 and E.O. 13469, as well as to update certain provisions and to make other technical and

conforming changes. OFAC is revising and republishing in its entirety subpart B of the Regulations, which sets forth the prohibitions contained in the Executive orders. In particular, OFAC is revising § 541.201 to incorporate the new designation criteria provided for in E.O. 13391 and E.O. 13469.

In subpart C, which defines key terms used throughout the Regulations, new §§ 541.313 through 541.315 are being added to define key terms used in the new blocking prohibitions or elsewhere in the Regulations. Also, certain existing definitions in subpart C are being updated or revised to take account of new provisions and to provide greater clarity with respect to the terms being used.

This rule also revises and republishes in its entirety subpart D, which contains interpretive sections regarding the Regulations. In particular, new § 541.408 is being added to clarify prohibitions with respect to charitable contributions, and new § 541.411 is being added to clarify that a person whose property and interests are blocked pursuant to this program has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest.

Transactions otherwise prohibited under 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. This rule also amends subpart E. In particular, a general license is being added in § 541.508, authorizing payments from outside the United States for the provision of

legal services authorized in § 541.507. In addition, a general license that previously had been posted only on OFAC's website is being added in § 541.510, authorizing all transactions involving Agricultural Development Bank of Zimbabwe and Infrastructure Development Bank of Zimbabwe, subject to certain limitations.

Finally, this rule revises subparts G and H of the Regulations and republishes them in their entirety. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty. Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of authority by the Secretary of the Treasury.

Public Participation

Because the amendment of 31 CFR part 541 involves a foreign affairs function, the provisions of Executive Order 12866 of September 30, 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 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 541

Administrative practice and procedure, Banks, Banking, Blocking of assets, Credit, Foreign Trade, Penalties, Reporting and recordkeeping requirements, Securities, Services, Zimbabwe.

For the reasons set forth in the preamble, the Department of the Treasury’s Office of Foreign Assets Control is adopting the interim final rule of July 29, 2004 (see 69 FR 45246), as final, with the following changes:

PART 541 – ZIMBABWE SANCTIONS REGULATIONS

1. The authority citation for part 541 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; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110-96, 121 Stat. 1011 (50 U.S.C. 1705

note); E.O. 13288, 68 FR 11457, 3 CFR, 2003 Comp., p. 186; E.O. 13391, 70 FR 71201, 3 CFR, 2005 Comp., p. 206; E.O. 13469, 73 FR 43841, 3 CFR, 2008 Comp., p. 1025.

2. Revise subpart B to read as follows:

Subpart B—Prohibitions

Sec.

541.201 Prohibited transactions involving blocked property.

541.202 Effect of transfers violating the provisions of this part.

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

541.204 Evasions; attempts; causing violations; conspiracies.

541.205 Expenses of maintaining blocked physical property; liquidation of blocked property.

541.206 Exempt transactions.

Subpart B—Prohibitions

§ 541.201 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 United States person, including any foreign branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) The persons listed in the Annex to Executive Order 13288 of March 6, 2003, as amended by Executive Order 13391 of November 22, 2005;

(2) Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) To have engaged in actions or policies to undermine Zimbabwe's democratic processes or institutions;

(ii) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, actions or policies described in paragraph (a)(2)(i) of this section or any person whose property and interests in property are blocked pursuant to paragraphs (a)(1) or (a)(2) of this section;

(iii) To be or have been an immediate family member of any person whose property and interest in property are blocked pursuant to paragraphs (a)(1) or (a)(2) of this section; or

(iv) 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) or (a)(2) of this section; and

(3) Any person determined by the Secretary of the Treasury, after consultation with the Secretary of State:

- (i) To be a senior official of the Government of Zimbabwe;

- (ii) To be owned or controlled by, directly or indirectly, the Government of Zimbabwe or an official or officials of the Government of Zimbabwe;

- (iii) To have engaged in actions or policies to undermine Zimbabwe's democratic processes or institutions;

- (iv) To be responsible for, or to have participated in, human rights abuses related to political repression in Zimbabwe;

- (v) To be engaged in, or to have engaged in, activities facilitating public corruption by senior officials of the Government of Zimbabwe;

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

- (vii) To have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the Government of Zimbabwe, any senior official thereof, or any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; or

(viii) 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) of this section.

Note 1 to paragraph (a) of § 541.201: The names of persons listed in or designated pursuant to Executive Order 13288 of March 6, 2003, Executive Order 13391 of November 22, 2005, or Executive Order 13469 of July 25, 2008, whose property and interests in property are blocked pursuant to paragraph (a) of this section, are published in the Federal Register and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier "[ZIMBABWE]." The SDN List is accessible through the following page on OFAC's website: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in Appendix A to this chapter. (See § 541.411 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) of § 541.201: The International Emergency Economic Powers Act (50 U.S.C. 1701-1706), in section 203 (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 paragraph (a) of this section also are published in the Federal Register and incorporated into the SDN List with the identifier "[BPI-ZIMBABWE]."

Note 3 to paragraph (a) of § 541.201: 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 paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include, but are not limited to, 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 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 paragraph (a) of 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 transactions are authorized by regulations, orders, directives, rulings, instructions, licenses, or otherwise, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 541.202 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, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 541.201(a), is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interest.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 541.201(a), unless the person who holds or maintains such

property, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(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, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Transfers of property that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property is or was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of OFAC each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property is or was held or maintained (and as to such person only);

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

(3) The person with whom such property is or was held or maintained filed with OFAC a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other directive or authorization issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by OFAC; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 541.202: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) 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 and interests in property blocked pursuant to § 541.201(a).

§ 541.203 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 by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 541.201(a) 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 § 541.201(a) 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 § 541.201(a) 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 chattels or real estate, 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 § 541.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 541.204 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction by a U.S. person or within the United States 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 any of the prohibitions set forth in this part is prohibited.

§ 541.205 Expenses of maintaining blocked physical 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 physical property blocked pursuant to § 541.201(a) 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 § 541.201(a) 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.

§ 541.206 Exempt transactions.

(a) Personal communications. The prohibitions contained in this part do not apply to any postal, telegraphic, telephonic, or other personal communication that does not involve the transfer of anything of value.

(b) Information or informational materials. (1) The prohibitions contained in this part do not apply to the importation from any country and the exportation to any country of any information or informational materials, as defined in § 541.304, whether commercial or otherwise, regardless of format or medium of transmission.

(2) This section does not exempt from regulation or authorize transactions related to information or informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include, but are not limited to, payment of advances for information or informational materials not yet created and completed (with the exception of prepaid subscriptions for widely circulated magazines and other periodical publications); provision of services to market, produce or co-produce, create, or assist in the creation of information or informational materials; and payment of royalties with respect to income received for enhancements or alterations made by U.S. persons to such information or informational materials.

(3) This section does not exempt or authorize transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730-774, or to the exportation of goods (including software) or technology for use in the transmission of any data,

or to the provision, sale, or leasing of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity) for use in the transmission of any data. The exportation of such items or services and the provision, sale, or leasing of such capacity or facilities to a person whose property and interests in property are blocked pursuant to § 541.201(a) are prohibited.

(c) Travel. The prohibitions contained in this part do not apply to transactions ordinarily incident to travel to or from any country, including importation or exportation of accompanied baggage for personal use, maintenance within any country including payment of living expenses and acquisition of goods or services for personal use, and arrangement or facilitation of such travel, including nonscheduled air, sea, or land voyages.

Subpart C—General Definitions

3. Add new § 541.300 to read as follows:

§ 541.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

4. Revise § 541.301 to read as follows:

§ 541.301 Blocked account; blocked property.

The terms blocked account and blocked property shall mean any account or property subject to the prohibitions in § 541.201 held in the name of a person whose property and interests in property are blocked pursuant to § 541.201(a), 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 to § 541.301: See § 541.411 concerning the blocked status of property and interests in property of an entity that is 50 percent or more owned by a person whose property and interests in property are blocked pursuant to § 541.201(a).

5. Revise § 541.302 to read as follows:

§ 541.302 Effective date.

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

(a) Except as set forth in paragraph (c) of this section, with respect to a person whose property and interests in property are blocked pursuant to § 541.201(a)(1):

(1) As a result of being listed in the Annex to Executive Order 13391 of November 22, 2005, and except as provided in paragraph (a)(3) of this section, 12:01 a.m. eastern standard time on November 23, 2005;

(2) As a result of initially being listed in the Annex to Executive Order 13288 of March 6, 2003, and subsequently being listed in the Annex to Executive Order 13391 of November 22, 2005, 12:01 a.m. eastern standard time on March 7, 2003; or

(3) As a result of a determination pursuant to section 1(b) of Executive Order 13288 of March 6, 2003, as originally issued, regardless of whether the person was subsequently listed in the Annex to Executive Order 13391 of November 22, 2005, the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked;

(b) Except as set forth in paragraphs (a) and (c) of this section, with respect to a person whose property and interests in property are otherwise blocked pursuant to § 541.201(a), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked; and

(c) With respect to the prohibition in § 541.201, as further explained in § 541.408, on the making of donations of articles, such as food, clothing, and medicine, intended to be used to relieve human suffering by, to, or for the benefit of persons whose property and interests in property are blocked pursuant to § 541.201(a), the later of the effective date as set forth in

paragraphs (a) and (b) of this section and 12:01 a.m. eastern standard time on November 23, 2005.

6. Revise § 541.306 to read as follows:

§ 541.306 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term license means any license or authorization contained in or issued pursuant to this part.

(b) The term general license means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: www.treasury.gov/ofac.

(c) The term specific license means any license or authorization issued pursuant to this part, but not set forth in subpart E of this part or made available on OFAC's website: www.treasury.gov/ofac.

Note to § 541.306: See § 501.801 of this chapter on licensing procedures.

7. Revise § 541.309 to read as follows:

§ 541.309 Transfer.

The term transfer means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation on the foregoing, it shall include the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order, or the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

8. Revise § 541.311 to read as follows:

§ 541.311 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 a loan or other extension of credit, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It

includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions that are located in the United States, but not such institutions' foreign branches, offices, or agencies.

9. Add new § 541.313 to read as follows:

§ 541.313 Financial, material, or technological support; financial, material, logistical, or technical support.

The terms financial, material, or technological support, and financial, material, logistical, or technical support as used in, respectively, §§ 541.201(a)(2)(ii) and 541.201(a)(3)(vii), mean any property, tangible or intangible, including but not limited to currency, financial instruments, securities, or any other transmission of value; weapons or related materiel; chemical or biological agents; explosives; false documentation or identification; communications equipment; computers; electronic or other devices or equipment; technologies; lodging; safe houses; facilities; vehicles or other means of transportation; or goods. “Technologies” as used in this definition means specific information necessary for the development, production, or use of a product, including related technical data such as blueprints, plans, diagrams, models, formulae, tables, engineering designs and specifications, manuals, or other recorded instructions.

10. Add new § 541.314 to read as follows:

§ 541.314 Government of Zimbabwe

The term Government of Zimbabwe means the Government of Zimbabwe, its agencies, instrumentalities, and controlled entities.

11. Add new § 541.315 to read as follows:

§ 541.315 OFAC.

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

12. Revise subpart D to read as follows:

Subpart D-Interpretations

Sec.

541.401 Reference to amended sections.

541.402 Effect of amendment.

541.403 Termination and acquisition of an interest in blocked property.

541.404 Transactions ordinarily incident to a licensed transaction.

541.405 Provision of services.

541.406 Offshore transactions involving blocked property.

541.407 Payments from blocked accounts to satisfy obligations prohibited.

541.408 Charitable contributions

541.409 Credit extended and cards issued by U.S. financial institutions to a person whose property and interests in property are blocked.

541.410 Setoffs prohibited.

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

Subpart D-Interpretations

§ 541.401 Reference to amended sections.

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

§ 541.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by 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 order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

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

(a) Whenever a transaction licensed or authorized by or pursuant to this part results in the transfer of property (including any property interest) away from a person whose property and interests in property are blocked pursuant to § 541.201(a), such property shall no longer be deemed to be property blocked pursuant to § 541.201(a), unless there exists in the property another interest that is blocked pursuant to § 541.201(a), the transfer of which has not been effected pursuant to license or other authorization.

(b) Unless otherwise specifically provided in a license or authorization issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property and interests in property are blocked pursuant to § 541.201(a), such property shall be deemed to be property in which such a person has an interest and therefore blocked.

§ 541.404 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 § 541.201(a); 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) Example. A license authorizing a person to complete a securities sale involving Company A, whose property and interests in property are blocked pursuant to § 541.201(a), 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 § 541.201(a).

§ 541.405 Provision of services.

(a) The prohibitions on transactions contained in § 541.201 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 person whose property and interests in property are blocked pursuant to § 541.201(a); or

(2) With respect to property interests of any person whose property and interests in property are blocked pursuant to § 541.201(a).

(b) 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 person whose property and interests in property are blocked pursuant to § 541.201(a).

Note to § 541.405: See §§ 541.507 and 541.509 on licensing policy with regard to the provision of certain legal and emergency medical services.

§ 541.406 Offshore transactions involving blocked property.

The prohibitions in § 541.201 on transactions or dealings involving blocked property apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of a person whose property and interests in property are blocked pursuant to § 541.201(a).

§ 541.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 541.201, no debits may be made to a blocked account to pay obligations to U.S. persons or other persons, except as authorized by or pursuant to this part.

Note to § 541.407: See also § 541.502(e), which provides that 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.

§ 541.408 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 person whose property and interests in property are blocked pursuant to § 541.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, a person whose property and interests in property are blocked pursuant to § 541.201(a) 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.

§ 541.409 Credit extended and cards issued by U.S. financial institutions to a person whose property and interests in property are blocked.

The prohibition in § 541.201 on dealing in property subject to that section prohibits U.S. financial institutions from performing under any existing credit agreements, including, but not limited to, charge cards, debit cards, or other credit facilities issued by a U.S. financial institution to a person whose property and interests in property are blocked pursuant to § 541.201(a).

§ 541.410 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 § 541.201 if effected after the effective date.

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

A person whose property and interests in property are blocked pursuant to § 541.201(a) has an interest in all property and interests in property of an entity in which it owns, directly or indirectly, a 50 percent or greater interest. The property and interests in property of such an entity, therefore, are blocked, and such an entity is a person whose property and interests in property are blocked pursuant to § 541.201(a), regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

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

13. Revise § 541.501 to read as follows:

§ 541.501 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 Zimbabwe sanctions page on OFAC's website: www.treasury.gov/ofac.

14. Amend § 541.502 by revising paragraphs (a) and (b) and adding new paragraphs (d), (e), and (f) to read as follows:

§ 541.502 Effect of license or 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, or license authorizes any transaction prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

* * * * *

(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 which are not prohibited by this part or which 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.

15. Revise § 541.503 to read as follows:

§ 541.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

16. Revise § 541.504 to read as follows:

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

Any payment of funds or transfer of credit in which a person whose property and interests in property are blocked pursuant to § 541.201(a) has any interest that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may be made only to another blocked account held in the same name.

Note to § 541.504: See § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. See also § 541.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

17. Amend § 541.505 by revising paragraph (b) to read as follows:

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

* * * * *

(b) As used in this section, the term normal service charges shall include charges in payment or reimbursement for interest due; cable, telegraph, internet, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; and, but not by way of limitation, minimum balance charges, notary and protest fees, and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

18. Amend § 541.506 by revising paragraph (c) to read as follows:

§ 541.506 Investment and reinvestment of certain funds.

* * * * *

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to a person whose property and interests in property are blocked pursuant to § 541.201(a).

19. Revise § 541.507 to read as follows:

§ 541.507 Provision of certain legal services authorized.

(a) The provision of the following legal services to or on behalf of persons whose property and interests in property are blocked pursuant to § 541.201(a) or any further Executive orders relating to the national emergency declared in E.O. 13288 of March 6, 2003, is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be specifically licensed or otherwise authorized pursuant to § 541.508:

(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 persons whose property and interests in property are blocked pursuant to § 541.201(a) or any further Executive orders relating to the national emergency declared in E.O. 13288 of March 6, 2003, not otherwise authorized in this part, requires the issuance of a specific license.

(c) 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 § 541.201(a) or any further Executive orders relating to the national emergency declared in E.O. 13288 of March 6, 2003, is prohibited unless licensed pursuant to this part.

Note to § 541.507: 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 a limited amount of blocked funds for the payment of legal fees where alternative funding sources are not available. For more information, see OFAC's [Guidance on the Release of Limited Amounts of Blocked Funds for Payment of Legal Fees and Costs Incurred in Challenging the Blocking of U.S. Persons in Administrative or Civil Proceedings](#), which is available on OFAC's website: www.treasury.gov/ofac.

20. Redesignate § 541.508 as § 541.509.

21. Add new § 541.508 to read as follows:

§ 541.508 Payments for legal services from funds outside the United States authorized.

Receipts of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 541.507(a) to or on behalf of any person whose property and interests in property are blocked pursuant to § 541.201(a) or any further Executive orders relating to the national emergency declared in E.O. 13288 of March 6, 2003, are authorized from funds originating outside the United States, provided that:

(a) Prior to receiving payment for legal services authorized pursuant to § 541.507(a) rendered to persons whose property and interests in property are blocked pursuant to § 541.201(a) or any further Executive orders relating to the national emergency declared in E.O. 13288 of March 6, 2003, the U.S. person that is an attorney, law firm, or legal services organization provides to OFAC a copy of a letter of engagement or a letter of intent to engage specifying the services to be performed and signed by the individual to whom such services are to be provided or, where services are to be provided to an entity, by a legal representative of the entity. The copy of a letter of engagement or a letter of intent to engage, accompanied by correspondence referencing this paragraph (a), is to be mailed to: Licensing Division, Office of

Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W.,
Annex, Washington, DC 20220.

(b) The funds received by U.S. persons as payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 541.507(a) must not originate from:

(1) A source within the United States;

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

(3) Any individual or entity, other than the person on whose behalf the legal services authorized pursuant to § 541.507(a) are to be provided, whose property and interests in property are blocked pursuant to any part of this chapter or any Executive order.

Note to paragraph (b) of § 541.508: This paragraph authorizes the blocked person on whose behalf the legal services authorized pursuant to § 541.507(a) are to be provided to make payments for authorized legal services using funds originating outside the United States that were not previously blocked. Nothing in this paragraph authorizes payments for legal services using funds in which any other person whose property and interests in property are blocked pursuant to § 541.201(a), any other part of this chapter, or any Executive order holds an interest.

(c) Reports. (1) U.S. persons who receive payments in connection with legal services authorized pursuant to § 541.507(a) must submit quarterly reports no later than 30 days following the end of the calendar quarter 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) In the event that no transactions occur or no funds are received during the reporting period, a statement is to be filed to that effect; and

(3) The reports, which must reference this section, are to be mailed to: Licensing Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Annex, Washington, DC 20220.

Note 1 to § 541.508: U.S. persons who receive payments in connection with legal services authorized pursuant to § 541.507(a) 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. Additionally, U.S. persons do not need to obtain specific authorization to provide related services that are ordinarily incident to the provision of legal services authorized pursuant to § 541.507(a).

22. Revise newly redesignated § 541.509 to read as follows:

§ 541.509 Authorization of emergency medical services.

The provision of nonscheduled emergency medical services in the United States to persons whose property or interests in property are blocked pursuant to § 541.201(a) or any further Executive orders relating to the national emergency declared in E.O. 13288 of March 6, 2003, is authorized, provided that all receipt of payment for such services must be specifically licensed.

23. Add new § 541.510 to read as follows:

§ 541.510 Transactions related to Agricultural Development Bank of Zimbabwe and Infrastructure Development Bank of Zimbabwe authorized.

(a) Except as provided in paragraphs (b) and (c) of this section, all transactions involving Agricultural Development Bank of Zimbabwe and Infrastructure Development Bank of Zimbabwe are authorized.

(b) This section does not authorize transactions involving any person whose property and interests in property are blocked pursuant to § 541.201(a), other than Agricultural Development Bank of Zimbabwe and Infrastructure Development Bank of Zimbabwe.

(c) This section does not authorize the unblocking of any property and interests in property that were blocked as of April 24, 2013, pursuant to 31 C.F.R. § 541.201(a), Executive Order 13288 of March 6, 2003, Executive Order 13391 of November 22, 2005, or Executive Order 13469 of July 25, 2008.

24. Revise subpart G to read as follows:

Subpart G—Penalties

Sec.

541.701 Penalties

541.702 Pre-Penalty Notice; settlement.

541.703 Penalty imposition.

541.704 Administrative collection; referral to United States Department of Justice.

Subpart G—Penalties

§ 541.701 Penalties.

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

(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 license, order, regulation, or prohibition issued under IEEPA.

Note to paragraph (a)(1) of § 541.701: As of the date of publication in the Federal Register of the final rule amending and reissuing this part ([INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]), IEEPA provides for a maximum civil penalty not to exceed the greater of \$250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(2) A person who willfully commits, willfully attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of any license, order, regulation, 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) Adjustments to penalty amounts. (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note).

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

(c) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any materially false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned, or both.

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

§ 541.702 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 license, ruling, regulation, order,

directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act (IEEPA) 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)(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 the applicable 30-day period set forth in this paragraph. The failure to submit a response within the applicable time period set forth in this paragraph 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) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by 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, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the OFAC identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Enforcement Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) Settlement. Settlement discussion may be initiated by 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.

§ 541.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty is appropriate, OFAC may issue a Penalty Notice to the violator containing a determination of the violation and the imposition of the monetary penalty. For additional details concerning issuance of a Penalty Notice, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

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

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

25. Revise subpart H to read as follows:

Subpart H—Procedures

Sec.

541.801 Procedures.

541.802 Delegation by the Secretary of the Treasury.

§ 541.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 541.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Order 13288 of March 6, 2003 (E.O. 13288), Executive Order 13391 of November 22, 2005, Executive Order 13469 of July 25, 2008, and any further Executive orders relating to the national emergency declared in E.O. 13288, 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.

Dated: July 1, 2014.

Barbara C. Hammerle,
Acting Director, Office of Foreign Assets Control

Approved: July 2, 2014.

David S. Cohen
Under Secretary for Terrorism and Financial Intelligence
Department of the Treasury

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