

FEDERAL RESERVE BANK
OF NEW YORK

Fiscal Agent of the United States

At Circ. No. 8724

December 27, 1979

AMENDMENTS TO IRANIAN ASSETS CONTROL REGULATIONS

Effective December 18, 1979

*To All Banking Institutions
in the Second Federal Reserve District:*

Printed on the following pages are amendments, effective December 18, 1979, to the Iranian Assets Control Regulations issued by the Office of Foreign Assets Control, United States Treasury Department.

The first set of amendments clarifies certain rules and policies regarding letter-of-credit situations, adds certain interpretative provisions, and adds a section (Subpart F) to the regulations dealing with furnishing reports of transactions subject to the provisions of the regulations.

The second set of amendments relates to the payment of certain checks and drafts, adds certain definitional provisions, and adds a new section describing the rule-making activities of the Office of Foreign Assets Control.

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.

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

AT 1000
December 27, 1979

Title 31 - MONEY AND FINANCE: Treasury

Chapter V - Foreign Assets Control

Department of the Treasury

Part 535 - Iranian Assets Control Regulations

AMENDMENTS TO IRANIAN ASSETS CONTROL REGULATIONS

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 rules and policies dealing with letter of credit situations, to add certain interpretative provisions, and to add Subpart F concerning reports. The need for the amendments is that the Office has received many telephone and written inquiries regarding the interpretation of the relevant provisions. The effect of the amendments is that the effect of the Regulations on various transactions will be clarified.

EFFECTIVE DATE: December 18, 1979.

FOR FURTHER INFORMATION CONTACT:

Dennis M. O'Connell
Chief Counsel
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.

In addition to other miscellaneous provisions, the amendments herein include the following:

1. Letter of credit rules. Section 535.416 provides interpretations as to the applicability of these regulations to possible transactions involving letters of credit. The amendments to this section published today are intended to amplify some of the interpretations previously given.
2. Pre-judgment attachments. New section 535.418 makes clear that section 535.504 authorizes pre-judgment attachments, but does not authorize any payment or delivery of blocked property to a court, marshal, sheriff or similar entity.
3. Advised letters of credit. Section 535.567 is being modified to make clear that specific licenses will be granted under the criteria described to allow payments from blocked accounts only in hardship cases. This has always been the purpose of this licensing policy.
4. Standby letters of credit and performance bonds. Section 535.568, relating to certain standby letters of credit and performance bonds, is being amended to include a provision that notwithstanding any other provision of law no payment may be made under any such instrument before sufficient time (eight business days) has passed to allow the account party to apply for a specific license under section 535.568(b). 31 CFR, Part 535 is amended as follows:

1. Section 535.416(d) and (e) are amended to read as follows:

Section 535.416 Letters of Credit

* * * * *

(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 authorize the bank to 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 bank's payment obligation, if any, under the letter of credit remains blocked, as does any obligation, contingent or otherwise, of the account party. The documents are also blocked.

(e) 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 does not make timely, complete, or proper presentation of documents, and the letter of credit expires. Does there remain a blocked payment obligation held by the bank?

A. No, but any documents held by the bank continue to be blocked. It is also possible that the account party still has a related obligation to the Iranian entity and any such obligation would be blocked.

* * * * *

2. Section 535.418 is added to read as follows:

Section 535.418 Authorization of judicial proceedings under
Section 535.504

* * * * *

The general authorization for judicial proceedings contained in Section 535.504(a) includes pre-judgment attachment. However, Section 535.504(a) does not authorize payment or delivery of any blocked property to any court, marshal, sheriff, or similar entity, and any such transfer of blocked property is prohibited without a specific license. It would not be consistent with licensing policy to issue such a license.

3. Section 535.502 is amended by revising the heading and adding new paragraph (c) as follows:

Section 535.502 Effect of license or authorization

* * * * *

(c) Any regulation, ruling, instruction or license authorizing a transaction otherwise prohibited under this part has the effect of removing a prohibition or prohibitions in Subpart B 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 which would not otherwise exist under ordinary principles of law.

4. Section 535.567 is amended to read as follows:

Section 535.567 Payment under advised letters of credit

* * * * *

(a) 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 or an Iranian bank subject to the jurisdiction of the United States, provided, that:

- (1) The letter of credit was advised prior to the effective date;
- (2) 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;
- (3) The beneficiary is a person subject to the jurisdiction of the United States.

(b) As a general matter, licenses will not be issued if the amount to be paid to a single payee exceeds \$500,000, or if hardship cannot be shown.

5. Section 535.568 is amended to read as follows:

Section 535.568 Certain standby letters of credit and performance bonds

(a) Notwithstanding any other provision of law, payment into a blocked account in a domestic bank by an issuing or confirming bank under a standby letter of credit in favor of an Iranian entity is prohibited by Section 535.201 and not authorized, notwithstanding the provisions of Section 535.508, if either (1) a specific license has been issued pursuant to the provisions of paragraph (b) hereof or (2) eight business days have not expired after notice to the account party pursuant to 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 five business 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 obligation 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.

(h) A person receiving a specific license under this section shall certify to the Office of Foreign Assets Control within five business days after receipt of that license that it has established the blocked account on its books as provided by paragraph (b) thereof.

6. Subpart F is added to read as follows:

Subpart F - Reports

§535.601 Records.

Every person engaging in any transaction subject to the provisions of this part shall keep a full and accurate record of each such transaction engaged in by him, regardless of whether such transaction is effected pursuant to license or otherwise, and such record shall be available for examination for at least two years after the date of such transaction.

§535.602 Reports to be furnished on demand.

Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary of the Treasury or any person acting under his direction or authorization complete information relative to any transaction subject to the provisions of this part or relative to any property in which any foreign country or any national thereof has any interest of any nature whatsoever, direct or indirect. The Secretary of the Treasury or any person acting under his direction may require that such reports include the production of any books of account, contracts, letters or other papers, connected with any such transaction or property, in the custody or control of the persons required to make such reports.

DEPARTMENT OF THE TREASURY
FOREIGN ASSETS CONTROL OFFICE
31 CIV. PART 533
Foreign Assets Control Regulations
AGENCY: Office of Foreign Assets Control
ACTION: Final Rule
SUMMARY: The Office of Foreign Assets Control is to amend
Assets Control Regulations. The purpose of the amendment is to amend
§ 533.531 concerning the payment of certain checks and drafts; to add
§ 533.531 to add § 533.506 describing the rule
making activities of the Office. The need for the amendments is to extend
certain provisions of § 533.531 which expired on December 14, 1979; to set
forth policy concerning payment of checks and drafts; to extend
the Office will consider, on a case-by-case basis, the
irrevocable letters of credit. The effect of the amendment is that the
and that affected parties will be made aware of Office policy on accepted
drafts of the opportunity to submit certain types of credit problems to the
Office for case-by-case consideration, and of certain delinquent provisions
of the Regulations.
EFFECTIVE DATE: December 18, 1979
FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Chief Counsel, Office
of Foreign Assets Control, Department of the Treasury, Washington, D.C.
50320, 202-376-0236

Reports with respect to transactions may be required either before
or after such transactions are completed. The Secretary of the Treasury
may, through any person or agency, investigate any such transaction or
property or any violation of the provisions of this part regardless of
whether any report has been required or filed in connection therewith.

Dated: December 18, 1979

(s) Stanley L. Sommerfield
Stanley L. Sommerfield
Director

Approved: (s) Richard J. Davis
Richard J. Davis
Assistant Secretary

Authority: Secs. 201 - 207, 91 Stat. 1628; 50 U.S.C. 1701 - 1706;
E. O. No. 12170, 44 FR 65729./

Filed: December 18, 1979

DEPARTMENT OF THE TREASURY
FOREIGN ASSETS CONTROL OFFICE

31 CFR Part 535

Iranian Assets Control Regulations

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 amend §535.531 concerning the payment of certain checks and drafts; to add certain definitional provisions; and to add §535.806 describing the rule making activities of the Office. The need for the amendments is to extend certain provisions of §535.531 which expired on December 14, 1979; to set forth policy concerning payment of checks and drafts; and to announce that the Office will consider, on a case-by-case basis, payment under certain irrevocable letters of credit. The effect of the amendment is that the authorization for payment for certain checks and drafts will continue for 31 days (not including the previous authorization for documentary drafts drawn under irrevocable letters of credit, which expired December 14, 1979); and that affected parties will be made aware of Office policy on accepted drafts, of the opportunity to submit certain letter of credit problems to the Office for case-by-case consideration, and of certain definitional provisions of the Regulations.

EFFECTIVE DATE: December 18, 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.

§535.531 now incorporates the overall policy under the Regulations concerning the payment of checks and drafts involving debits to blocked accounts. The main features of that policy are as follows:

(1) §535.531(a) extends the general license for payment of checks and drafts drawn or issued prior to the effective date until January 14, 1980.

(2) §535.531(b) revises and recodifies, as a general license, the provisions of former §535.417 (published December 3, 1979) concerning the payment of accepted drafts and other obligations.

(3) The general license for payment of certain documentary drafts under irrevocable letters of credit, which expired on December 14, 1979, has not been extended. However, §535.531(c) gives notice that applications for specific licenses for such payments will be considered on a case-by-case basis. Submissions should cover all such letters of credit in which the applicant is involved, and should be submitted not later than January 10, 1980.

(4) §535.531(d) states that any payments made under the provisions of paragraph (a) or (b) of the section in favor of Iran or an Iranian entity must be made into a blocked account in a domestic bank.

§535.531(b), by its terms, deals only with accepted drafts where the payee is a person subject to the jurisdiction of the United States. However, the Office will also consider, without commitment, applications to authorize payment of accepted drafts to persons not subject to the jurisdiction of the

United States on a case-by-case basis. Submissions should cover all accepted drafts in which the applicant is involved and should be submitted not later than January 10, 1980.

31 CFR Part 535 is amended as follows:

1. §535.310 is added to read as follows:

§535.310 Transfer.

The term "transfer" shall mean 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, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property and, without limitation upon the foregoing, 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 appointment of any agent, trustee, or other fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or the levy of or under any judgment, decree, attachment, 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, or the exercise of any power of appointment, power of attorney, or other power.

2. §535.312 is added to read as follows:

§535.312 Interest.

Except as otherwise provided in this part, the term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

3. §535.417 is revoked.

4. §535.531 is amended to read as follows:

§535.531 Payment of certain checks and drafts.

(a) A bank subject to the jurisdiction of the United States is hereby authorized to make payments from blocked accounts with such banking institution of checks and drafts drawn or issued prior to the effective date, Provided, that:

(1) The amount involved in any one payment, acceptance, or debit does not exceed \$3,000; or

(2) The check or draft was within the United States in process of collection by a domestic bank on or prior to the effective date and does not exceed \$50,000.

(3) The authorization contained in this paragraph shall expire at the close of business on January 14, 1980.

(b) A bank subject to the jurisdiction of the United States as its own obligation may make payment to a person subject to the jurisdiction of the United States who is the beneficiary of any letter of credit issued or confirmed by it, or on a draft accepted by it, prior to the effective date, where the letter of credit was issued or confirmed on behalf of Iran or an Iranian entity, Provided that:

(1) Notwithstanding the provisions of §535.902, no blocked account may at any time be debited in connection with such a payment.

(2) Such a payment shall give the bank 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.

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

(c) The Office will consider on a case-by-case basis, without any commitment on its part to authorize any transaction or class of transactions, applications for specific licenses to make payments from blocked accounts of documentary drafts drawn under irrevocable letters of credit issued or confirmed by a domestic bank prior to the effective date, in favor of any person subject to the jurisdiction of the United States. Any bank or payee submitting such an application should include data on all such letters of credit in which it is involved. Applications should be submitted not later than January 10, 1980.

(d) Paragraphs (a) and (b) do not authorize any payment to Iran or an Iranian entity except payments into a blocked account in a domestic bank unless Iran or the Iranian entity is otherwise licensed to receive such payment.

5. §535.806 is added to read as follows:

§535.806 Rule Making.

(a) In general, rule making by the Office of Foreign Assets Control involves foreign affairs functions of the United States to which the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rule making, the opportunity for public participation and a delay in effective date are inapplicable. However, the Office of Foreign Assets Control may consult with interested groups or persons in connection with the issuance of rules or the establishment of licensing policies.

(b) Any interested person may recommend in writing to the Director of the Office of Foreign Assets Control the issuance, amendment or the repeal of any rule.

Dated: December 18, 1979

(s) Stanley L. Sommerfield
Stanley L. Sommerfield
Director

Approved: (s) Richard J. Davis
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.]

Filed: December 18, 1979