

Federal Regulations (as in effect on the day before July 1, 2010), unless the President—

(A) prescribes a regulation providing for such an exception on or after July 1, 2010; and

(B) submits to the appropriate congressional committees—

(i) a certification in writing that the exception is in the national interest of the United States; and

(ii) a report describing the reasons for the exception.

(Pub. L. 111-195, title I, §103, July 1, 2010, 124 Stat. 1328.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

Section 101 of the Iran Freedom Support Act, referred to in subsec. (a), is section 101 of Pub. L. 109-293, which is set out as a note under section 1701 of Title 50, War and National Defense.

The International Emergency Economic Powers Act, referred to in subsec. (b)(3)(A), (D), is title II of Pub. L. 95-223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

DELEGATION OF FUNCTIONS

For delegation of functions of President under this section, see Memorandum of President of the United States, Sept. 23, 2010, 75 F.R. 67025, set out as a note under section 8501 of this title.

§ 8513. Mandatory sanctions with respect to financial institutions that engage in certain transactions

(a) Findings

Congress makes the following findings:

(1) The Financial Action Task Force is an intergovernmental body whose purpose is to develop and promote national and international policies to combat money laundering and terrorist financing.

(2) Thirty-three countries, plus the European Commission and the Cooperation Council for the Arab States of the Gulf, belong to the Financial Action Task Force. The member countries of the Financial Action Task Force include the United States, Canada, most countries in western Europe, Russia, the People's Republic of China, Japan, South Korea, Argentina, and Brazil.

(3) In 2008 the Financial Action Task Force extended its mandate to include addressing “new and emerging threats such as proliferation financing”, meaning the financing of the proliferation of weapons of mass destruction, and published “guidance papers” for members to assist them in implementing various United Nations Security Council resolutions dealing with weapons of mass destruction, including United Nations Security Council Resolutions 1737 (2006) and 1803 (2008), which deal specifically with proliferation by Iran.

(4) The Financial Action Task Force has repeatedly called on members—

(A) to advise financial institutions in their jurisdictions to give special attention to

business relationships and transactions with Iran, including Iranian companies and financial institutions;

(B) to apply effective countermeasures to protect their financial sectors from risks relating to money laundering and financing of terrorism that emanate from Iran;

(C) to protect against correspondent relationships being used by Iran and Iranian companies and financial institutions to bypass or evade countermeasures and risk-mitigation practices; and

(D) to take into account risks relating to money laundering and financing of terrorism when considering requests by Iranian financial institutions to open branches and subsidiaries in their jurisdictions.

(5) At a February 2010 meeting of the Financial Action Task Force, the Task Force called on members to apply countermeasures “to protect the international financial system from the ongoing and substantial money laundering and terrorist financing (ML/TF) risks” emanating from Iran.

(b) Sense of Congress regarding the imposition of sanctions on the Central Bank of Iran

Congress—

(1) acknowledges the efforts of the United Nations Security Council to impose limitations on transactions involving Iranian financial institutions, including the Central Bank of Iran; and

(2) urges the President, in the strongest terms, to consider immediately using the authority of the President to impose sanctions on the Central Bank of Iran and any other Iranian financial institution engaged in proliferation activities or support of terrorist groups.

(c) Prohibitions and conditions with respect to certain accounts held by foreign financial institutions

(1) In general

Not later than 90 days after July 1, 2010, the Secretary of the Treasury shall prescribe regulations to prohibit, or impose strict conditions on, the opening or maintaining in the United States of a correspondent account or a payable-through account by a foreign financial institution that the Secretary finds knowingly engages in an activity described in paragraph (2).

(2) Activities described

A foreign financial institution engages in an activity described in this paragraph if the foreign financial institution—

(A) facilitates the efforts of the Government of Iran (including efforts of Iran's Revolutionary Guard Corps or any of its agents or affiliates)—

(i) to acquire or develop weapons of mass destruction or delivery systems for weapons of mass destruction; or

(ii) to provide support for organizations designated as foreign terrorist organizations under section 1189(a) of title 8 or support for acts of international terrorism (as defined in section 14 of the Iran Sanctions Act of 1996 (Public Law 104-172; 50 U.S.C. 1701 note));

(B) facilitates the activities of—

(i) a person subject to financial sanctions pursuant to United Nations Security Council Resolution 1737 (2006), 1747 (2007), 1803 (2008), or 1929 (2010), or any other resolution that is agreed to by the Security Council and imposes sanctions with respect to Iran; or

(ii) a person acting on behalf of or at the direction of, or owned or controlled by, a person described in clause (i);

(C) engages in money laundering to carry out an activity described in subparagraph (A) or (B);

(D) facilitates efforts by the Central Bank of Iran or any other Iranian financial institution to carry out an activity described in subparagraph (A) or (B); or

(E) facilitates a significant transaction or transactions or provides significant financial services for—

(i) Iran's Revolutionary Guard Corps or any of its agents or affiliates whose property or interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.); or

(ii) a person whose property or interests in property are blocked pursuant to that Act in connection with—

(I) Iran's proliferation of weapons of mass destruction or delivery systems for weapons of mass destruction; or

(II) Iran's support for international terrorism.

(3) Penalties

The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under paragraph (1) of this subsection to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act.

(4) Determinations regarding NIOC and NITC

(A) Determinations

For purposes of paragraph (2)(E), the Secretary of the Treasury shall, not later than 45 days after August 10, 2012—

(i) determine whether the NIOC or the NITC is an agent or affiliate of Iran's Revolutionary Guard Corps; and

(ii) submit to the appropriate congressional committees a report on the determinations made under clause (i), together with the reasons for those determinations.

(B) Form of report

A report submitted under subparagraph (A)(ii) shall be submitted in unclassified form but may contain a classified annex.

(C) Applicability with respect to petroleum transactions

(i) Application of sanctions

Except as provided in clause (ii), if the Secretary of the Treasury determines that

the NIOC or the NITC is a person described in clause (i) or (ii) of paragraph (2)(E), the regulations prescribed under paragraph (1) shall apply with respect to a significant transaction or transactions or significant financial services knowingly facilitated or provided by a foreign financial institution for the NIOC or the NITC, as applicable, for the purchase of petroleum or petroleum products from Iran, only if a determination of the President under section 8513a(d)(4)(B) of this title that there is a sufficient supply of petroleum and petroleum products produced in countries other than Iran to permit purchasers of petroleum and petroleum products from Iran to reduce significantly their purchases from Iran is in effect at the time of the transaction or the provision of the service.

(ii) Exception for certain countries

If the Secretary of the Treasury determines that the NIOC or the NITC is a person described in clause (i) or (ii) of paragraph (2)(E), the regulations prescribed under paragraph (1) shall not apply to a significant transaction or transactions or significant financial services knowingly facilitated or provided by a foreign financial institution for the NIOC or the NITC, as applicable, for the purchase of petroleum or petroleum products from Iran if an exception under paragraph (4)(D) of section 8513a(d) of this title applies to the country with primary jurisdiction over the foreign financial institution at the time of the transaction or the provision of the service.

(iii) Rule of construction

The exceptions in clauses (i) and (ii) shall not be construed to limit the authority of the Secretary of the Treasury to impose sanctions pursuant to the regulations prescribed under paragraph (1) for an activity described in paragraph (2) to the extent the activity would meet the criteria described in that paragraph in the absence of the involvement of the NIOC or the NITC.

(D) Definitions

In this paragraph:

(i) NIOC

The term "NIOC" means the National Iranian Oil Company.

(ii) NITC

The term "NITC" means the National Iranian Tanker Company.

(d) Penalties for domestic financial institutions for actions of persons owned or controlled by such financial institutions

(1) In general

Not later than 90 days after July 1, 2010, the Secretary of the Treasury shall prescribe regulations to prohibit any person owned or controlled by a domestic financial institution from knowingly engaging in a transaction or transactions with or benefitting Iran's Revolutionary Guard Corps or any of its agents or af-

filiates whose property or interests in property are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

(2) Penalties

The penalties provided for in section 206(b) of the International Emergency Economic Powers Act (50 U.S.C. 1705(b)) shall apply to a domestic financial institution to the same extent that such penalties apply to a person that commits an unlawful act described in section 206(a) of that Act if—

(A) a person owned or controlled by the domestic financial institution violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under paragraph (1) of this subsection; and

(B) the domestic financial institution knew or should have known that the person violated, attempted to violate, conspired to violate, or caused a violation of such regulations.

(e) Requirements for financial institutions maintaining accounts for foreign financial institutions

(1) In general

The Secretary of the Treasury shall prescribe regulations to require a domestic financial institution maintaining a correspondent account or payable-through account in the United States for a foreign financial institution to do one or more of the following:

(A) Perform an audit of activities described in subsection (c)(2) that may be carried out by the foreign financial institution.

(B) Report to the Department of the Treasury with respect to transactions or other financial services provided with respect to any such activity.

(C) Certify, to the best of the knowledge of the domestic financial institution, that the foreign financial institution is not knowingly engaging in any such activity.

(D) Establish due diligence policies, procedures, and controls, such as the due diligence policies, procedures, and controls described in section 5318(i) of title 31, reasonably designed to detect whether the Secretary of the Treasury has found the foreign financial institution to knowingly engage in any such activity.

(2) Penalties

The penalties provided for in sections 5321(a) and 5322 of title 31 shall apply to a person that violates a regulation prescribed under paragraph (1) of this subsection, in the same manner and to the same extent as such penalties would apply to any person that is otherwise subject to such section 5321(a) or 5322.

(f) Waiver

The Secretary of the Treasury may waive the application of a prohibition or condition imposed with respect to a foreign financial institution pursuant to subsection (c) or section 8513b of this title or the imposition of a penalty under subsection (d) with respect to a domestic financial institution on and after the date that is 30 days after the Secretary—

(1) determines that such a waiver is necessary to the national interest of the United States; and

(2) submits to the appropriate congressional committees a report describing the reasons for the determination.

(g) Procedures for judicial review of classified information

(1) In general

If a finding under paragraph (1) or (4) of subsection (c) or section 8513b of this title, a prohibition, condition, or penalty imposed as a result of any such finding, or a penalty imposed under subsection (d), is based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)) and a court reviews the finding or the imposition of the prohibition, condition, or penalty, the Secretary of the Treasury may submit such information to the court *ex parte* and *in camera*.

(2) Rule of construction

Nothing in this subsection shall be construed to confer or imply any right to judicial review of any finding under paragraph (1) or (4) of subsection (c) or section 8513b of this title, any prohibition, condition, or penalty imposed as a result of any such finding, or any penalty imposed under subsection (d).

(h) Consultations in implementation of regulations

In implementing this section and the regulations prescribed under this section, the Secretary of the Treasury—

(1) shall consult with the Secretary of State; and

(2) may, in the sole discretion of the Secretary of the Treasury, consult with such other agencies and departments and such other interested parties as the Secretary considers appropriate.

(i) Definitions

(1) In general

In this section:

(A) Account; correspondent account; payable-through account

The terms “account”, “correspondent account”, and “payable-through account” have the meanings given those terms in section 5318A of title 31.

(B) Agent

The term “agent” includes an entity established by a person for purposes of conducting transactions on behalf of the person in order to conceal the identity of the person.

(C) Financial institution

The term “financial institution” means a financial institution specified in subparagraph (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (M), or (Y) of section 5312(a)(2) of title 31.

(D) Foreign financial institution; domestic financial institution

The terms “foreign financial institution” and “domestic financial institution” shall

have the meanings of those terms as determined by the Secretary of the Treasury.

(E) Money laundering

The term “money laundering” means the movement of illicit cash or cash equivalent proceeds into, out of, or through a country, or into, out of, or through a financial institution.

(2) Other definitions

The Secretary of the Treasury may further define the terms used in this section in the regulations prescribed under this section.

(Pub. L. 111–195, title I, §104, July 1, 2010, 124 Stat. 1331; Pub. L. 112–158, title II, §§214(a), 215(a), title III, §312(b), (c), Aug. 10, 2012, 126 Stat. 1231, 1249.)

TERMINATION OF SECTION

For termination of section, see section 8551(a) of this title.

REFERENCES IN TEXT

The International Emergency Economic Powers Act, referred to in subsecs. (c)(2)(E) and (d)(1), is title II of Pub. L. 95–223, Dec. 28, 1977, 91 Stat. 1626, which is classified generally to chapter 35 (§1701 et seq.) of Title 50, War and National Defense. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of Title 50 and Tables.

The Classified Information Procedures Act, referred to in subsec. (g)(1), is Pub. L. 96–456, Oct. 15, 1980, 94 Stat. 2025, which is set out in the Appendix to Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2012—Subsec. (c)(2)(B). Pub. L. 112–158, §214(a), substituted “of—” for “of”, inserted cl. (i) designation before “a person subject”, and added cl. (ii).

Subsec. (c)(2)(E)(ii). Pub. L. 112–158, §215(a), substituted “person” for “financial institution” in introductory provisions.

Subsec. (c)(4). Pub. L. 112–158, §312(b), added par. (4).

Subsec. (f). Pub. L. 112–158, §312(c)(1), inserted “or section 8513b of this title” after “subsection (c)” in introductory provisions.

Subsec. (g). Pub. L. 112–158, §312(c)(2), substituted “paragraph (1) or (4) of subsection (c) or section 8513b of this title” for “subsection (c)(1)” in pars. (1) and (2).

REGULATIONS

Pub. L. 112–158, title II, §214(b), Aug. 10, 2012, 126 Stat. 1231, provided that: “Not later than 90 days after the date of the enactment of this Act [Aug. 10, 2012], the Secretary of the Treasury shall make such revisions to the regulations prescribed under section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) as are necessary to carry out the amendments made by subsection (a) [amending this section].”

Pub. L. 112–158, title II, §215(b), Aug. 10, 2012, 126 Stat. 1231, provided that: “Not later than 90 days after the date of the enactment of this Act [Aug. 10, 2012], the Secretary of the Treasury shall make such revisions to the regulations prescribed under section 104 of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (22 U.S.C. 8513) as are necessary to carry out the amendment made by subsection (a) [amending this section].”

EXCEPTION TO SANCTIONS REGARDING NATIONAL IRANIAN OIL COMPANY AND NATIONAL IRANIAN TANKER COMPANY

Pub. L. 112–158, title III, §312(d), Aug. 10, 2012, 126 Stat. 1250, provided that:

“(1) IN GENERAL.—If an exception to sanctions described in clause (i) or (ii) of paragraph (4)(C) of section 104(c) of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 [22 U.S.C. 8513(c)], as added by subsection (b), applies to a person that engages in a transaction described in paragraph (2) at the time of the transaction, the President is authorized not to impose sanctions with respect to the transaction under—

“(A) section 302(b)(1) [22 U.S.C. 8742(b)(1)];

“(B) section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 [22 U.S.C. 8513b], as added by section 216; or

“(C) any other applicable provision of law authorizing the imposition of sanctions with respect to Iran.

“(2) TRANSACTION DESCRIBED.—A transaction described in this paragraph is a transaction—

“(A) solely for the purchase of petroleum or petroleum products from Iran; and

“(B) for which sanctions may be imposed solely as a result of the involvement of the National Iranian Oil Company or the National Iranian Tanker Company in the transaction under—

“(i) section 302(b)(1);

“(ii) section 104A of the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010, as added by section 216; or

“(iii) any other applicable provision of law authorizing the imposition of sanctions with respect to Iran.”

§ 8513a. Imposition of sanctions with respect to the financial sector of Iran

(a) Findings

Congress makes the following findings:

(1) On November 21, 2011, the Secretary of the Treasury issued a finding under section 5318A of title 31 that identified Iran as a jurisdiction of primary money laundering concern.

(2) In that finding, the Financial Crimes Enforcement Network of the Department of the Treasury wrote, “The Central Bank of Iran, which regulates Iranian banks, has assisted designated Iranian banks by transferring billions of dollars to these banks in 2011. In mid-2011, the CBI transferred several billion dollars to designated banks, including Saderat, Mellat, EDBI and Melli, through a variety of payment schemes. In making these transfers, the CBI attempted to evade sanctions by minimizing the direct involvement of large international banks with both CBI and designated Iranian banks.”

(3) On November 22, 2011, the Under Secretary of the Treasury for Terrorism and Financial Intelligence, David Cohen, wrote, “Treasury is calling out the entire Iranian banking sector, including the Central Bank of Iran, as posing terrorist financing, proliferation financing, and money laundering risks for the global financial system.”

(b) Designation of financial sector of Iran as of primary money laundering concern

The financial sector of Iran, including the Central Bank of Iran, is designated as a primary money laundering concern for purposes of section 5318A of title 31 because of the threat to government and financial institutions resulting from the illicit activities of the Government of Iran, including its pursuit of nuclear weapons, support for international terrorism, and efforts to deceive responsible financial institutions and evade sanctions.