

Signed: March 13, 2001.

Bradley A. Buckles,
Director.

Approved: June 11, 2001.

Timothy E. Skud,
Acting Deputy Assistant Secretary,
(Regulatory, Tariff and Trade Enforcement).
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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 535

Amendments to the Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Interim rule with request for comments; amendments.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the Iranian Assets Control Regulations, 31 CFR part 535 (the "IACR"), to conform certain provisions related to custodians of property in which Iran has an interest to rulings of the Iran-U.S. Claims Tribunal.

DATES: Effective date: July 25, 2001.

Comments: Written comments must be received no later than September 24, 2001.

ADDRESSES: Comments should be sent to David W. Mills, Chief, Policy Planning and Program Management Division, rm. 2176 Main Treasury Annex, 1500 Pennsylvania Ave. N.W., Washington, DC 20220 or via OFAC's website (<http://www.treas.gov/ofac>).

FOR FURTHER INFORMATION CONTACT: Dennis P. Wood, Chief of Compliance Programs, tel.: 202/622-2490, Steven I. Pinter, Acting Chief of Licensing, tel.: 202/622-2480, or Barbara C. Hammerle, Acting Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

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Telnet, or FTP protocol is: fedbbs.access.gpo.gov. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: <http://www.treas.gov/ofac>, or in fax form through the Office's 24-hour fax-on-demand service: call 202/622-0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the Iranian Assets Control Regulations, 31 CFR part 535 (the "IACR"), to conform certain provisions related to custodians of property in which Iran has an interest to rulings of the Iran-U.S. Claims Tribunal (the "Tribunal"). In its May 1992 partial award in Case A/15, Awd. No. 529-A15-FT, 28 Iran-U.S. Cl. Tr. Rep. 112 (May 6, 1992), the Tribunal found that certain provisions of the IACR were not in strict compliance with commitments made by the U.S. in the Algiers Accords. See, Awd. 529, at ¶ 51, p. 131; See also, Id., at ¶ 53, p. 131.

These amendments are intended to state clearly that obligations or liens on property do not disqualify this property from IACR requirements dictating that this property be returned if that property is otherwise subject to the requirements of the IACR.

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

The period for submission of comments will close September 24, 2001. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the material be treated confidentially because of its

business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting the comments and materials and will not consider them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form.

All public comments on these regulations will be a matter of public record. Copies of the public record concerning these regulations will be made available, not sooner than October 23, 2001 and may be obtained from OFAC's website (<http://www.treas.gov/ofac>). If that service is unavailable, written requests for copies may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave. N.W., Washington, DC 20220, Attn: Merete Evans.

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 and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget ("OMB") 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 535

Administrative practice and procedure, Banks, Banking, Currency, Foreign claims, Foreign investments in the United States, Iran, Penalties, Reporting and recordkeeping requirements, and Securities.

For reasons set forth in the preamble, 31 CFR part 535 is amended as follows:

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The authority section continues to read as follows:

Authority: 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. 1701-1706; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12170, 44 FR 65729, 3 CFR, 1979 Comp., p. 457; E.O. 12205, 45 FR 24099, 3 CFR, 1980 Comp., p. 248; E.O. 12211, 45 FR 26685, 3 CFR, 1980 Comp., p. 253; E.O. 12276, 46 FR 7913, 3 CFR, 1981 Comp., p. 104; E.O. 12279, 46 FR 7919, 3 CFR, 1981 Comp., p. 109; E.O. 12280, 46 FR 7921, 3 CFR, 1981 Comp., p. 110; E.O. 12282, 46 FR 7925, 3 CFR, 1981

Comp., p. 113; E.O. 12283, 46 FR 7927; 3 CFR, 1981 Comp., p. 114; and E.O. 12294, 46 FR 14111, 3 CFR, 1981 Comp., p. 139.

2. Amend § 535.215 to revise paragraph (a) to read as follows:

§ 535.215 Direction involving other properties in which Iran or an Iranian entity has an interest held by any person subject to the jurisdiction of the United States.

(a) Except as provided in paragraphs (b) and (c) of this section, all persons subject to the jurisdiction of the United States in possession or control of properties, as defined in § 535.333 of this part, not including funds and securities owned by Iran or its agencies, instrumentalities or controlled entities, are licensed, authorized, directed and compelled to transfer such properties held on January 18, 1981 as directed after that day by the Government of Iran, acting through its authorized agent. Such directions shall include arrangements for payment of the costs of transporting the properties, unless the possessors of the properties were required to pay such costs by contract or applicable law on January 19, 1981. Except where specifically stated, this license, authorization and direction does not relieve persons subject to the jurisdiction of the United States from existing legal requirements other than those based upon the International Emergency Economic Powers Act.

* * * * *

3. Amend § 535.333 to read as follows:

§ 535.333 Properties.

(a) The term properties as used in § 535.215 means all uncontested and non-contingent liabilities and property interests of the Government of Iran, its agencies, instrumentalities, or controlled entities, including debts. It does not include bank deposits or funds and securities. It also does not include obligations under standby letters of credit or similar instruments in the nature of performance bonds, including accounts established pursuant to § 535.568.

(b) Properties do not cease to fall within the definition in paragraph (a), above, merely due to the existence of unpaid obligations, charges or fees relating to such properties, or undischarged liens against such properties.

(c) Liabilities and property interests of the Government of Iran, its agencies, instrumentalities, or controlled entities may be considered contested only if the holder thereof reasonably believes that Iran does not have title or has only partial title to the asset. After October 23, 2001, such a belief may be

considered reasonable only if it is based upon a bona fide opinion, in writing, of an attorney licensed to practice within the United States stating that Iran does not have title or has only partial title to the asset. For purposes of this paragraph, the term holder shall include any person who possesses the property, or who, although not in physical possession of the property, has, by contract or otherwise, control over a third party who does in fact have physical possession of the property. A person is not a holder by virtue of being the beneficiary of an attachment, injunction or similar order.

(d) Liabilities and property interests shall not be deemed to be contested solely because they are subject to an attachment, injunction, or other similar order.

Dated: June 8, 2001.

Loren L. Dohm,

Acting Director, Office of Foreign Assets Control.

Approved: June 25, 2001.

James P. Sloan,

Acting Under Secretary (Enforcement), Department of the Treasury.

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 540

Highly Enriched Uranium (HEU) Agreement Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is issuing regulations to implement the President's declaration in Executive Order 13159 of June 21, 2000, of a national emergency and order blocking certain property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements.

DATES: Effective date: July 25, 2001.

FOR FURTHER INFORMATION CONTACT: Dennis P. Wood, Chief of Compliance Programs, tel.: 202/622-2490, Steve I.

Pinter, Acting Chief of Licensing, tel.: 202/622-2480, or Barbara C. Hammerle, Acting Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

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Background

On June 21, 2000, the President issued Executive Order 13159 (65 FR 39279, June 26, 2000), declaring a national emergency with respect to the risk of nuclear proliferation created by the accumulation of a large volume of weapons-usable fissile material in the territory of the Russian Federation and invoking the authority of, inter alia, the International Emergency Economic Powers Act, 50 U.S.C. 1701 *et seq.* ("IEEPA"). Pursuant to the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, dated February 18, 1993, and related contracts and agreements (collectively, the "HEU Agreements"), weapons-grade uranium extracted from Russian nuclear weapons is converted to low enriched uranium ("LEU") for use in commercial reactors and sold to the United States in the form of LEU. The order blocks and protects from attachment, judgment, decree, lien, execution, garnishment, or other judicial process that property and interests in property of the Government of the Russian Federation that are directly related to the implementation of the HEU Agreements that are in the United States, that are or hereafter come within the United States, or that are or