



DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 510

North Korea Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the North Korea Sanctions Regulations and reissuing them in their entirety, in order to implement three recent Executive orders and to reference the North Korea Sanctions and Policy Enhancement Act of 2016 and the Countering America's Adversaries Through Sanctions Act. OFAC is also incorporating several general licenses that have, until now, appeared only on OFAC's website on the North Korea Sanctions page, adding several new general licenses, and adding and expanding provisions to issue a more comprehensive set of regulations that will provide further guidance to the public. Finally, OFAC is updating certain regulatory provisions and making other technical and conforming changes. Due to the number of regulatory sections being updated or added, OFAC is reissuing the North Korea Sanctions Regulations in their entirety.

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

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel: 202-622-2480, Assistant Director for Regulatory Affairs, tel: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel: 202-622-2490; or the Department of the Treasury's Office of

the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel: 202-622-2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website (www.treasury.gov/ofac).

Background

Regulatory History and This Action

On November 4, 2010, OFAC issued the North Korea Sanctions Regulations, 31 CFR part 510 (75 FR 67912, November 4, 2010) (the "Regulations"), to implement Executive Order 13466 of June 26, 2008 (73 FR 36787, June 27, 2008) (E.O. 13466) and Executive Order 13551 of August 30, 2010 (75 FR 53837, September 1, 2010) (E.O. 13551) pursuant to authorities delegated to the Secretary of the Treasury in those orders. The Regulations were initially issued in abbreviated form for the purpose of providing immediate guidance to the public. On June 20, 2011, OFAC amended the Regulations to implement Executive Order 13570 of April 18, 2011 (76 FR 22291, April 20, 2011) (E.O. 13570) pursuant to authorities delegated to the Secretary of the Treasury in that order (76 FR 35740, June 20, 2011).

Today, OFAC is amending the Regulations and reissuing them in their entirety. As set forth in more detail below, OFAC is implementing three recent Executive orders: Executive Order 13687 of January 2, 2015 ("Imposing Additional Sanctions with Respect to North Korea") (80 FR 819, January 6, 2015) (E.O. 13687), Executive Order 13722 of March 15, 2016 ("Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea") (81 FR 14943,

March 18, 2016) (E.O. 13722), and Executive Order 13810 of September 20, 2017 (“Imposing Additional Sanctions With Respect to North Korea”) (82 FR 44705, September 25, 2017) (E.O. 13810). In addition, OFAC is amending the Regulations to reference the North Korea Sanctions and Policy Enhancement Act of 2016, Pub. L. 114-122, 130 Stat. 93 (22 U.S.C. 9201 note) (NKSPEA), and Title III of the Countering America’s Adversaries Through Sanctions Act, Pub. L. 115-44, Aug. 2, 2017, 131 Stat. 886 (22 U.S.C. 9401 *et seq.*) (CAATSA). Additionally, OFAC is incorporating into the Regulations several new general licenses that have, until now, appeared only on OFAC’s website on the North Korea Sanctions page, adding several new general licenses, and adding and expanding provisions to issue a more comprehensive set of regulations that will provide further guidance to the public. Finally, OFAC is updating certain regulatory provisions and making other technical and conforming changes. Due to the number of regulatory sections being updated or added, OFAC is reissuing the North Korea Sanctions Regulations in their entirety.

Executive and Statutory Authorities

E.O. 13466. On June 26, 2008, the President, invoking the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) (IEEPA), issued E.O. 13466. In E.O. 13466, the President found that the existence and risk of the proliferation of weapons-usable fissile material on the Korean Peninsula constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and declared a national emergency to deal with that threat. The President further found that it is necessary to continue certain restrictions with respect to North Korea that would otherwise be lifted pursuant to a then-forthcoming proclamation that would terminate the exercise of

authorities then in place under the Trading With the Enemy Act (50 U.S.C. App. 1 et seq.) (TWEA) with respect to North Korea.

Section 1 of E.O. 13466 blocks, with certain exceptions, all property and interests in property of North Korea or a North Korean national that, pursuant to the President's authorities under the TWEA, were blocked as of June 16, 2000, and remained blocked immediately prior to the issuance of E.O. 13466.

Section 2 of E.O. 13466 prohibits, with certain exceptions, U.S. persons from registering a vessel in North Korea, obtaining authorization for a vessel to fly the North Korean flag, or owning, leasing, operating, or insuring any vessel flagged by North Korea.

E.O. 13551. On August 30, 2010, the President, invoking the authority of, *inter alia*, IEEPA and the United Nations Participation Act (22 U.S.C. 287c) (UNPA), and in view of United Nations Security Council Resolution (UNSCR) 1718 of October 14, 2006 and UNSCR 1874 of June 12, 2009, issued E.O. 13551. In E.O. 13551, the President expanded the scope of the national emergency in E.O. 13466, finding that the continued actions and policies of the Government of North Korea – manifested by its unprovoked attack that resulted in the sinking of a Republic of Korea navy ship and the deaths of those onboard; its actions in violation of UNSCRs, including the procurement of luxury goods; and its illicit and deceptive activities in international markets, including money laundering, the counterfeiting of goods and currency, bulk cash smuggling, and narcotics trafficking – destabilize the Korean peninsula and imperil U.S. armed forces, allies, and trading partners in the region, and thereby constitute an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States.

Section 1(a) of E.O. 13551 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 or the persons listed in the Annex to E.O. 13551 and other persons determined by the Secretary of the Treasury, in consultation with the Secretary of State to meet certain criteria set forth in E.O. 13551.

E.O. 13570. On April 18, 2011, the President, invoking the authority of, *inter alia*, IEEPA and section 5 of the UNPA, and in view of UNSCR 1718 of October 14, 2006 and UNSCR 1874 of June 12, 2009, issued E.O. 13570 to take additional steps to address the national emergency declared in E.O. 13466 and expanded in scope in E.O. 13551. Section 1 of E.O. 13570 prohibits, with certain exceptions, the importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea.

E.O. 13687. On January 2, 2015, the President, invoking the authority of, *inter alia*, IEEPA, issued E.O. 13687. In E.O. 13687, the President expanded the scope of the national emergency declared in E.O. 13466, as modified in scope by and relied upon for additional steps in subsequent orders, finding that the provocative, destabilizing, and repressive actions and policies of the Government of North Korea, including its destructive, coercive cyber-related actions during November and December 2014, actions in violation of UNSCRs, and commission of serious human rights abuses, constitute a continuing threat to the national security, foreign policy, and economy of the United States.

Section 1(a) of E.O. 13687 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 or persons determined by the Secretary of the Treasury, in consultation with the Secretary of State to be an agency,

instrumentality, or controlled entity of the Government of North Korea or the Workers' Party of Korea, to be an official of the Government of North Korea or the Workers' Party of Korea, or to meet other criteria set forth in E.O. 13687.

E.O. 13722. On March 15, 2016, the President, invoking the authority of, *inter alia*, IEEPA, the UNPA, and NKSPEA, and in view of UNSCR 2270 of March 2, 2016, issued E.O. 13722 to take additional steps with respect to the national emergency declared in E.O. 13466, as modified in scope by and relied upon for additional steps taken in subsequent orders.

Section 1(a) of E.O. 13722 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 the Government of North Korea or the Workers' Party of Korea. The property and interests in property of the Government of North Korea or the Workers' Party of Korea may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Section 2(a) of E.O. 13722 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 other persons determined by the Secretary of the Treasury, in consultation with the Secretary of State to operate in any industry in the North Korean economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to section 2(a)(i) of E.O. 13722, including transportation, mining, energy, or financial services, or to meet other criteria set forth in E.O. 13722.

Section 3(a) of E.O. 13722 prohibits, with certain exceptions: (i) the exportation or reexportation, direct or indirect, from the United States, or by a U.S. person, wherever located, of any goods, services, or technology to North Korea; (ii) new investment in North Korea by a U.S. person, wherever located; and (iii) any approval, financing, facilitation, or guarantee by a U.S. person, wherever located, of a transaction by a foreign person where the transaction by that foreign person would be prohibited by section 3(a) of E.O. 13722 if performed by a U.S. person or within the United States. The new exportation and reexportation prohibition operates in conjunction with preexisting comprehensive controls on North Korea that are maintained by the U.S. Department of Commerce under the Export Administration Regulations, 15 CFR parts 730-774 (EAR). The Department of Commerce requires a license for the export from the United States of all items subject to the EAR (other than food or medicine) that are destined for North Korea, whether by U.S. persons or non-U.S. persons. It also requires a license for the reexport to North Korea from a third country of all items subject to the EAR, whether by U.S. persons or non-U.S. persons. Section 3(a) of E.O. 13722, in effect, complements the restrictions maintained by the Department of Commerce and enhances those restrictions by adding a prohibition against the reexportation to North Korea by a U.S. person, wherever located, of items that are *not* subject to the EAR, including, for example, purely foreign-origin items.

E.O. 13810. On September 20, 2017, the President, invoking the authority of, *inter alia*, IEEPA and the UNPA, and in view of UNSCR 2321 of November 30, 2016, UNSCR 2356 of June 2, 2017, UNSCR 2371 of August 5, 2017, and UNSCR 2375 of September 11, 2017, issued E.O. 13810 to take further steps with respect to the national emergency declared

in E.O. 13466, as modified in scope by and relied upon for additional steps in subsequent orders.

Section 1(a) of E.O. 13810 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 any person determined by the Secretary of the Treasury, in consultation with the Secretary of State to have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology, or to meet other criteria set forth in E.O. 13810.

Section 2 of E.O. 13810 prohibits, with certain limited exceptions: (a) any aircraft in which a foreign person has an interest that has landed at a place in North Korea from landing at a place in the United States within 180 days after departure from North Korea; and (b) any vessel in which a foreign person has an interest that has called at a port in North Korea within the previous 180 days, or that has engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, from calling at a port in the United States.

Section 3(a) of E.O. 13810 blocks, with certain exceptions, all funds 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 and that originate from, are destined for, or pass through a foreign bank account that has been determined by the Secretary of the Treasury to be owned or controlled by a North Korean person or to have been used to transfer funds in which any North Korean person has an interest. The funds described above may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Section 4 of E.O. 13810 authorizes the Secretary of the Treasury, in consultation with the Secretary of State, to impose the sanctions described below on any foreign financial

institution determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have: (i) knowingly conducted or facilitated any significant transaction on behalf of any person whose property and interests in property are blocked pursuant to E.O. 13551, E.O. 13687, E.O. 13722, or E.O. 13810, or of any person whose property and interests in property are blocked pursuant to Executive Order 13382 (70 FR 38567, July 1, 2005) (“Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters”) in connection with North Korea-related activities; or (ii) knowingly conducted or facilitated any significant transaction in connection with trade with North Korea. With respect to a foreign financial institution determined to meet the criteria above, the Secretary of the Treasury, in consultation with the Secretary of State, may: (i) prohibit the opening and prohibit or impose strict conditions on the maintenance of correspondent accounts or payable-through accounts in the United States by such foreign financial institution; or (ii) block 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 such foreign financial institution, and such property and interests in property may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

Other Executive Order provisions. In section 1(b) of E.O. 13551, section 2 of E.O. 13687, section 5 of E.O. 13722, and section 1(c) of E.O. 13810, 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 those orders would seriously impair the President’s ability to deal with the national emergency declared in E.O. 13466, as modified in scope by and relied upon

for additional steps in the subsequent orders. The President therefore prohibited the donation of such items unless authorized by OFAC.

Section 1(c) of E.O. 13551, section 3 of E.O. 13687, section 6 of E.O. 13722, and section 1(d) of E.O. 13810 provide 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 those orders, and the receipt of any contribution or provision of funds, goods, or services from any such person.

Section 3 of E.O. 13466, section 2 of E.O. 13551, section 2 of E.O. 13570, section 5 of E.O. 13687, section 7 of E.O. 13722, and section 6 of E.O. 13810 prohibit any transaction by a U.S. 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 those orders, as well as any conspiracy formed to violate such prohibitions. Pursuant to a 2007 amendment of IEEPA clarifying that it is illegal to cause a violation of IEEPA, section 2 of E.O. 13551, section 2 of E.O. 13570, section 5 of E.O. 13687, section 7 of E.O. 13722, and section 6 of E.O. 13810 further prohibit any transaction by a U.S. person or within the United States that causes a violation of any of those orders.

Section 5 of E.O. 13466, section 6 of E.O. 13551, section 5 of E.O. 13570, section 8 of E.O. 13687, section 11 of E.O. 13722, and section 10 of E.O. 13810 authorize 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, and, where relevant, the UNPA, as may be necessary to carry out the

purposes of those orders. These sections also provide that the Secretary of the Treasury may redelegate any of these functions to other officers and agencies of the U.S. government.

NKSPEA. On February 18, 2016, the President signed *NKSPEA* into law. Among other things, section 104(a) of *NKSPEA* provides that the President, with certain exceptions, shall block and prohibit all transactions in property and interests in property that are in the United States, that come within the United States, or that are or come within control or possession of a U.S. person of: the Government of North Korea, the Workers' Party of Korea, and certain other persons the President determines knowingly engage in certain North Korea-related activities.

Section 404(a) of *NKSPEA* provides authority for the President to promulgate regulations as may be necessary to carry out the provisions of *NKSPEA*. Pursuant to Presidential Memorandum of May 18, 2016: Delegation of Certain Functions and Authorities under the North Korea Sanctions and Policy Enhancement Act of 2016, the President delegated to the Secretary of the Treasury, in consultation with the Secretary of State, the functions and authorities vested in the President by sections 104(a) and to the Secretary of State, the Secretary of the Treasury, the Secretary of Commerce, and the Director of National Intelligence the functions and authorities vested in the President by section 404(a) of *NKSPEA* as necessary to carry out the provisions of *NKSPEA*.

CAATSA. On August 2, 2017, the President signed *CAATSA* into law. Title III of *CAATSA*, among other things, amends *NKSPEA*. Section 311(a) of *CAATSA* amends section 104(a) of *NKSPEA* to provide that the President shall, with certain exceptions, block and prohibit all transactions in property and interests in property that are in the United States, that come into the United States, or that are or come into the possession of U.S. persons of

any person the President determines knowingly, directly or indirectly: imports, exports, or reexports to or from North Korea any defense article or defense service or engages in certain other North Korea-related activities.

Section 333(a) of CAATSA provides that the President shall, not later than 180 days after the date of enactment, promulgate regulations as necessary for the implementation of and amendments made by title III of CAATSA. Pursuant to Presidential Memorandum of September 29, 2017: Delegation of Certain Functions and Authorities under the Countering America's Adversaries Through Sanctions Act of 2017, the Ukraine Freedom Support Act of 2014, and the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014, the President delegated to the Secretary of the Treasury, in consultation with the Secretary of State, the relevant functions and authorities vested in the President by section 321(b), with respect to section 302B(a) and (b) of the NKSPEA, as amended by CAATSA, and section 333 of CAATSA.

The President, through the issuance of E.O. 13466, E.O. 13551, E.O. 13570, E.O. 13687, E.O. 13722, and E.O. 13810, has put in place prohibitions and designation criteria that encompass all of the prohibitions and designation criteria contained in the provisions of NKSPEA and CAATSA discussed above and has thereby already taken the steps necessary to implement those provisions. While it is not legally necessary to take further steps, OFAC is issuing these amended Regulations to further implement the many provisions of E.O. 13466, E.O. 13551, E.O. 13570, E.O. 13687, E.O. 13722, and E.O. 13810.

Regulatory Structure

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements the prohibitions contained in the

various Executive Orders. *See, e.g.*, §§ 510.201 and 510.208. Persons identified in the Annex to E.O. 13551, designated for blocking by or under the authority of the Secretary of the Treasury pursuant to E.O. 13551, E.O. 13687, E.O. 13722, or E.O. 13810, or otherwise subject to the blocking provisions of those orders, are referred to throughout the Regulations as “persons whose property and interests in property are blocked pursuant to § 510.201(a).” The names of persons listed in or designated pursuant to these orders are published on OFAC’s Specially Designated Nationals and Blocked Persons List (SDN List), which is accessible via OFAC’s website. Those names also are published in the *Federal Register* as they are added to the SDN List.

Section 510.201 of subpart B implements the many blocking prohibitions contained in the Executive Orders. Sections 510.202 and 510.203 of subpart B detail the effect of transfers of blocked property in violation of the Regulations and set forth the requirement to hold blocked funds, such as currency, bank deposits, or liquidated financial obligations, in interest-bearing blocked accounts. Section 510.204 of subpart B provides that all expenses incident to the maintenance of blocked physical property shall be the responsibility of the owners and operators of such property, and that such expenses shall not be met from blocked funds, unless otherwise authorized. Section 510.204 further provides that blocked property may, in OFAC’s discretion, be sold or liquidated and the net proceeds placed in a blocked, interest-bearing account in the name of the owner of the property.

Sections 510.205 through 510.209 and 510.211 set forth additional prohibitions pursuant to E.O. 13570, E.O. 13687, E.O. 13722, and E.O. 13810, including prohibitions on certain North Korea-related vessel and aircraft transactions, the importation and exportation

of goods, services, or technology to or from North Korea, and new investment in North Korea.

Section 510.210 of subpart B implements the non-blocking provisions of section 4 of E.O. 13810 regarding the opening or maintenance of correspondent accounts or payable through accounts in the United States (the blocking provisions of section 4 of E.O. 13810 are implemented in § 510.201 of subpart B). The names of foreign financial institutions that are determined by the Secretary of the Treasury, in consultation with the Secretary of State, to engage in the activities described in § 510.210, and which are determined to be subject to prohibitions or strict conditions on the opening or maintaining of correspondent or payable-through accounts in the United States, will be listed on the Correspondent Account or Payable-Through Account Sanctions (CAPTA) List, which is accessible via OFAC's website (www.treasury.gov/ofac) and published in the *Federal Register*. This list also will state the prohibition or strict condition(s) that applies with respect to each sanctioned foreign financial institution, and the relevant or applicable sanctions program. The names of foreign financial institutions that meet these same criteria but whose property and interests in property are instead determined to be blocked pursuant to § 510.201 will be published on the SDN List, which is also accessible via OFAC's website.

Section 510.212 of subpart B implements the prohibitions of E.O. 13466, E.O. 13551, E.O. 13570, E.O. 13687, E.O. 13722, and E.O. 13810 on any transaction by a U.S. 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 those orders, and on any conspiracy formed to violate such prohibitions. Section 510.212 further contains the additional prohibition, included in all but the first order but available for all IEEPA-based prohibitions,

on any transaction by a U.S. person or within the United States that causes a violation of any of the prohibitions in any of the orders.

Section 510.213 of subpart B details transactions that are exempt from the prohibitions of the Regulations pursuant to section 203(b)(1), (3), and (4) of IEEPA (50 U.S.C. 1702(b)(1), (3), and (4)). These exempt transactions relate to personal communications, the importation and exportation of information or informational materials, and transactions ordinarily incident to travel. The exemptions described in this section do not apply to any transactions involving property or interests in property of certain persons whose property and interests in property are blocked pursuant to the provisions of E.O. 13551, E.O. 13722, or E.O. 13810 and that are blocked pursuant to the authority of the UNPA in addition to IEEPA.

In subpart C of the Regulations, new definitions are being added to other key terms used in 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. Similarly, in subpart D, which contains interpretations of the Regulations, certain provisions have been added and updated from those in the prior abbreviated set of regulations. Section 510.411 explains that the property and interests in property of an entity are blocked if the entity 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, whether or not the entity itself is incorporated into the SDN List. Section 510.412 provides information about facilitation, and § 510.413 describes the non-exclusive factors the Secretary of the Treasury may consider when determining whether a transaction is significant.

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. Subpart E of the Regulations also contains certain statements of specific licensing policy in addition to the general licenses. General licenses and statements of licensing policy relating to this part also may be available through the North Korea sanctions page on OFAC's website: www.treasury.gov/ofac.

With this rule, OFAC is incorporating into the Regulations, and in some cases amending, 10 general licenses that were previously posted only on OFAC's website. These general licenses have been removed from OFAC's website, because they have been replaced and superseded in their entirety by the Regulations. Nine of these general licenses were originally issued and posted on OFAC's website on March 16, 2016 – General Licenses 1 through 9 – and then reissued and posted on OFAC's website on March 24, 2016, to incorporate a technical change regarding the date the President signed E.O. 13722. General License 1 was replaced and superseded in its entirety by General License 1-A, which was posted on OFAC's website on December 20, 2016. General License 1-A is now located in the Regulations at § 510.510. General License 2, which authorizes the provision of certain legal services, is now located at § 510.507. General License 3, which authorized certain blocked account-related transactions, was replaced and superseded in its entirety by General License 3-A, which was posted on OFAC's website on September 21, 2017. General License 3-A is now located at § 510.505. General License 4, regarding personal remittances, is now located at § 510.511, and includes a cap on such remittances of \$5,000 per year. General License 5, which authorizes certain activities of nongovernmental organizations, is now located at § 510.512. With respect to General License 5, OFAC has removed an authorization relating to educational activities; OFAC also added an authorization relating to the exportation of food

and medicines to harmonize with Department of Commerce authorities. General License 6, pertaining to third-country diplomatic and consular funds transfers, is now located at § 510.515. General License 7, relating to telecommunications and mail service, is now located at § 510.516; and General License 8, regarding patents and intellectual property, is now located at § 510.517. General License 9, authorizing emergency medical services, is now located in § 510.509. On September 21, 2017, OFAC issued and posted on its website General License 10, authorizing the calling of certain vessels and landing of certain aircraft. General License 10 is now located at § 510.518.

OFAC is also incorporating several new general licenses into the Regulations. Sections 510.506, 510.508, 510.513, and 510.514 authorize certain transactions relating to investment and reinvestment of certain funds, payments for legal services from funds originating outside the United States, the official business of the Federal government, and official activities of international organizations. Section 510.519 authorizes certain transactions for a 10-day period related to closing a correspondent account or payable-through account for a foreign financial institution whose name is added to the CAPTA List pursuant to the prohibition in § 510.211. This general license includes a reporting requirement pursuant to which a U.S. financial institution that maintained a correspondent account or a payable-through account for a foreign financial institution whose name is added to the CAPTA List must file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. The report must include complete information on all transactions processed or executed in winding down and closing the account.

Subpart F of the Regulations refers to subpart C of part 501 for recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal

penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty or issuance of a finding of violation. Subpart G also refers to appendix A of part 501 for a more complete description of these procedures.

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

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, 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 510

Administrative practice and procedure, Aircraft, Banking, Blocking of assets, Diplomatic missions, Foreign financial institutions, Foreign trade, Imports, Medical services, Nongovernmental organizations, North Korea, Patents, Services, Telecommunications, United Nations, Vessels, Workers' Party of Korea.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control revises 31 CFR part 510 to read as follows:

PART 510—NORTH KOREA SANCTIONS REGULATIONS

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

Sec.

510.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

510.201 Prohibited transactions involving blocked property.

510.202 Effect of transfers violating the provisions of this part.

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

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

510.205 Prohibited importation of goods, services, or technology from North Korea.

510.206 Prohibited exportation and reexportation of goods, services, or technology to North Korea.

510.207 Prohibited vessel transactions related to North Korean registration and flagging.

510.208 Prohibited aircraft landing or vessel calling in the United States.

510.209 Prohibited new investment in North Korea.

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

510.211 Prohibited facilitation.

510.212 Evasions; attempts; causing violations; conspiracies.

510.213 Exempt transactions.

Subpart C—General Definitions

510.300 Applicability of definitions.

510.301 Arms or related materiel.

510.302 Blocked account; blocked property.

510.303 Correspondent account.

510.304 Effective date.

510.305 Entity.

510.306 Financial, material, or technological support.

510.307 Financial services.

510.308 Financial transaction.

510.309 Foreign financial institution.

510.310 Foreign person.

510.311 Government of North Korea.

510.312 Information or informational materials.

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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 (28 U.S.C. 2461 note); Pub. L. 110-96, 121 Stat.

1011 (50 U.S.C. 1705 note); Pub. L. 114-122, 130 Stat. 93 (22 U.S.C. 9201-9255); Pub. L. 115-44, 131 Stat 886 (22 U.S.C. 9201 note); E.O. 13466, 73 FR 36787, June 27, 2008, 3 CFR, 2008 Comp., p. 195; E.O. 13551, 75 FR 53837, September 1, 2010; E.O. 13570, 76 FR 22291, April 20, 2011; E.O. 13687, 80 FR 819, January 6, 2015; E.O. 13722, 81 FR 14943, March 18, 2016; E.O. 13810, 82 FR 44705, September 25, 2017.

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

§ 510.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 510.201 Prohibited transactions involving blocked property.

(a)(1) 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 Government of North Korea or the Workers' Party of Korea are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(2) All property and interests in property of North Korea or a North Korean national that were blocked pursuant to the Trading With the Enemy Act as of June 16, 2000 and remained blocked on June 26, 2008, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(3) 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:

(i) *E.O. 13551 Annex*. The persons listed in the Annex to Executive Order 13551 of August 30, 2010;

(ii) *E.O. 13551*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To have, directly or indirectly, imported, exported, or reexported to, into, or from North Korea any arms or related materiel;

(B) To have, directly or indirectly, provided training, advice, or other services or assistance, or engaged in financial transactions, related to the manufacture, maintenance, or use of any arms or related materiel to be imported, exported, or reexported to, into, or from North Korea, or following their importation, exportation, or reexportation to, into, or from North Korea;

(C) To have, directly or indirectly, imported, exported, or reexported luxury goods to or into North Korea;

(D) To have, directly or indirectly, engaged in money laundering, the counterfeiting of goods or currency, bulk cash smuggling, narcotics trafficking, or other illicit economic activity that involves or supports the Government of North Korea or any senior official thereof;

(E) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the activities described in paragraphs (a)(3)(ii)(A) through (D) of this section or any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(i) or (ii) of this section;

(F) 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)(i) or (ii) of this section; or

(G) To have attempted to engage in any of the activities described in paragraphs (a)(3)(ii)(A) through (F) of this section;

(iii) *E.O. 13687*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To be an agency, instrumentality, or controlled entity of the Government of North Korea or the Workers' Party of Korea;

(B) To be an official of the Government of North Korea;

(C) To be an official of the Workers' Party of Korea;

(D) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the Government of North Korea or any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(iii) of this section; or

(E) To be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, the Government of North Korea or any person whose property and interests in property are blocked pursuant to paragraph (a)(3)(iii) of this section;

(iv) *E.O. 13722*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To operate in any industry in the North Korean economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to paragraph (a)(3)(iv) of this section, such as transportation, mining, energy, or financial services;

Note 1 to paragraph (a)(3)(iv)(A): Any industry in the North Korean economy that is determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be subject to paragraph (a)(3)(iv) of this section will be so identified in a publication in the *Federal Register*.

(B) To have sold, supplied, transferred, or purchased, directly or indirectly, to or from North Korea or any person acting for or on behalf of the Government of North Korea or the Workers' Party of Korea, metal, graphite, coal, or software, where any revenue or goods received may benefit the Government of North Korea or the Workers' Party of Korea, including North Korea's nuclear or ballistic missile programs;

(C) To have engaged in, facilitated, or been responsible for an abuse or violation of human rights by the Government of North Korea or the Workers' Party of Korea or any person acting for or on behalf of either such entity;

(D) To have engaged in, facilitated, or been responsible for the exportation of workers from North Korea, including exportation to generate revenue for the Government of North Korea or the Workers' Party of Korea;

(E) To have engaged in significant activities undermining cybersecurity through the use of computer networks or systems against targets outside of North Korea on behalf of the Government of North Korea or the Workers' Party of Korea;

(F) To have engaged in, facilitated, or been responsible for censorship by the Government of North Korea or the Workers' Party of Korea;

(G) To have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to paragraph (a)(1) or (a)(3)(iv) of this section;

(H) 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)(1) or (a)(3)(iv) of this section; or

(I) To have attempted to engage in any of the activities described in paragraphs (a)(3)(iv)(A) through (H) of this section;

(v) *E.O. 13810 section 1*. Any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(A) To operate in the construction, energy, financial services, fishing, information technology, manufacturing, medical, mining, textiles, or transportation industries in North Korea;

(B) To own, control, or operate any port in North Korea, including any seaport, airport, or land port of entry;

(C) To have engaged in at least one significant importation from or exportation to North Korea of any goods, services, or technology;

(D) To be a North Korean person, including a North Korean person that has engaged in commercial activity that generates revenue for the Government of North Korea or the Workers' Party of Korea;

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

(F) 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)(v) of this section; or

(vi) *E.O. 13810 section 4*. Any person that is a foreign financial institution:

(A) Determined by the Secretary of the Treasury, in consultation with the Secretary of State, to have, on or after September 21, 2017, knowingly conducted or facilitated any significant transaction:

(1) On behalf of any person whose property and interests in property are blocked pursuant to Executive Order 13551, Executive Order 13687, Executive Order 13722, or Executive Order 13810, or of any person whose property and interests in property are blocked pursuant to Executive Order 13382 in connection with North Korea-related activities; or

(2) In connection with trade with North Korea; and

(B) With respect to which the Secretary of the Treasury, in consultation with the Secretary of State, has exercised the authority to block all property and interests in property.

Note 2 to paragraph (a)(3)(vi): See § 510.210 for alternative sanctions that can be imposed on a foreign financial institution when the determination specified in paragraph (a)(3)(vi)(A) of this section is made.

Note 3 to paragraph (a): The names of persons listed in or designated or identified pursuant to Executive Order 13551, Executive Order 13687, Executive Order 13722, or Executive Order 13810 and whose property and interests in property are blocked pursuant to those orders and 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 "DPRK." The names of persons referenced in paragraph (a)(vi)(A)(2) of this section and listed in or designated or identified pursuant to Executive Order 13382 whose property and interests in property are blocked pursuant to Executive Order 13382 in connection with North Korea-related activities are published in the *Federal Register* and incorporated into OFAC's SDN List with the identifier "[NPWMD]" and descriptive text "Executive Order 13810 Information: Subject to blocking in connection with North Korea-related activities. 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 § 510.411 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. The property and interests in property of persons who meet the definition of the term Government of North Korea, as defined in § 510.311, are blocked pursuant to paragraph (a) of this section regardless of whether the names of such persons are published in the *Federal Register* or incorporated into the SDN List.

Note 4 to paragraph (a): 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-DPRK.”

Note 5 to paragraph (a): Sections 501.806 and 501.807 of this chapter describe the procedures to be followed by persons seeking, respectively, the unblocking of funds that they believe were blocked due to mistaken identity, and administrative reconsideration of their status as persons whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(b) The prohibitions in paragraph (a) of this section include prohibitions on the following transactions:

(1) The making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to paragraph (a) of this section; and

(2) The receipt of any contribution or provision of funds, goods, or services from any person whose property and interests in property are blocked pursuant to paragraph (a) of this section.

(c) Unless authorized by this part or by a specific license expressly referring to this part, any dealing in securities (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of, or known to be held for the benefit of, or issued by, the Government of North Korea, the Workers’ Party of Korea, or any

other person whose property and interests in property are blocked pursuant to paragraph (a) of this section is prohibited. This prohibition includes the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of, or the endorsement or guaranty of signatures on, any securities on or after the effective date. This prohibition applies irrespective of the fact that at any time (whether prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such securities may have or might appear to have assigned, transferred, or otherwise disposed of the securities.

(d) All funds 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 and that originate from, are destined for, or pass through a foreign bank account that has been determined by the Secretary of the Treasury to be owned or controlled by a North Korean person, or to have been used to transfer funds in which any North Korean person has an interest, are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in.

(e) Funds subject to blocking or blocking pending investigation pursuant to paragraph (d) of this section may be identified via actual or constructive notice from OFAC to relevant U.S. persons believed to be holding or to soon come into possession of such funds. To the extent a foreign bank account determined to meet the criteria contained in paragraph (d) of this section is publicized, it will be published in the *Federal Register*.

(f)(1) The prohibitions in paragraph (a)(1) of this section apply except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of

Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(2) The prohibitions in paragraphs (a)(2), (a)(3)(i) through (iii), and (d) of this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(3) The prohibitions in paragraphs (a)(3)(iv) through (v) of this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date. These prohibitions are in addition to the export control authorities administered by the Department of Commerce.

§ 510.202 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 interests in property blocked pursuant to § 510.201 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 interests in property.

(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 interests in property blocked pursuant to § 510.201 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 1 to paragraph (d): 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 (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 § 510.201.

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

(a) Except as provided in paragraph (e) or (f) of this section, or as otherwise directed or authorized by OFAC, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 510.201, shall hold or place such funds in a blocked interest-bearing account located in the United States.

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

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

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

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

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

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

(e) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 510.201 may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest-bearing account in accordance with paragraph (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 § 510.201 may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(g) This section does not create an affirmative obligation for the holder of blocked tangible property, such as 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 financial or economic benefit or access to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 510.204 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 § 510.201 shall be the responsibility of the owners or operators of such property, which expenses shall not be met from blocked funds.

(b) Property blocked pursuant to § 510.201 may, in the discretion of OFAC, be sold or liquidated and the net proceeds placed in a blocked interest-bearing account in the name of the owner of the property.

§ 510.205 Prohibited importation of goods, services, or technology from North Korea

(a) The importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea is prohibited.

(b) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.206 Prohibited exportation or reexportation of goods, services, or technology to North Korea.

(a) The exportation or reexportation, directly or indirectly, from the United States, or by a U.S. person, wherever located, of any goods, services, or technology to North Korea is prohibited.

(b) The prohibitions in this section apply except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.207 Prohibited vessel transactions related to North Korean registration and flagging.

(a) U.S. persons may not register a vessel in North Korea, obtain authorization for a vessel to fly the North Korean flag, or own, lease, operate, or insure any vessel flagged by North Korea.

(b) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.208 Prohibited aircraft landing or vessel calling in the United States.

(a) No aircraft in which a foreign person has an interest that has landed at a place in North Korea may land at a place in the United States within 180 days after departure from North Korea.

(b) No vessel in which a foreign person has an interest that has called at a port in North Korea within the previous 180 days, and no vessel in which a foreign person has an

interest that has engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, may call at a port in the United States.

(c) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.209 Prohibited new investment in North Korea.

(a) New investment, as defined in § 510.318, in North Korea by a U.S. person, wherever located, is prohibited.

(b) The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

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

(a) *Prohibited activities.* A U.S. financial institution shall not:

(1) Open or maintain a correspondent account or a payable-through account in the United States for a foreign financial institution for which the opening or maintaining of such an account is prohibited pursuant to this section; or

(2) Maintain a correspondent account or a payable-through account in the United States in a manner that is inconsistent with any strict condition imposed and in effect pursuant to this section.

(b) *Sanctionable activity by foreign financial institutions.* The Secretary of the Treasury, in consultation with the Secretary of State, may determine that a foreign financial institution has, on or after September 21, 2017, knowingly conducted or facilitated any significant transaction:

(1) On behalf of any person whose property and interests in property are blocked pursuant to Executive Order 13551, Executive Order 13687, Executive Order 13722, or Executive Order 13810, or on behalf of any person whose property and interests in property are blocked pursuant to Executive Order 13382 in connection with North Korea-related activities; or

(2) In connection with trade with North Korea.

Note 1 to paragraph (b): The names of persons listed in or designated or identified pursuant to Executive Order 13351, Executive Order 13687, Executive Order 13722, or Executive Order 13810 and whose property and interests in property are blocked pursuant to those orders are published in the *Federal Register* and incorporated into OFAC's List of Specially Designated Nationals and Blocked Persons (SDN List) with the identifier "DPRK." The names of persons listed in or designated or identified pursuant to Executive Order 13382 and whose property and interests in property are blocked pursuant to that order in connection with North Korea-related activities are published in the *Federal Register* and incorporated into OFAC's SDN List with the identifier "[NPWMD]," and descriptive text "Executive Order 13810 information: Subject to blocking in connection with North Korea-related activities". 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 § 510.411 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. The property and interests in property of persons who meet the definition of the term Government of North Korea are blocked pursuant to paragraph (a) of this section regardless of whether the names of such persons are published in the *Federal Register* or incorporated into the SDN List.

(c) *Imposition of sanctions on foreign financial institutions.* Upon determining that a foreign financial institution has engaged in sanctionable activity described in paragraph (b) of this section, the Secretary of the Treasury, in consultation with the Secretary of State, may:

(1) Prohibit the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for the foreign financial institution; or

(2) Impose one or more strict conditions on the maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for the foreign financial institution. Such conditions may include the following:

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

(ii) Restricting the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution to certain types of transactions, such as personal remittances;

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

(iv) Requiring pre-approval from the U.S. financial institution for all transactions processed through the correspondent account or payable-through account of the foreign financial institution; or

(v) Prohibiting or restricting the processing of foreign exchange transactions through the correspondent account or payable-through account of the foreign financial institution.

(d) *Applicability of prohibitions.* The prohibitions in this section apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

Note 2 to § 510.210: The names of foreign financial institutions for which the opening or maintaining of a correspondent account or a payable-through account in the United States is prohibited or for which the maintenance of a correspondent account or payable-through account is subject to one or more strict conditions pursuant to this section will be added to the Correspondent Account or Payable-Through Account Sanctions (CAPTA) List on OFAC's website (www.treasury.gov/ofac), and published in the *Federal Register* along with the applicable prohibition or strict condition(s).

§ 510.211 Prohibited facilitation.

(a) Except as otherwise authorized, U.S. persons, wherever located, are prohibited from approving, financing, facilitating, or guaranteeing a transaction by a foreign person where the transaction by that foreign person would be prohibited by § 510.201(d), § 510.206, or § 510.209 if performed by a U.S. person or within the United States.

(b)(1) The prohibitions in this section with respect to § 510.201(d) apply except to the extent provided by regulations, orders, directives, or licenses that may be issued pursuant to

this part, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

(2) The prohibitions in this section with respect to §§ 510.206 and 510.209 apply except to the extent provided in regulations, orders, directives, or licenses that may be issued pursuant to this part or pursuant to the export control authorities implemented by the U.S. Department of Commerce, and notwithstanding any contract entered into or any license or permit granted prior to the effective date.

§ 510.212 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.

§ 510.213 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(b)) (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 (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, such persons.

(b) *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.

(c) *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 § 510.312, whether commercial or otherwise, regardless of format or medium of transmission.

(2) This section does not exempt from regulation 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 information or informational materials, or to the provision of marketing and business consulting services. Such prohibited transactions include 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 transactions incident to the exportation of software subject to the Export Administration Regulations, 15 CFR parts 730 through 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 § 510.201(a) are prohibited.

(d) *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.

Note 2 to paragraph (d): As of September 1, 2017, the U.S. Department of State has restricted the use of U.S. passports to travel into, in, or through North Korea. See 22 CFR 51.63. U.S. nationals who wish to travel to or within North Korea for the extremely limited purposes that are set forth in federal regulations must apply for a passport with a special validation from the Department of State. See travel.state.gov for additional details.

(e) *Official business*. The prohibitions contained in §§ 510.201(a)(1), 510.201(a)(3)(iv) through (vi) and (d), 510.206, and 510.208 through 510.211 do not apply to transactions for the conduct of the official business of the Federal Government or the United Nations and its Specialized Agencies, Programmes, Funds, and Related Organizations by employees, grantees, or contractors thereof.

Note 3 to paragraph (e): For an organizational chart listing the Specialized Agencies, Programmes, Funds, and Related Organizations of the United Nations, see the following page on the United Nations website: <http://www.unsceb.org/directory>.

Subpart C—General Definitions

§ 510.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 510.301 Arms or related materiel.

The term *arms or related materiel* means arms or related materiel of all types, including any battle tanks, armored combat vehicles, large caliber artillery systems, combat aircraft, attack helicopters, warships, missiles or missile systems, or related materiel including spare parts.

Note 1 to § 510.301: For additional guidance as to items that constitute *arms or related materiel*, please see determinations by the United Nations Security Council or its committee created pursuant to United Nations Security Council Resolution 1718, as well as designations by the Secretary of State of defense articles and defense services pursuant to the Arms Export Control Act and listed on the United States Munitions List (USML). In addition, items on the Commerce Control List as well as certain uncontrolled items that are subject to the Export Administration Act may be considered *related materiel*.

§ 510.302 Blocked account; blocked property.

For the purposes of this part, the terms *blocked account* and *blocked property* shall mean:

(a) Any account or property subject to the prohibitions in § 510.201(a) held in the name of the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(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; and

(b) Any account or property subject to the prohibitions in § 510.201(d), 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 § 510.302: See § 510.411 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 § 510.201(a).

§ 510.303 Correspondent account.

The term *correspondent account* means an account established by a U.S. financial institution for a foreign financial institution to receive deposits from, or to make payments on behalf of, the foreign financial institution, or to handle other financial transactions related to such foreign financial institution.

§ 510.304 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 transfers or other dealings in blocked property and interests in property of the Government of North Korea, as defined in § 510.311, or the Workers' Party of Korea prohibited by § 510.201(a)(1), 12:01 a.m. eastern daylight time, March 16, 2016;

(2) With respect to a person whose property and interests in property are blocked pursuant to § 510.201(a)(3)(i), 12:01 p.m. eastern daylight time, August 30, 2010;

(3) With respect to a person whose property and interests in property are otherwise blocked pursuant to § 510.201(a), the earlier of the date of actual or constructive notice that such person's property and interests in property are blocked;

(4) With respect to funds subject to blocking pursuant to § 510.201(d), the earlier of the date of actual or constructive notice that funds are blocked or that a foreign bank account that the funds originate from, are destined for, or pass through has been determined to meet the criteria contained in § 510.201(d).

(5) With respect to the prohibition set forth in § 510.207, June 26, 2008;

(6) With respect to the prohibition set forth in § 510.205, 12:01 a.m. eastern daylight time, April 19, 2011;

(7) With respect to the prohibitions set forth in §§ 510.206 and 510.209, 12:01 a.m. eastern daylight time, March 16, 2016;

(8) With respect to the prohibitions set forth in § 510.208, 12:01 a.m. eastern daylight time, September 21, 2017; and

(9) With respect to the prohibition set forth in § 510.210, 12:01 a.m. eastern daylight time, September 21, 2017. The effective date of a prohibition or strict condition imposed pursuant to § 510.210 on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition, condition, or blocking.

(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*.

§ 510.305 Entity.

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

§ 510.306 Financial, material, or technological support.

The term *financial, material, or technological support*, as used in § 510.201(a)(3)(ii)(E), (a)(3)(iii)(D), (a)(3)(iv)(G), and (a)(3)(v)(E), means any property, tangible or intangible, including 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.

§ 510.307 Financial services.

The term *financial services* includes loans, transfers, accounts, insurance, investments, securities, guarantees, foreign exchange, letters of credit, and commodity futures or options.

§ 510.308 Financial transaction.

The term *financial transaction* means any transfer of value involving a financial institution.

§ 510.309 Foreign financial institution.

The term *foreign financial institution* means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or

credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. It includes depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, the North American Development Bank, or any other international financial institution so notified by OFAC.

§ 510.310 Foreign person.

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

§ 510.311 Government of North Korea.

The term *Government of North Korea* includes:

(a) The state and the Government of the Democratic People's Republic of Korea, as well as any political subdivision, agency, or instrumentality thereof;

(b) Any entity owned or controlled, directly or indirectly, by the foregoing, including any corporation, partnership, association, or other entity in which the Government of North Korea owns a 50 percent or greater interest or a controlling interest, and any entity which is otherwise controlled by that government;

(c) Any person that is, or has been, acting or purporting to act, directly or indirectly, for or on behalf of any of the foregoing; and

(d) Any other person determined by OFAC to be included within paragraphs (a) through (c) of this section.

Note 1 to § 510.311: The names of persons that OFAC has determined fall within this definition are published in the *Federal Register* and incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List) with the identifier "[DPRK]."

The SDN List is accessible through the following page on OFAC's website:

www.treasury.gov/sdn. However, the property and interests in property of persons who meet the definition of the term Government of North Korea are blocked pursuant to § 510.201(a) regardless of whether the names of such persons are published in the *Federal Register* or incorporated into the SDN List.

Note 2 to § 510.311: Section 501.807 of this chapter describes the procedures to be followed by persons seeking administrative reconsideration of OFAC's determination that they fall within the definition of the term Government of North Korea.

§ 510.312 Information or informational materials.

(a)(1) The term *information or informational materials* includes publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

(2) To be considered information or informational materials, artworks must be classified under heading 9701, 9702, or 9703 of the Harmonized Tariff Schedule of the United States.

(b) The term *information or informational materials*, with respect to exports, does not include items:

(1) That were, as of April 30, 1994, or that thereafter become, controlled for export pursuant to section 5 of the Export Administration Act of 1979, 50 U.S.C. App. 2401–2420 (1979) (EAA), or section 6 of the EAA to the extent that such controls promote the nonproliferation or antiterrorism policies of the United States; or

(2) With respect to which acts are prohibited by 18 U.S.C. chapter 37.

§ 510.313 Interest.

Except as otherwise provided in this part, the term *interest*, when used with respect to property (e.g., “an interest in property”), means an interest of any nature whatsoever, direct or indirect.

§ 510.314 Knowingly.

The term *knowingly*, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

§ 510.315 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 1 to § 510.315: See § 501.801 of this chapter on licensing procedures.

§ 510.316 Loans or other extensions of credit.

The term *loans or other extensions of credit* means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit, including: overdrafts; currency swaps; purchases of securities or debt securities, including securities from or issued by the Government of North Korea; purchases of a loan made by another person; sales of financial assets subject to an agreement to repurchase; renewals or refinancings whereby funds or credits are transferred or extended to a prohibited borrower or prohibited recipient; the issuance of standby letters of credit; and drawdowns on existing lines of credit.

§ 510.317 Luxury goods.

The term *luxury goods* includes those items listed in 15 CFR 746.4(b)(1) and supplement no. 1 to part 746 and similar items.

§ 510.318 New investment.

The term *new investment* means a transaction after 12:01 a.m. eastern daylight March 16, 2016 that constitutes:

- (a) A commitment or contribution of funds or other assets; or
- (b) A loan or other extension of credit as defined in § 510.316.

§ 510.319 North Korean person.

(a) The term *North Korean person* means any North Korean citizen, North Korean permanent resident alien, or entity organized under the laws of North Korea or any jurisdiction within North Korea (including foreign branches).

(b) For the purposes of § 510.201(a)(3)(v), the term *North Korean person* shall not include any United States citizen, any permanent resident alien of the United States, any alien lawfully admitted to the United States, or any alien holding a valid United States visa.

§ 510.320 OFAC.

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

§ 510.321 Payable-through account.

The term *payable-through account* means a correspondent account maintained by a U.S. financial institution for a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

§ 510.322 Person.

The term *person* means an individual or entity.

§ 510.323 Property; property interest.

The terms *property* and *property interest* include money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties,

book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, present, future, or contingent.

§ 510.324 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.

§ 510.325 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 510.326 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

§ 510.327 U.S. depository institution.

The term *U.S. depository institution* means any entity (including its foreign branches) organized under the laws of the United States or any jurisdiction within the United States, or any agency, office, or branch located in the United States of a foreign entity, that is engaged primarily in the business of banking (for example, banks, savings banks, savings associations, credit unions, trust companies, and United States bank holding companies) and is subject to regulation by federal or state banking authorities.

§ 510.328 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 other extensions 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 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.

§ 510.329 U.S.-registered money transmitter.

The term *U.S.-registered money transmitter* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States, including its foreign branches, or any agency, office, or branch of a foreign entity located in the United States, that is a money transmitter, as defined in 31 CFR 1010.100(ff)(5), and that is registered pursuant to 31 CFR 1022.380.

§ 510.330 U.S.-registered broker or dealer in securities.

The term *U.S.-registered broker or dealer in securities* means any U.S. citizen, permanent resident alien, or entity organized under the laws of the United States or of any jurisdiction within the United States (including its foreign branches), or any agency, office, or branch of a foreign entity located in the United States, that:

- (a) Is a “broker” or “dealer” in securities within the meanings set forth in the Securities Exchange Act of 1934;
- (b) Holds or clears customer accounts; and
- (c) Is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934.

Subpart D—Interpretations

§ 510.401 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 ruling, order, instruction, direction or license issued pursuant to this part is a reference to the same as currently amended unless otherwise so specified.

§ 510.402 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.

§ 510.403 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 the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a), such property shall no longer be deemed to be property blocked pursuant to § 510.201(a), unless there exists in the property another interest that is blocked pursuant to § 510.201(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 § 510.201(a), such property shall be deemed to be property in which such person has an interest and therefore blocked.

§ 510.404 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 the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a);

(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; or

(3) An ordinarily incident transaction, not explicitly authorized within the terms of the license, with a foreign financial institution that is subject to sanctions pursuant to § 510.210 when the transaction is one that is prohibited by § 510.210.

(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 § 510.201(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 § 510.201(a).

§ 510.405 Exportation and reexportation of goods, services, or technology.

(a) The prohibition on the exportation and reexportation of goods, services, or technology contained in § 510.206 applies to services performed on behalf of a person in North Korea or the Government of North Korea or where the benefit of such services is otherwise received in North Korea, if such services are performed:

(1) In the United States; or

(2) Outside the United States by a U.S. person, including by a foreign branch of an entity located in the United States.

(b) The benefit of services performed anywhere in the world on behalf of the Government of North Korea is presumed to be received in North Korea.

(c) The prohibitions contained in § 510.201 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 the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a); or

(2) With respect to property interests of the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

(d)(1) For example, U.S. persons may not, except as authorized by or pursuant to this part, provide legal, accounting, financial, brokering, freight forwarding, transportation, public relations, or other services to any person in North Korea or to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

(2) For example, a U.S. person is engaged in a prohibited exportation of services to North Korea when it extends credit to a third-country firm specifically to enable that firm to manufacture goods for sale to North Korea or the Government of North Korea.

Note 1 to § 510.405: See §§ 510.507 and 510.509 on licensing policy with regard to the provision of certain legal and emergency medical services.

§ 510.406 Offshore transactions involving blocked property.

The prohibitions in § 510.201 on transactions or dealings involving blocked property (including a blocked account) apply to transactions by any U.S. person in a location outside the United States with respect to property held in the name of the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a) or any property blocked by § 510.201(d).

§ 510.407 Payments from blocked accounts to satisfy obligations prohibited.

Pursuant to § 510.201, 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 1 to § 510.407: *See also* § 510.502(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.

§ 510.408 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, the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a). For the purposes of this part, a contribution is made by, to, or for the benefit of, or received from, the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(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.

Note 1 to § 510.408: Separate authorization by the Department of Commerce under the Export Administration Regulations (EAR), 15 CFR part 730 through 774, may be required if the charitable contributions are subject to the EAR.

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

The prohibition in § 510.201 on dealing in property subject to that section and the prohibition in § 510.206 on exporting services to North Korea prohibit U.S. financial institutions from performing under any existing credit agreements, including charge cards, debit cards, or other credit facilities issued by a financial institution to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

§ 510.410 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 § 510.201 if effected after the effective date.

§ 510.411 Entities owned by one or more persons whose property and interests in property are blocked.

(a) Persons whose property and interests in property are blocked pursuant to § 510.201(a) have an interest in all property and interests in property of an entity in which such persons directly or indirectly own, whether individually or in the aggregate, 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 § 510.201(a), regardless of whether the name of the entity is incorporated into OFAC's Specially Designated Nationals and Blocked Persons List (SDN List).

(b) This section, which deals with the consequences of ownership of entities, in no way limits the definition of the Government of North Korea in § 510.311, which includes within its definition other persons whose property and interests in property are blocked but who are not on the SDN List.

§ 510.412 Facilitation; change of policies and procedures; referral of business opportunities offshore.

With respect to § 510.211, a prohibited facilitation or approval of a transaction by a foreign person occurs, among other instances, when a U.S. person:

(a) Alters its operating policies or procedures, or those of a foreign affiliate, to permit a foreign affiliate to accept or perform a specific contract, engagement, or transaction involving North Korea or the Government of North Korea without the approval of the U.S. person, where such transaction previously required approval by the U.S. person and such transaction by the foreign affiliate would be prohibited by this part if performed directly by a U.S. person or from the United States;

(b) Refers to a foreign person purchase orders, requests for bids, or similar business opportunities involving North Korea or the Government of North Korea to which the United

States person could not directly respond as a result of the prohibitions contained in this part;
or

(c) Changes the operating policies and procedures of a particular affiliate with the specific purpose of facilitating transactions that would be prohibited by this part if performed by a U.S. person or from the United States.

§ 510.413 Significant transaction(s).

In determining, for purposes of §§ 510.201(a)(3)(vi) and 510.210, whether a transaction(s) is significant, the Secretary of the Treasury or the Secretary's designee may consider the totality of the facts and circumstances. As a general matter, the Department of the Treasury may consider some or all of the following factors:

(a) *Size, number, and frequency.* The size, number, and frequency of transaction(s) over a period of time, including whether the transaction(s) is increasing or decreasing over time and the rate of increase or decrease.

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

(c) *Level of awareness; pattern of conduct.* (1) Whether the transaction(s) is performed with the involvement or approval of management or only by clerical personnel;
and

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

(d) *Nexus.* The proximity between the foreign financial institution engaging in the transaction(s) and North Korea or a blocked person described in § 510.201.

(e) *Impact.* The impact of the transaction(s) on the objectives of Executive Order 13810 including the economic or other benefit conferred or attempted to be conferred on North Korea or a blocked person described in § 510.201.

(f) *Deceptive practices.* Whether the transaction(s) involves an attempt to obscure or conceal the actual parties or true nature of the transaction(s) to evade sanctions.

(g) *Other relevant factors.* Such other factors that the Department of the Treasury deems relevant on a case-by-case basis in determining the significance of a transaction(s).

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

§ 510.501 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 North Korea sanctions page on OFAC's website: www.treasury.gov/ofac.

§ 510.502 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, 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.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited under this part has the effect of removing a prohibition contained in this part from the transaction, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest in, or with respect to, any property 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.

§ 510.503 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.

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

Any payment of funds or transfer of credit in which the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a) has any interest that comes within the possession or control of a U.S. financial institution, or any payment of funds or transfer of credit, subject to § 510.201(d) 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 1 to § 510.504: *See* § 501.603 of this chapter for mandatory reporting requirements regarding financial transfers. *See also* § 510.203 concerning the obligation to hold blocked funds in interest-bearing accounts.

§ 510.505 Entries in certain accounts for normal service charges.

(a) A U.S. financial institution is authorized to debit any blocked account held at that financial institution in payment or reimbursement for normal service charges owed it by the owner of that blocked account.

(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.

§ 510.506 Investment and reinvestment of certain funds.

Subject to the requirements of § 510.203, U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 510.201, subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but funds shall not be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments shall not be credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to the Government of North Korea or any other person whose property and interests in property are blocked pursuant to § 510.201(a).

§ 510.507 Provision of certain legal services.

(a) The provision of the following legal services to or on behalf of the Government of North Korea, the Workers' Party of Korea, any other person whose property and interests in

property are blocked pursuant to § 510.201(a) or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, or any person in North Korea, or in circumstances in which the benefit is otherwise received in North Korea, is authorized, provided that receipt of payment of professional fees and reimbursement of incurred expenses must be authorized: pursuant to § 510.508, 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 or North Korea; 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 the Government of North Korea, the Workers' Party of Korea, any other person whose property and interests in property are blocked pursuant to § 510.201(a) or any further Executive orders relating to the

national emergency declared in Executive Order 13466 of June 26, 2008, or any person in North Korea, or in circumstances in which the benefit is otherwise received in North Korea, not otherwise authorized in this part, requires the issuance of a specific license.

(c) Consistent with § 510.404, 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.

(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 § 510.201, or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, is prohibited unless licensed pursuant to this part.

Note 1 to § 510.507: 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. 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 at: www.treasury.gov/ofac.

§ 510.508 Payments for legal services from funds originating outside the United States.

(a) *Professional fees and incurred expenses.* Receipt of payment of professional fees and reimbursement of incurred expenses for the provision of legal services authorized pursuant to § 510.507(a) to or on behalf of the Government of North Korea, the Workers' Party of Korea, any other person whose property and interests in property are blocked pursuant to § 510.201(a) or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008, or any person in North Korea, or in circumstances in which the benefit is otherwise received in North Korea, is authorized from funds originating outside the United States, provided that 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 § 510.507(a) do 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 § 510.507(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.

Note 1 to paragraph (a): 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 § 510.201(a), any other part of this chapter, or any Executive order has an interest.

(b) *Reports.* (1) U.S. persons who receive payments pursuant to paragraph (a) of this section must submit annual reports no later than 30 days following the end of the calendar year during which the payments were received providing information on the funds received. Such reports shall specify:

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

(ii) If applicable:

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

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

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

(2) The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(i) Email (preferred method): OFAC.Regulations.Reports@treasury.gov; or

(ii) U.S. mail: OFAC Regulations Reports, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Freedman's Bank Building, Washington, DC 20220.

§ 510.509 Emergency medical services.

The provision and receipt of nonscheduled emergency medical services that are otherwise prohibited by this part or any further Executive orders relating to the national emergency declared in Executive Order 13466 of June 26, 2008 are authorized.

§ 510.510 North Korean mission to the United Nations and employees of the United Nations.

(a) Except as provided in paragraph (c) of this section, the provision of goods or services in the United States to the official mission of the Government of North Korea to the United Nations (the mission) and payment for such goods or services are authorized, provided that:

(1) The goods or services are for the conduct of the official business of the mission, or for personal use of the employees of the mission, their families, or persons forming part of their household, and are not for resale;

(2) The transaction does not involve the purchase, sale, financing, or refinancing of real property;

(3) The transaction does not involve the purchase, sale, financing, or refinancing of luxury goods;

(4) The transaction is not otherwise prohibited by law; and

(5) Funds transfers to or from the mission or the employees of the mission, their families, or persons forming part of their household are conducted through an account at a U.S. financial institution specifically licensed by OFAC.

(b) Except as provided in paragraph (c) of this section, the provision of goods or services in the United States to the employees of the mission or of the United Nations, their families, or persons forming part of their household, and payment for such goods or services, are authorized, provided that:

(1) The goods or services are for personal use of the employees of the mission or of the United Nations, their families, or persons forming part of their household, and are not for resale;

(2) The transaction does not involve the purchase, sale, financing, or refinancing of luxury goods;

(3) The transaction is not otherwise prohibited by law; and

(4) Funds transfers to or from employees of the mission, their families, or persons forming part of their household are conducted through an account at a U.S. financial institution specifically licensed by OFAC.

(c) This section does not authorize U.S. financial institutions to open and operate accounts for, or extend credit to, the mission of the Government of North Korea or to the employees of the mission, their families, or persons forming part of their household. U.S. financial institutions are required to obtain specific licenses to operate accounts for, or extend credit to, the mission or to the employees of the mission, their families, or persons forming part of their household.

Note 1 to § 510.510: Nothing in this section authorizes the transfer of any property to the Government of North Korea, the Workers' Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a) other than the mission, nor does this section authorize any debit to a blocked account.

§ 510.511 Noncommercial, personal remittances.

(a)(1) U.S. persons are authorized to send and receive and U.S. depository institutions, U.S.-registered brokers or dealers in securities, and U.S.-registered money transmitters are authorized to process transfers of funds to or from North Korea or for or on behalf of an

individual ordinarily resident in North Korea, other than an individual whose property and interests in property are blocked pursuant to § 510.201(a), in cases in which the transfers involve noncommercial, personal remittances, up to a maximum of \$5,000 per year.

(2) Noncommercial, personal remittances do not include charitable donations of funds to or for the benefit of an entity or funds transfers for use in supporting or operating a business, including a family-owned business.

(b) The transferring institutions identified in paragraph (a) of this section may rely on the originator of a funds transfer with regard to compliance with paragraph (a) of this section, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance with paragraph (a) of this section.

(c) An individual who is a U.S. person is authorized to carry funds as a noncommercial, personal remittance, as described in paragraph (a) of this section, to an individual in North Korea or ordinarily resident in North Korea, other than an individual whose property and interests in property are blocked pursuant to § 510.201(a), provided that the individual who is a U.S. person is carrying the funds on his or her behalf, not on behalf of another person.

§ 510.512 Certain services in support of nongovernmental organizations' activities.

(a) Nongovernmental organizations are authorized to export or reexport services to North Korea that would otherwise be prohibited by this part in support of the following not-for-profit activities:

(1) Activities to support humanitarian projects to meet basic human needs in North Korea, including drought, flood, and disaster relief; the distribution of food, medicine, and clothing intended to be used to relieve human suffering; the provision of shelter; the provision

of clean water, sanitation, and hygiene assistance; the provision of health-related services; assistance for individuals with disabilities; and environmental programs;

(2) Activities to support democracy building in North Korea, including rule of law, citizen participation, government accountability, universal human rights and fundamental freedoms, access to information, and civil society development projects;

(3) Activities to support non-commercial development projects directly benefiting the North Korean people, including preventing infectious disease and promoting maternal/child health, sustainable agriculture, and clean water assistance; and

(4) Activities to support environmental protection, including the preservation and protection of threatened or endangered species and the remediation of pollution or other environmental damage.

(b) Nongovernmental organizations are authorized to export or reexport to North Korea from a third country food, as defined in paragraph (f)(1) of this section, and medicine, as defined in paragraph (f)(2) of this section, in support of the activities authorized in paragraph (a) of this section, provided that the food and medicine are not subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR). For export or reexport by a U.S. person to North Korea from a third country of other items that are not subject to the EAR, a specific license from OFAC is required.

Note 1 to paragraph (b): Pursuant to 15 CFR 746.4(a), a license from the Department of Commerce is required to export or reexport any item subject to the EAR to North Korea, except food and medicine designated as EAR99.

Note 2 to paragraphs (a) and (b): The authorizations in paragraphs (a) and (b) of this section do not eliminate the need to comply with other applicable provisions of law,

including any requirements of agencies other than the Department of the Treasury's Office of Foreign Assets Control. Such requirements include the EAR administered by the Department of Commerce and the International Traffic in Arms Regulations (22 CFR parts 120 through 130) administered by the Department of State.

(c) U.S. depository institutions, U.S.-registered brokers or dealers in securities, and U.S.-registered money transmitters are authorized to process transfers of funds on behalf of U.S. or third-country nongovernmental organizations, including transfers of funds to or from North Korea, in support of the activities authorized by paragraphs (a) and (b) of this section.

(d) Nongovernmental organizations are authorized to engage in transactions with the Government of North Korea that are necessary for the activities authorized by paragraphs (a) and (b) of this section, including payment of reasonable and customary taxes, fees, and import duties to, and purchase or receipt of permits, licenses, or public utility services from, the Government of North Korea.

Note 3 to paragraph (d): This paragraph (d) only authorizes nongovernmental organizations to conduct limited transactions with the Government of North Korea that are necessary for the activities described in paragraphs (a) and (b) of this section, such as payment of reasonable and customary taxes and other fees. Partnerships and partnership agreements between nongovernmental organizations and the Government of North Korea or other blocked persons that are necessary for nongovernmental organizations to provide authorized services are not permitted without a specific license from OFAC.

(e) Except as authorized in paragraph (d) of this section, this section does not authorize the exportation or reexportation of services to, charitable donations to or for the benefit of, or any other transactions involving the Government of North Korea, the Workers'

Party of Korea, or any other person whose property and interests in property are blocked pursuant to § 510.201(a). Specific licenses may be issued on a case-by-case basis for these purposes.

(f)(1) For purposes of this section, the term *food* means items that are consumed by and provide nutrition to humans and animals, and seeds, with the exception of castor bean seeds, that germinate into items that will be consumed by and provide nutrition to humans and animals. Examples of “food” include processed or unprocessed food items for human consumption, feed, vitamins, minerals, food additives, dietary supplements, and containers of drinking water. The term *food* does not include livestock, cigarettes, alcoholic beverages, gum, castor beans, castor bean seeds, certified pathogen-free eggs (unfertilized or fertilized), dried egg albumin, live animals (excluding cattle embryos), Rosary/Jequirity peas, non-food-grade gelatin powder, peptones and their derivatives, super absorbent polymers, western red cedar, and all fertilizers.

(2) The term *medicine* means 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) and that, in the case of an item subject to the EAR, is designated as EAR99 or, in the case of an item not subject to the EAR, is not listed under any multilateral export control regime.

§ 510.513 Official business of the Federal Government.

All transactions otherwise prohibited by the provisions of this part, other than §§ 510.201(a)(1), (a)(3)(iv)through (vi), and (d), 510.206, and 510.208 through 510.211, that are for the conduct of the official business of the Federal Government by employees, grantees, or contractors thereof are authorized.

Note 1 to § 510.513: Section 510.213(e) exempts transactions for the conduct of the official business of the Federal Government by employees, grantees, or contractors thereof to the extent such transactions are subject to the prohibitions contained in §§ 510.201(a)(1), (a)(3)(iv) through (vi), and (d), 510.206, and 510.208 through 510.211.

§ 510.514 Official activities of international organizations.

All transactions and activities otherwise prohibited by the provisions of this part, other than §§ 510.201(a)(1), (a)(3)(iv) through (vi), and (d), 510.206, and 510.208 through 510.211, that are for the conduct of the official business of the United Nations and its Specialized Agencies, Programmes, Funds, and Related Organizations by employees, contractors, or grantees thereof are authorized.

Note 1 to § 510.514: For an organizational chart listing the Specialized Agencies, Programmes, Funds, and Related Organizations of the United Nations, see the following page on the United Nations website: <http://www.unsceb.org/directory>.

Note 2 to § 510.514: Section 510.213(e) exempts transactions for the conduct of the official business of the United Nations by employees, grantees, or contractors thereof to the extent such transactions are subject to the prohibitions contained in §§ 510.201(a)(1), (a)(3)(iv) through (vi), and (d), 510.206, and 510.208 through 510.211.

Note 3 to § 510.514: Separate authorization from the Department of Commerce may be required for the export or reexport of items related to such transactions and activities, if the items are subject to the Export Administration Regulations, 15 CFR parts 730 through 744.

§ 510.515 Third-country diplomatic and consular funds transfers.

(a) Except as provided in paragraph (b) of this section, U.S. depository institutions, U.S.-registered brokers or dealers in securities, and U.S.-registered money transmitters are

authorized to process funds transfers necessary for the operating expenses or other official business of third-country diplomatic or consular missions in North Korea.

(b) This section does not authorize funds transfers involving accounts blocked pursuant to § 510.201(d).

§ 510.516 Transactions related to telecommunications and mail.

(a)(1) Except as provided in paragraph (a)(2) of this section, all transactions necessary for the receipt and transmission of telecommunications involving North Korea are authorized.

(2) This section does not authorize:

(i) The provision, sale, or lease of telecommunications equipment or technology; or

(ii) The provision, sale, or lease of capacity on telecommunications transmission facilities (such as satellite or terrestrial network connectivity).

(b) All transactions of common carriers incident to the receipt or transmission of mail and packages between the United States and North Korea are authorized provided that the importation or exportation of such mail and packages is exempt from or authorized pursuant to this part.

§ 510.517 Certain transactions related to patents, trademarks, copyrights, and other intellectual property.

(a) All of the following transactions in connection with a patent, trademark, copyright, or other form of intellectual property protection in the United States or North Korea are authorized, including exportation of services to North Korea, payment for such services, and payment to persons in North Korea directly connected to such intellectual property protection:

(1) The filing and prosecution of any application to obtain a patent, trademark, copyright, or other form of intellectual property protection;

(2) The receipt of a patent, trademark, copyright, or other form of intellectual property protection;

(3) The renewal or maintenance of a patent, trademark, copyright, or other form of intellectual property protection; and

(4) The filing and prosecution of any opposition or infringement proceeding with respect to a patent, trademark, copyright, or other form of intellectual property protection, or the entrance of a defense to any such proceeding.

(b) This section authorizes the payment of fees to the U.S. Government or the Government of North Korea, and of the reasonable and customary fees and charges to attorneys or representatives within the United States or North Korea, in connection with the transactions authorized in paragraph (a) of this section, except that payment effected pursuant to the terms of this paragraph (b) may not be made from a blocked account.

§ 510.518 Calling of certain vessels and landing of certain aircraft.

(a) Vessels and aircraft in which a foreign person has an interest that have called or landed at a port or place in North Korea within the previous 180 days, and vessels in which a foreign person has an interest that have engaged in a ship-to-ship transfer with such a vessel within the previous 180 days, are authorized to call or land at a port or place in the United States in the following circumstances only:

(1) The vessel is in distress and seeks refuge in the United States;

(2) The vessel's call at a port in North Korea was due solely to its distress and the resulting need to seek refuge;

(3) The aircraft is engaging in a nontraffic stop or an emergency landing in the United States; or

(4) The aircraft's landing in North Korea was due solely to an emergency landing.

(b) For purposes of this section, a *nontraffic stop* includes a stop for any purpose other than taking on or discharging cargo, passengers, or mail.

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

(a) During the 10-day period beginning on the effective date of the prohibition in § 510.210 on the opening or maintaining of a correspondent account or a payable-through account for a foreign financial institution listed on the Correspondent Account or Payable-Through Account Sanctions (CAPTA) List, U.S. financial institutions that maintain correspondent accounts or payable-through accounts for the foreign financial institution are authorized to:

(1) Process only those transactions through the account, or permit the foreign financial institution to execute only those transactions through the account, that are for the purpose of, and necessary for, closing the account; and

(2) Transfer the funds remaining in the correspondent account or the payable-through account to an account of the foreign financial institution located outside of the United States and close the correspondent account or the payable-through account.

(b) A report must be filed with OFAC within 30 days of the closure of an account, providing full details on the closing of each correspondent account or payable-through account maintained by a U.S. financial institution for a foreign financial institution whose name is added to the CAPTA List. Such report must include complete information on the closing of the account and on all transactions processed or executed through the account

pursuant to this section, including the account outside of the United States to which funds remaining in the account were transferred. The reports, which must reference this section, are to be submitted to OFAC using one of the following methods:

(1) Email (preferred method): OFACReport@treasury.gov; or

(2) U.S. mail: Attention: Office of Compliance and Enforcement, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Freedman's Bank Building, Washington, DC 20220.

(c) Specific licenses may be issued on a case-by-case basis to authorize transactions outside the scope or time period authorized in paragraph (a) of this section by a U.S. financial institution with respect to a correspondent account or a payable-through account maintained by the U.S. financial institution for a foreign financial institution whose name is added to the CAPTA List. License applications should be filed in conformance with § 501.801 of the Reporting, Procedures and Penalties Regulations, 31 CFR part 501.

(d) Nothing in this section authorizes the opening of a correspondent account or a payable-through account for a foreign financial institution whose name appears on the CAPTA List.

Note 1 to § 510.519: This section does not authorize a U.S. financial institution to unblock property or interests in property, or to engage in any transaction or dealing in property or interests in property, blocked pursuant to any other part of this chapter in the process of closing a correspondent account or a payable-through account for a foreign financial institution whose name has been added to the CAPTA List. *See* § 510.101.

Subpart F—Reports

§ 510.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties and Finding of Violation

§ 510.701 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 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 1 to paragraph (a)(1): IEEPA provides for a maximum civil penalty not to exceed the greater of \$295,141 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, 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)(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 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 the authority granted in that section, upon conviction, shall be fined not more than \$10,000 and, if a natural person, may also be imprisoned for not more than 10 years; and the officer, director, or agent of any corporation who knowingly participates in such violation or evasion shall be punished by a like fine, imprisonment, or both and any property, funds, securities, papers, or other articles or documents, or any vessel, together with her tackle, apparel, furniture, and equipment, or vehicle, or aircraft, concerned in such violation shall be forfeited to the United States.

(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.

§ 510.702 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 (50 U.S.C. 1705) (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) *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) 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, 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. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Office of Compliance and Enforcement 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.

§ 510.703 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.

§ 510.704 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.

§ 510.705 Finding 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 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;

(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) on or before the 30th day after the postmark date on the envelope in which the initial Finding of Violation was served. 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, 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. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC by mail or courier 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. 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

§ 510.801 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.

§ 510.802 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 13466 of June 26, 2008, Executive Order 13551 of August 30, 2010, Executive Order 13570 of April 18, 2011, Executive Order 13687 of January 2, 2015, Executive Order 13722 of March 15, 2016, Executive Order 13810 of September 20, 2017, and any further Executive orders relating to the national emergency declared in Executive

Order 13466 of June 26, 2008, and any action that the Secretary of the Treasury is authorized to take pursuant to Presidential Memorandum of May 18, 2016: Delegation of Certain Functions and Authorities under the North Korea Policy Enhancement Act of 2016 and Presidential Memorandum of September 29, 2017: Delegation of Certain Functions and Authorities under the Countering America's Adversaries Through Sanctions Act of 2017, the Ukraine Freedom Support Act of 2014, and the Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014, 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.

Subpart I—Paperwork Reduction Act

§ 510.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures, and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: February 22, 2018.

Andrea Gacki,
Acting Director, Office of Foreign Assets Control.

Approved: February 22, 2018.

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

BILLING CODE 4810-AL
[FR Doc. 2018-04113 Filed: 3/1/2018 8:45 am; Publication Date: 3/5/2018]