

**FEDERAL RESERVE BANK
OF NEW YORK**

Fiscal Agent of the United States

[Circular No. **10426**
February 20, 1991]

**AMENDMENTS TO IRANIAN ASSETS CONTROL REGULATIONS
Effective February 28, 1991**

*To All Depository Institutions in the Second
Federal Reserve District and Others Concerned:*

Printed on the following pages are amendments, effective February 28, 1991, to the Iranian Assets Control Regulations issued by the Office of Foreign Assets Control of the United States Treasury Department. The amendments revoke the authority granted by specific license to certain U.S. persons to maintain blocked accounts on their books for monies owed Iranian beneficiaries under standby letter of credit obligations.

Questions regarding these amendments may be directed to Bradley K. Sabel, Counsel (Tel. No. 212-720-5041).

E. GERALD CORRIGAN,
President.

**DEPARTMENT OF THE TREASURY
Office of Foreign Assets Control
31 CFR Part 535**

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule revokes the authority granted by specific license to certain U.S. persons to maintain blocked accounts on their books for monies owed Iranian beneficiaries under standby letter of credit obligations. This action is being taken to comply with an arbitral award issued by the Iran-U.S. Claims Tribunal in The Hague.

EFFECTIVE DATE: February 28, 1991.

FOR FURTHER INFORMATION CONTACT: William B. Hoffman, Chief Counsel (202/535-6020), or Steven I. Pinter, Chief of Licensing (202/535-9449), Office of

Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION: At the time of the 1979 hostage crisis between the United States and Iran, numerous U.S. persons were account parties on standby letters of credit ("SLCs") issued in favor of Iranian beneficiaries to secure the U.S. parties' contract performance. Under § 535.568 of the Iranian Assets Control Regulations, 31 CFR part 535 (the "Regulations"), the Office of Foreign Assets Control ("FAC") issued specific licenses authorizing an applicant U.S. account party to open a blocked reserve account on its books to cover amounts demanded by an Iranian beneficiary under an SLC (a "568 Account"), in lieu of payment of those amounts by the issuing or confirming U.S. bank into a blocked bank account and reimbursement of the bank by the account party.

On November 12, 1990, the Iran-U.S.

Claims Tribunal in The Hague (the "Tribunal"), issued Interlocutory Award ITL 78-A15(1:C)-FT, holding that the United States Government had violated General Principle A of the Declaration of the Government of the Democratic and Popular Republic of Algeria, dated January 19, 1981 (the "Algiers Accords"), by allowing U.S. account parties to hold SLC obligations in 568 Accounts, rather than transferring the funds to the Government of Iran. The Tribunal held that this arrangement violates the obligation of the United States under the Algiers Accords to restore the financial position of Iran, insofar as possible, to that which existed prior to November 14, 1979, except with respect to SLC obligations in the following three categories: (1) Those that are or were at issue in any claim brought before the Tribunal, for so long as such claim is or was pending before the Tribunal, (2) those that are or were at issue in any claim that the Tribunal resolves, or has

resolved, or the merits, or (3) those that were at issue in a matter that was settled between the parties.

This rule implements the Tribunal's interlocutory award by revoking authorization to maintain 568 Accounts, effective February 28, 1991, unless the license holder submits documentation to FAC establishing to FAC's satisfaction that the license pertains to an SLC that falls within one of the three categories referenced above. This rule places on the license holder the burden of establishing that the license covering a particular 568 Account is exempt from revocation.

U.S. court preliminary injunctions that block payment by U.S. banks under SLCs, as authorized pursuant to §§ 535.504 and 535.222(g) of the Regulations, are not affected at this time by the Tribunal's interlocutory award. Account parties whose authority to maintain 568 Accounts is revoked may still seek preliminary injunctions against paying allegedly fraudulent calls. This rule also amends the Regulations to authorize the entry of permanent injunctions in favor of any SLC account party who has won its Tribunal case on the merits, if the Iranian beneficiary has nonetheless failed to cancel the SLC.

The United States Government reserves the right to require that account parties provide adequate assurances of indemnification to the United States against liability in the Tribunal for the policies and procedures established in section 535.568 of the Regulations.

Since the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory

Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply. Because the Regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal regulations.

List of Subjects in 31 CFR Part 535

Injunctions, Iran, Standby letters of credit.

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

PART 535—IRANIAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 535 continues to read as follows:

Authority: Secs. 201–207, 91 Stat. 1626; 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 28685.

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

2. Paragraph (g) of § 535.222 is revised to read as follows:

§ 535.222 Suspension of claims eligible for Claims Tribunal.

(g) Nothing in this section shall apply to any claim concerning the validity or payment of a standby letter of credit, performance or payment bond, or other similar instrument that is not the subject of a determination by the Iran-United States Claims Tribunal on the merits thereof. However, assertion of such a claim through judicial proceedings is governed by the general license in § 535.504. A determination by the Iran-United States Claims Tribunal on the merits that a standby letter of credit, performance bond or similar obligation is invalid, has been paid or otherwise discharged, or has no further purpose, or

any similar determination shall operate as a final resolution and discharge or Iran's interest therein and, notwithstanding the provisions of § 535.504, may be enforced by a judicial proceeding to obtain a final judicial judgment or order permanently disposing of that interest.

* * * * *

3. Section 535.568 is amended by adding a new paragraph (k) to the end thereof:

§ 535.568 Certain standby letters of credit and performance bonds.

* * * * *

(k) All specific licenses previously issued under this section to account parties to standby letters of credit are revoked, effective February 28, 1991, unless the license holder submits documentation to the Office of Foreign Assets Control establishing that the specific license pertains to a standby letter of credit obligation that (i) is at issue in any claim brought before the Iran-United States Claims Tribunal ("Tribunal"), (ii) is or was at issue in any claim that the Tribunal resolves, or has resolved, on the merits in favor of the account party, or (iii) was at issue in a matter that was settled by the parties. The documentation required for such a showing may include such items as a copy of a Tribunal Award, a copy of a signed settlement agreement, or copies of cover pages of recent filings in pending Tribunal cases.

Dated: February 12, 1991.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: February 13, 1991.

Peter K. Nunez,

Assistant Secretary (Enforcement).

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