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DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506-AB19

Financial Crimes Enforcement Network; Withdrawal of Notice of Proposed Rulemaking Regarding JSC CredexBank

AGENCY: Financial Crimes Enforcement Network (“FinCEN”), Treasury.

ACTION: Proposed rule; withdrawal.

SUMMARY: This document withdraws FinCEN’s proposed rulemaking to impose the first and fifth special measure regarding JSC CredexBank (“Credex”), renamed JSC InterPayBank (“InterPay”), as a financial institution of primary money laundering concern, pursuant to Section 311 of the USA PATRIOT Act (“Section 311”).

Because of material subsequent developments that have mitigated the money laundering risks associated with Credex, FinCEN has determined that Credex is no longer a primary money laundering concern that warrants the implementation of a special measure under Section 311. Elsewhere in this issue of the Federal Register, FinCEN is publishing a withdrawal of the related finding regarding Credex.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] the proposed rule published May 30, 2012, at 77 FR 31794, is withdrawn.

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767-2825.

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56 (the “USA PATRIOT Act”). Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (“BSA”), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of money laundering, tax evasion, the financing of terrorism, and other financial crimes. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (“Section 311”), codified at 31 U.S.C. 5318A), grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, foreign financial institution, class of transactions, or type of account is of “primary money laundering concern,” to require domestic financial institutions and financial agencies to take certain “special measures” to address the primary money laundering concern. The special measures enumerated under Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. To that end, special measures one through four, codified at 31 U.S.C. 5318A(b)(1–4), impose additional recordkeeping, information collection, and information reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C.

5318A(b)(5), allows the Director to prohibit or impose conditions on the opening or maintaining of correspondent or payable-through accounts for the identified institution by U.S. financial institutions.

II. The Finding and Notice of Proposed Rulemaking

A. The Finding and Notice of Proposed Rulemaking

Based upon review and analysis of relevant information, consultations with relevant Federal agencies and departments, and after consideration of the factors enumerated in Section 311, the Director of FinCEN found that reasonable grounds existed for concluding that JSC CredexBank (“Credex”) was a financial institution of primary money laundering concern.¹ FinCEN published a notice of proposed rulemaking proposing to impose the first and fifth special measures on May 30, 2012, pursuant to the authority under 31 U.S.C. 5318A.²

B. Subsequent Developments

Since FinCEN’s notice of proposed rulemaking regarding Credex, material facts regarding the circumstances of the proposed rulemaking have changed. On May 8, 2015, the National Bank of the Republic of Belarus (“NBRB”), the Belarusian central bank and monetary authority with control over bank supervision and regulation, revoked the banking license of InterPay, the successor of Credex, and delisted InterPay from the list of banks published by the NBRB.³ In late January 2016, InterPay was also listed by the

¹ See 77 FR 31434 (May 25, 2012).

² See 77 FR 31794 (May 30, 2012) (RIN 1506-AB19).

³ See Press Release, National Bank of the Republic of Belarus. *About Revocation of the Banking License from ‘InterPayBank’ Joint Stock Company*. (May 8, 2015). <http://www.nbrb.by/Press/?nId=101&l=en> (accessed January 27, 2016); see also Press Release, National Bank of the Republic of Belarus. *Register of Banking Licenses as at 27 January 2016*. (January 27, 2016). <http://www.nbrb.by/eng/system/register.asp> (accessed January 27, 2016).

NBRB as being in the process of bankruptcy and liquidation.⁴ Because of the actions taken by the Belarusian banking authorities and the ongoing liquidation of InterPay's assets, InterPay no longer operates as a foreign financial institution.

III. Withdrawal of the Proposed Rule

For the reasons set forth above, FinCEN hereby withdraws the May 30, 2012 proposed rule proposing to impose the first and fifth special measure authorized by 31 U.S.C. 5318A(b)(5) regarding Credex/InterPay. FinCEN's withdrawal of the proposed rule does not acknowledge any remedial measure taken by Credex/InterPay, but results from the fact that Credex/InterPay no longer operates as a foreign financial institution.

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⁴ See Press Release, National Bank of the Republic of Belarus. *Information on Banks Under Bankruptcy or Liquidation in the Republic of Belarus as of 27.01.2016*. (accessed January 27, 2016). <http://www.nbrb.by/engl/system/ex-banks.asp> (accessed January 27, 2016).

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