

**FEDERAL RESERVE BANK
OF NEW YORK**
Fiscal Agent of the United States

Circular No. 8695
November 30, 1979

AMENDMENTS TO IRANIAN ASSETS CONTROL REGULATIONS
Effective November 28 and 29, 1979

*To All Banks, and Others Concerned,
in the Second Federal Reserve District:*

Enclosed are copies of additional amendments, effective November 28 and 29, 1979, respectively, to the Iranian Assets Control Regulations issued by the Office of Foreign Assets Control, U. S. Treasury Department.

The November 28 amendments are designed to clarify the effect of the regulations on various types of letters of credit in which Iran or an Iranian entity has an interest, and to explain the licensing policies of the Office of Foreign Assets Control with respect to various letter-of-credit problems.

The November 29 amendment excludes, from the section that authorizes judicial proceedings, any prejudgment attachment regarding certain Iranian property.

For your information, application forms for obtaining specific licenses (Form TFAC-27) to engage in certain transactions subject to the prohibitions of the regulations, and which are not authorized by general license, are now available from the foreign assets control section of the Foreign Department of this Bank (Tel. No. 212-791-8933).

Inquiries regarding the amendments should be directed to Ernest T. Patrikis, Deputy General Counsel (Tel. No. 212-791-5022), Don N. Ringsmuth, Assistant General Counsel (Tel. No. 212-791-5007), or John Hopkins Heires, Adviser, Foreign Department (Tel. No. 212-791-6816).

THOMAS M. TIMLEN,
First Vice President.

DEPARTMENT OF THE TREASURY
Title 31 — Money and Finance: Treasury
CHAPTER V — FOREIGN ASSETS CONTROL
PART 535 — IRANIAN ASSETS CONTROL REGULATIONS
Amendments effective November 28, 1979

AGENCY: Office of Foreign Assets Control.

ACTION: Final Rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendments is to clarify the effect of the Regulations on various types of letters of credit in which Iran or an Iranian entity has an interest. The need for the amendments is to set forth interpretations and licensing policies with respect to letter of credit problems. The effect of the amendments will be that there will be available to interested parties an explanation of the effect of the Regulations on letters of credit in which Iran or an Iranian entity has an interest and the licensing policies of the Office with respect to various letter of credit problems.

EFFECTIVE DATE: November 28, 1979.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell
Chief Counsel
Office of Foreign Assets Control
Department of the Treasury
Washington, D.C. 20220
(202) 376-0236

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

31 CFR, Part 535 is amended as follows:

§ 535.416 **Letters of credit.**

(a) Q. Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a

non-Iranian account party in favor of an Iranian entity. Can payment be made upon presentation of documentary drafts?

A. Yes, provided payment is made into a blocked account in a domestic bank.

(b) Q. Prior to the effective date, a domestic branch of a bank organized or incorporated under the laws of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. Payment is to be made through a foreign branch of the bank. Can payment be made upon presentation of documentary drafts?

A. Yes, provided payment is made into a blocked account in a domestic bank.

(c) Q. Prior to the effective date, a foreign bank confirms a documentary letter of credit issued by its U.S. agency or branch for a non-Iranian account party in favor of an Iranian entity. Can the U.S. agency or branch of the foreign bank transfer funds to the foreign bank in connection with that foreign bank's payment under the letter of credit?

A. No, the U.S. agency's payment is blocked, unless the foreign bank made payment to the Iranian entity prior to the effective date.

(d) Q. Prior to the effective date, a bank subject to the jurisdiction of the United States has issued or confirmed a documentary letter of credit for a non-Iranian account party in favor of an Iranian entity. The Iranian entity presents documentary drafts which are deficient in some detail. May the non-Iranian account party waive the documentary deficiency and make payment?

A. Yes, provided payment is made into a blocked account in a domestic bank. However, the non-Iranian account party is not obligated by these Regulations to exercise a waiver of documentary deficiencies. In cases where such a waiver is not exercised, the amount of the payment held by the account party is blocked.

(e) Q. If the facts are the same as in the preceding question except that the Iranian entity permits the letter of credit to expire, does the bank hold a blocked asset?

A. No, but depending on the facts, the account party may hold a blocked obligation to the Iranian entity.

(f) Q. A bank subject to the jurisdiction of the United States has issued a letter of credit for a U.S. account party in favor of an Iranian entity. The letter of credit is confirmed by a foreign bank. Prior to or after the effective date, the Iranian entity presents documents to the U.S. issuing bank. Payment is deferred. After the effective date, the Iranian entity requests that the issuing bank either return the documents to the Iranian entity or transfer them to the confirming bank. Can the issuing bank do so?

A. No. The U.S. issuing bank can neither return nor transfer the documents without a license. The documents constitute blocked property under the Regulations.

§ 535.417 Payment of accepted drafts and other obligations.

(a) A banking institution as its own obligation may make payment to the beneficiary of a letter of credit issued by it or on a draft accepted by it, which letter of credit or draft is in favor of a non-Iranian person subject to the jurisdiction of the United States and which was issued on behalf of Iran or an Iranian entity or was accepted prior to the effective date, provided that, notwithstanding the provisions of § 535.902, no blocked account may at any time be debited in connection with such a payment.

(b) A payment under paragraph (a) shall give the banking institution making payment no special priority or other right to blocked accounts it holds in the event that such blocked accounts are vested or otherwise lawfully used in connection with a settlement of claims.

(c) Nothing in this section prevents payment being made to the beneficiary of any draft or letter of credit or to any banking institution pursuant to § 535.904.

§ 535.567 Payments under advised letters of credit.

Specific licenses may be issued for presentation, acceptance, or payment of documentary drafts under

a letter of credit opened by an Iranian entity and advised by a domestic bank, *Provided* that:

(a) The letter of credit was advised prior to the effective date;

(b) The property which is the subject of the payment under the letter of credit was not in the possession or control of the exporter on or after the effective date;

(c) The beneficiary is a person subject to the jurisdiction of the United States.

As a general matter, licenses will not be issued if the amount to be paid to a single payee exceeds \$500,000.

§ 535.568 Certain standby letters of credit and performance bonds.

(a) Notwithstanding the provisions of § 535.508, an issuing or confirming bank may not make payment into a blocked account in a domestic bank under a standby letter of credit in favor of an Iranian entity if a specific license has been issued pursuant to the provisions of paragraph (b) hereof.

(b) Whenever an issuing or confirming bank shall receive such demand for payment under a standby letter of credit, it shall promptly notify the person for whose account the credit was opened. Such person may then apply within 5 days for a specific license authorizing the account party to establish a blocked account on its books in the name of the Iranian entity in the amount payable under the credit, in lieu of payment by the issuing or confirming bank into a blocked account and reimbursement therefor by the account party.

(c) If necessary to assure the availability of the funds blocked, the Secretary may at any time require the payment of the amounts due under any letter of credit described in paragraph (a) into a blocked account in a domestic bank or the supplying of any form of security deemed necessary.

(d) Nothing in this section precludes any person for whose account a standby letter of credit was opened or any other person from at any time contesting the legality of the demand from the Iranian entity or from raising any other legal defense to payment under the standby letter of credit.

(e) This section does not affect the obligations of the various parties to the instruments covered by this section if the instruments and payments thereunder are subsequently unblocked.

(f) For the purposes of this section, the term "standby letter of credit" shall mean a letter of credit securing performance of, or repayment of, any advance payments or deposits, under a contract with Iran or an Iranian entity, or any similar obligation in the nature of a performance bond.

(g) The regulations do not authorize any person subject to the jurisdiction of the United States to reimburse a non-U.S. bank for payment to Iran or an Iranian entity under a standby letter of credit, except

by payment into a blocked account in accordance with Section 535.508 or paragraph (b) of this section.

Stanley L. Sommerfield
Director
Foreign Assets Control

Approved: Richard J. Davis
Assistant Secretary

(*Authority: Secs. 201-207, 91 Stat. 1626; 50 U.S.C. 1701 - 1706; E.O. No. 12170, 44 FR 65729.*)

DEPARTMENT OF THE TREASURY
Title 31 — Money and Finance: Treasury
CHAPTER V — FOREIGN ASSETS CONTROL
PART 535 — IRANIAN ASSETS CONTROL REGULATIONS

Amendment effective November 29, 1979

AGENCY: Office of Foreign Assets Control.

ACTION: Final Rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendment is to add new paragraph (d) to § 535.504. That section authorizes certain judicial proceedings with respect to property of Iran or Iranian entities. The need for the amendment is to exclude from that authorization any pre-judgment attachment of certain types of property of Iran and Iranian entities brought into the United States under specific license from the Office of Foreign Assets Control. The effect of the amendment is that attachments are not authorized with respect to such specifically licensed Iranian property.

EFFECTIVE DATE: November 29, 1979.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell
Chief Counsel
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Department of the Treasury
Washington, D.C. 20220
(202) 376-0236

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, opportunity for public participation and delay in effective date are inapplicable.

31 CFR, Part 535 is amended by the addition of paragraph (d) to § 535.504, as follows:

§ 535.504 **Certain judicial proceedings with respect to property of Iran or Iranian entities.**

* * *

(d) Property transferred into or held in the United States by Iran or an Iranian entity under a specific license which by its terms withdraws the authorization for pre-judgment attachment with respect to such property is excluded from the privileges of paragraph (a) hereof.

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Stanley L. Sommerfield
Director
Foreign Assets Control

Approved: Richard J. Davis
Assistant Secretary

(Authority: Secs. 201-207, 91 Stat. 1626; 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729.)