



DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 566

Hizballah Financial Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding new part 566 to 31 CFR chapter V to implement the Hizballah International Financing Prevention Act of 2015, which requires the President to prescribe certain regulations.

DATES: Effective: [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Regulatory Affairs, tel.: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's website (www.treasury.gov/ofac). Certain general information pertaining to OFAC's sanctions programs also is available via facsimile through a 24-hour fax-on-demand service, tel.: 202-622-0077.

Background

On December 18, 2015, the President signed the Hizballah International Financing Prevention Act of 2015, Public Law 114-102 (HIFPA), into law. Section 102(a)(1) of HIFPA requires the President, within 120 days of the enactment of HIFPA, to 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 President determines, on or after December 18, 2015, engages in one or more of the following activities: (1) knowingly facilitating a significant transaction or transactions for Hizballah; (2) knowingly facilitating a significant transaction or transactions of a person identified on the List of Specially Designated Nationals and Blocked Persons (SDN List) maintained by OFAC, the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) for acting on behalf of or at the direction of, or being owned or controlled by, Hizballah; (3) knowingly engaging in money

laundering to carry out an activity described in (1) or (2); or (4) knowingly facilitating a significant transaction or transactions or providing significant financial services to carry out an activity described in (1), (2), or (3).

Pursuant to Presidential Memorandum of March 18, 2016: Delegation of Functions Under Sections 102(a), 102(c), 204, and 302 of HIFPA, the President delegated certain functions and authorities, with respect to the determinations provided for therein, to the Secretary of the Treasury, in consultation with the Secretary of State. In furtherance of HIFPA's requirement and the Presidential delegation of functions and authorities noted above, OFAC is promulgating the Hizballah Financial Sanctions Regulations, 31 CFR part 566 (the "Regulations").

Subpart A of the Regulations clarifies the relation of this part to other laws and regulations. Subpart B of the Regulations implements section 102(a) of HIFPA. The names of foreign financial institutions that are determined by the Secretary of the Treasury, in consultation with the Secretary of State, to engage in the activities described in § 566.201(a) of the Regulations, and which are subject to prohibitions or strict conditions on the opening or maintaining of correspondent or payable-through accounts as set forth in § 566.201(b) of the Regulations, will be listed on the Hizballah Financial Sanctions Regulations List (HFSR List) on OFAC's website (www.treasury.gov/ofac) on the Counter Terrorism Sanctions page and published in the Federal Register.

Subpart C of the Regulations defines key terms used throughout the Regulations, and subpart D contains interpretive sections regarding the Regulations. Section 566.404 of subpart D

of the Regulations sets forth the types of factors that, as a general matter, the Secretary of the Treasury will consider in determining, for purposes of paragraph (a) of § 566.201, whether transactions or financial services are significant.

Transactions otherwise prohibited under the Regulations but found to be consistent with U.S. policy may be authorized by the general licenses contained in subpart E of the Regulations or by a specific license issued pursuant to the procedures described in subpart E of 31 CFR part 501. Subpart E of the Regulations includes a general license in § 566.504 authorizing transactions related to winding down and closing a correspondent account or a payable-through account. Section 566.504 authorizes transactions related to closing a correspondent account or payable-through account for a foreign financial institution whose name is added to the HFSR List during the 10-day period beginning on the effective date of the prohibition in § 566.201. This general license includes a reporting requirement pursuant to which a U.S. financial institution that maintained a correspondent account or a payable-through account for a foreign financial institution whose name is added to the HFSR List must file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. The report must include complete information on all transactions processed or executed in winding down and closing the account.

Subpart F of the Regulations refers to subpart C of part 501 for recordkeeping and reporting requirements. Subpart G of the Regulations describes the civil and criminal penalties applicable to violations of the Regulations, as well as the procedures governing the potential imposition of a civil monetary penalty. Subpart G also refers to Appendix A of part 501 for a

more complete description of these procedures.

Subpart H of the Regulations refers to subpart E of part 501 for applicable provisions relating to administrative procedures and contains a delegation of authority by the Secretary of the Treasury. Subpart I of the Regulations sets forth a Paperwork Reduction Act notice.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and 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. 601-612) does not apply.

Paperwork Reduction Act

With respect to section 2 of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507, the collection of information in § 566.601 of the Regulations is made pursuant to OFAC's Reporting, Procedures and Penalties Regulations, 31 CFR part 501, and has been approved by OMB under control number 1505-0164. See 31 CFR 501.901. The collection of information in § 566.504(b) of the Regulations has been submitted to OMB under Information Collection Request (ICR) number 201603-1505-002 and is pending approval. Section 566.504(b) specifies that a U.S. financial institution that maintained a correspondent account or payable-through

account for a foreign financial institution listed on the HFSR List must file a report with OFAC that provides full details on the closing of each such account within 30 days of the closure of the account. This collection of information assists in verifying that U.S. financial institutions are complying with prohibitions on maintaining correspondent accounts or payable-through accounts for foreign financial institutions listed on the HFSR List, and the information collected will be used to further OFAC's compliance and enforcement functions.

With respect to all of the foregoing collections of information, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection of information displays a valid control number. The likely respondents and recordkeepers affected by the new collection of information in § 566.504(b) are U.S. financial institutions operating correspondent accounts or payable-through accounts for foreign financial institutions. Because this is a new collection of information, OFAC cannot predict the response rate for the § 566.504(b) reporting requirement at this time. For future submissions, OFAC will report retrospectively on the response rate during the previous reporting period.

The estimated average reporting/ recordkeeping burden is 2 hours per response.

Comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents,

including through the use of automated collection techniques and other forms of information technology; and (e) the estimated capital or start-up costs of the operation, maintenance, and/or purchase of services to provide information.

Comments concerning the above information and the accuracy of these burden estimates, and suggestions for reducing this burden, should be directed to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with a copy to Chief of Records, Attention: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue N.W., Freedman's Bank Building, Washington, DC 20220. Any such comments should be submitted not later than [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. All comments on the collection of information in § 566.504(b) will be a matter of public record.

List of Subjects in 31 CFR Part 566

Administrative practice and procedure, Banking, Banks, Brokers, Foreign trade, Hizballah, Investments, Loans, Money laundering, Securities, Services.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control adds part 566 to 31 CFR chapter V to read as follows:

PART 566-HIZBALLAH FINANCIAL SANCTIONS REGULATIONS

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Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601-1651, 1701-1706; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110-96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 114-102

Subpart A-Relation of This Part to Other Laws and Regulations

§ 566.101 Relation of this part to other laws and regulations.

This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the recordkeeping and reporting requirements and license application and other procedures of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security circumstances may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 566.201 Prohibitions or strict conditions with respect to correspondent or payable-through accounts of certain foreign financial institutions identified by the Secretary of the Treasury.

Upon a determination by the Secretary of the Treasury that a foreign financial institution knowingly engages in one or more of the activities described in paragraphs (a)(1) through (a)(4) of this section, the Secretary of the Treasury may, as set forth in paragraph (b) of this section, impose one or more strict conditions on the opening or maintaining of a correspondent account or a payable-through account in the United States for that foreign financial institution, or, as set forth in paragraph (c) of this section, prohibit a U.S. financial institution from opening or maintaining a correspondent account or a payable-through account in the United States for that foreign financial institution.

(a) A foreign financial institution engages in an activity described in this paragraph if, in any location or currency, the foreign financial institution, on or after December 18, 2015, knowingly:

(1) Facilitates a significant transaction or transactions for Hizballah;

(2) Facilitates a significant transaction or transactions of a person identified on OFAC's Specially Designated Nationals and Blocked Persons List (SDN List), the property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA) for acting on behalf of or at the direction of, or being owned or controlled by, Hizballah;

Note to paragraph (a)(2): The SDN List is accessible through the following page on OFAC's website: www.treasury.gov/sdn. Additional information pertaining to the SDN List can

be found in appendix A to this chapter. Persons whose property and interests in property are blocked pursuant to IEEPA for acting on behalf of or at the direction of or being owned or controlled by Hizballah are identified by a special reference to Hizballah at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, a person whose property and interests in property are blocked pursuant to the Global Terrorism Sanctions Regulations, 31 CFR part 594, and identified on the SDN List, will have the program tag “[SDGT]” and descriptive text [“Subject to secondary sanctions pursuant to the Hizballah Financial Sanctions Regulations”].

(3) Engages in money laundering to carry out an activity described in paragraphs (a)(1) or (a)(2) of this section; or

(4) Facilitates a significant transaction or transactions or provides significant financial services to carry out an activity described in paragraphs (a)(1), (a)(2), or (a)(3) of this section.

(b) The Secretary of the Treasury may impose one or more strict conditions on the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary finds engages in one or more of the activities described in paragraph (a) of this section. Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not open or maintain a correspondent account or payable-through account in the United States in a manner that is inconsistent with any strict condition imposed and in effect pursuant to this paragraph. Such

conditions may include the following:

(1) Prohibiting or restricting any provision of trade finance through the correspondent account or payable-through account of the foreign financial institution;

(2) Restricting the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution to certain types of transactions, such as personal remittances;

(3) Placing monetary limits on, or limiting the volume of, the transactions that may be processed through the correspondent account or payable-through account of the foreign financial institution;

(4) Requiring pre-approval from the U.S. financial institution for all transactions processed through the correspondent account or payable-through account of the foreign financial institution; or

(5) Prohibiting or restricting the processing of foreign exchange transactions through the correspondent account or payable-through account of the foreign financial institution.

Note to paragraph (b): The name of the foreign financial institution, together with the actual strict condition(s) to be imposed, will be added to the HFSR List on the Office of Foreign Assets Control's website (www.treasury.gov/ofac) on the Counter Terrorism Sanctions page, and

published in the Federal Register.

(c) If the Secretary of the Treasury does not impose one or more strict conditions, pursuant to paragraph (b) of this section, on the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for a foreign financial institution that the Secretary determines engages in one or more of the activities described in paragraph (a) of this section, the Secretary may prohibit the opening or maintaining by a U.S. financial institution of a correspondent account or a payable-through account in the United States for that foreign financial institution. Except as otherwise authorized pursuant to this part, a U.S. financial institution shall not open or maintain a correspondent account or a payable-through account in the United States for a foreign financial institution for which the opening or maintaining of such an account is prohibited pursuant to this paragraph.

Note to paragraph (c): The names of foreign financial institutions for which the opening or maintaining of a correspondent account or a payable-through account in the United States is prohibited will be listed on the HFSR List on OFAC's website (www.treasury.gov/ofac) on the Counter Terrorism Sanctions page, and published in the Federal Register.

§ 566.202 Evasions; attempts; causing violations; conspiracies.

(a) Any transaction on or after the effective date that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this part is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this part is prohibited.

Subpart C—General Definitions

§ 566.300 Applicability of definitions.

The definitions in this subpart apply throughout the entire part.

§ 566.301 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.

§ 566.302 Correspondent account.

The term correspondent account means an account established to receive deposits from, make payments on behalf of, or handle other financial transactions related to a foreign financial institution.

§ 566.303 Covered financial institution.

The term covered financial institution means a broker or dealer in securities registered, or required to be registered, with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), except persons who register pursuant to section 15(b)(11) of the Securities Exchange Act of 1934; a futures commission merchant or an introducing broker registered, or required to be registered, with the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 *et seq.*), except persons who register pursuant to section 4(f)(a)(2) of the Commodity Exchange Act; or a mutual fund.

§ 566.304 Effective date.

The effective date refers to the effective date of a prohibition or strict condition imposed pursuant to § 566.201 on the opening or maintaining of a correspondent account or a payable-through account in the United States by a U.S. financial institution for a particular foreign financial institution and is the earlier of the date the U.S. financial institution receives actual or constructive notice of such prohibition or condition.

§ 566.305 Entity.

The term entity means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization.

§ 566.306 Financial institution.

The term financial institution means:

(a) An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));

(b) A commercial bank or trust company;

(c) A private banker;

(d) An agency or branch of a foreign bank in the United States;

(e) Any credit union;

(f) A thrift institution;

(g) A broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*);

(h) A broker or dealer in securities or commodities;

(i) An investment banker or investment company;

(j) A currency exchange;

(k) An issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;

(l) An insurance company;

(m) A dealer in precious metals, stones, or jewels;

(n) A loan or finance company;

(o) A licensed sender of money or any other person who engages as a business in the transmission of funds including any person who engages as a business in an informal money transfer system or any network of people who engage as a business in facilitating the transfer of money domestically or internationally outside of the conventional financial institutions system;

(p) A business engaged in vehicle sales, including automobile, airplane, and boat sales;

(q) Any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for any activity in which any business described in this paragraph is authorized to engage; or

(r) Any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.

§ 566.307 Financial services.

The term financial services includes loans, transfers, accounts, insurance, investments, securities, guarantees, foreign exchange, letters of credit, and commodity futures or options.

§ 566.308 Financial transaction.

The term financial transaction means any transfer of value involving a financial institution.

§ 566.309 Foreign financial institution.

(a) The term foreign financial institution means:

(1) A foreign bank;

(2) Any branch or office located outside the United States of a covered financial institution, as defined in § 566.304;

(3) Any other person organized under foreign law (other than a branch or office of such person in the United States) that, if it were located in the United States, would be a covered financial institution, as defined in § 566.304; and

(4) Any person organized under foreign law (other than a branch or office of such person in the United States) that is engaged in the business of, and is readily identifiable as, a dealer in foreign exchange or a money transmitter.

(b) For purposes of paragraph (a)(4) of this section, a person is not “engaged in the business” of a dealer in foreign exchange or a money transmitter if such transactions are merely incidental to the person’s business.

§ 566.310 HIFPA.

The term HIFPA means the Hizballah International Financing Prevention Act of 2015, Public Law 114-102.

§ 566.311 Hizballah.

The term Hizballah means:

(a) The entity known as Hizballah and designated by the Secretary of State as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act (8 U.S.C.

1189); or

(b) Any person:

(1) The property and interests in property of which are blocked pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*); and

(2) Who is identified on the Specially Designated Nationals and Blocked Persons List (SDN List) maintained by OFAC as an agent, instrumentality, or affiliate of Hizballah.

Note to § 566.311: The SDN List is accessible through the following page on OFAC’s website: www.treasury.gov/sdn. Additional information pertaining to the SDN List can be found in Appendix A to this chapter. Persons on the SDN List that fall within the definition of Hizballah set forth in this section are identified by a special reference to Hizballah at the end of their entries on the SDN List, in addition to the reference to the regulatory part of this chapter pursuant to which their property and interests in property are blocked. For example, a person whose property and interests in property are blocked pursuant to the Global Terrorism Sanctions Regulations, 31 CFR part 594, and identified on the SDN List will have the program tag “[SDGT]” and descriptive text [“Subject to secondary sanctions pursuant to the Hizballah Financial Sanctions Regulations”].

§ 566.312 Knowingly.

The term knowingly, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

§ 566.313 Licenses; general and specific.

(a) Except as otherwise provided in this part, the term license means any license or authorization contained in or issued pursuant to this part.

(b) The term general license means any license or authorization the terms of which are set forth in subpart E of this part or made available on OFAC's website: www.treasury.gov/ofac.

(c) The term specific license means any license or authorization issued pursuant to this part but not set forth in subpart E of this part or made available on OFAC's website: www.treasury.gov/ofac.

Note to § 566.313: See § 501.801 of this chapter on licensing procedures.

§ 566.314 Money laundering.

The term money laundering includes 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.

§ 566.315 OFAC.

The term OFAC means the Department of the Treasury's Office of Foreign Assets Control.

§ 566.316 Payable-through account.

The term payable-through account means an account, including a transaction account as defined in § 566.317, opened at a depository institution by a foreign financial institution by means of which the foreign financial institution permits its customers to engage, either directly or through a subaccount, in banking activities usual in connection with the business of banking in the United States.

§ 566.317 Person.

The term person means an individual or entity.

§ 566.318 Transaction account.

The term transaction account means a deposit or account on which the depositor or account holder is permitted to make withdrawals by negotiable or transferable instrument,

payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. Such term includes demand deposits, negotiable order of withdrawal accounts, savings deposits subject to automatic transfers, and share draft accounts.

§ 566.319 United States.

The term United States means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 566.320 U.S. financial institution.

The term U.S. financial institution means a financial institution located in or organized under the laws of the United States or any jurisdiction within the United States.

Subpart D-Interpretations

§ 566.401 Reference to amended sections.

Except as otherwise provided in this part, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order, instruction, directive, or license issued pursuant to this part refers to the same as currently amended.

§ 566.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any regulations, ruling, order, instruction, or license issued by OFAC does not affect any act done or omitted, or any civil or criminal proceeding commenced or pending, prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such regulation, ruling, order, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 566.403 Facilitation of certain efforts, activities, or transactions by foreign financial institutions.

For purposes of § 566.201, the term facilitate used with respect to certain efforts, activities, or transactions refers to the provision of assistance by a foreign financial institution for those efforts, activities, or transactions, including the provision of currency, financial instruments, securities, or any other transmission of value; purchasing; selling; transporting; swapping; brokering; financing; approving; guaranteeing; the provision of other services of any kind; the provision of personnel; or the provision of software, technology, or goods of any kind.

§ 566.404 Significant transactions; significant financial services.

In determining, for purposes of paragraph (a) of § 566.201, whether a transaction(s) or financial service(s) is significant, the Secretary of the Treasury may consider the totality of the facts and circumstances. As a general matter, the Secretary may consider some or all of the following factors:

(a) Size, number, and frequency. The size, number, and frequency of transaction(s) or financial service(s) performed over a period of time, including whether the transaction(s) or financial service(s) is increasing or decreasing over time and the rate of increase or decrease.

(b) Nature. The nature of the transaction(s) or financial service(s), including the type, complexity, and commercial purpose of the transaction(s) or financial service(s).

(c) Level of awareness; pattern of conduct. (1) Whether the transaction(s) or financial service(s) is performed with the involvement or approval of management or only by clerical personnel; and

(2) Whether the transaction(s) or financial service(s) is part of a pattern of conduct or the result of a business development strategy.

(d) Nexus. The proximity between the foreign financial institution engaging in the transaction(s) or providing the financial service(s) and Hizballah or a blocked person described

in paragraph (a)(2) of § 566.201. For example, a transaction or financial service in which a foreign financial institution provides brokerage or clearing services to, or maintains an account or makes payments for, Hizballah or such a blocked person generally would be of greater significance than a transaction or financial service a foreign financial institution conducts for or provides to Hizballah or such a blocked person indirectly or in a tertiary relationship.

(e) Impact. The impact of the transaction(s) or financial service(s) on the objectives of the Hizballah International Financing Prevention Act of 2015, including:

(1) The economic or other benefit conferred or attempted to be conferred on Hizballah or a blocked person described in paragraph (a)(2) of § 566.201; and

(2) Whether and how the transaction(s) or financial service(s) contributes to support for international terrorism.

(f) Deceptive practices. Whether the transaction(s) or financial service(s) involves an attempt to obscure or conceal the actual parties or true nature of the transaction(s) or financial service(s) to evade sanctions.

(g) Other relevant factors. Such other factors that the Secretary deems relevant on a case-by-case basis in determining the significance of a transaction(s) or financial service(s).

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

§ 566.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart E of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. General licenses and statements of licensing policy relating to this part also may be available through the Counter Terrorism Sanctions page on OFAC's website: www.treasury.gov/ofac.

§ 566.502 Effect of license or other authorization.

(a) No license or other authorization contained in this part, or otherwise issued by OFAC, authorizes or validates any transaction or financial service effected prior to the issuance of such license or other authorization, unless specifically provided in such license or authorization.

(b) No regulation, ruling, instruction, or license authorizes any transaction or financial service prohibited under this part unless the regulation, ruling, instruction, or license is issued by OFAC and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part shall be deemed to authorize any transaction or financial services prohibited by any other part of this chapter unless the regulation, ruling, instruction, or license specifically refers to such part.

(c) Any regulation, ruling, instruction, or license authorizing any transaction or financial service otherwise prohibited under this part has the effect of removing a prohibition contained in this part 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 that would not otherwise exist under ordinary principles of law.

(d) Nothing contained in this part shall be construed to supersede the requirements established under any other provision of law or to relieve a person from any requirement to obtain a license or other authorization from another department or agency of the U.S. Government in compliance with applicable laws and regulations subject to the jurisdiction of that department or agency.

§ 566.503 Exclusion from licenses.

OFAC reserves the right to exclude any person, property, transaction, or class thereof from the operation of any license or from the privileges conferred by any license. OFAC also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon actual or constructive notice of the exclusions or restrictions.

§ 566.504 Transactions related to closing a correspondent or payable-through account.

(a) During the 10-day period beginning on the effective date of the prohibition in § 566.201(c) on the opening or maintaining of a correspondent account or a payable-through account for a foreign financial institution listed in the HFSR List, U.S. financial institutions that maintain correspondent accounts or payable-through accounts for the foreign financial institution are authorized to:

(1) Process only those transactions through the account, or permit the foreign financial institution to execute only those transactions through the account, that are for the purpose of, and necessary for, closing the account; and

(2) Transfer the funds remaining in the correspondent account or the payable-through account to an account of the foreign financial institution located outside of the United States and close the correspondent account or the payable-through account.

(b) A report must be filed with OFAC within 30 days of the closure of an account, providing full details on the closing of each correspondent account or payable-through account maintained by a U.S. financial institution for a foreign financial institution whose name is added to the HFSR List, maintained on OFAC's website (www.treasury.gov/ofac) on the Hizballah Sanctions page. Such report must include complete information on the closing of the account and on all transactions processed or executed through the account pursuant to this section, including the account outside of the United States to which funds remaining in the account were

transferred. Reports should be addressed to the attention of the Sanctions, Compliance & Evaluation Division, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue N.W., Freedman's Bank Building, Washington, DC 20220.

(c) Specific licenses may be issued on a case-by-case basis to authorize transactions outside the scope or time period authorized in paragraph (a) by a U.S. financial institution with respect to a correspondent account or a payable-through account maintained by the U.S. financial institution for a foreign financial institution whose name is added to the HFSR List. License applications should be filed in conformance with § 501.801 of the Reporting, Procedures and Penalties Regulations, 31 CFR part 501.

(d) Nothing in this section authorizes the opening of a correspondent account or a payable-through account for a foreign financial institution whose name appears on the HFSR List.

Note to § 566.504: This section does not authorize a U.S. financial institution to unblock property or interests in property, or to engage in any transaction or dealing in property or interests in property, blocked pursuant to any other part of this chapter, in the process of closing a correspondent account or a payable-through account for a foreign financial institution whose name has been added to the HFSR List, maintained on OFAC's website (www.treasury.gov/ofac) on the Counter Terrorism Sanctions page. See § 566.101.

Subpart F-Reports

§ 566.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C, of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G-Penalties

§ 566.701 Penalties.

(a) Civil penalties. As set forth in section 102(a)(3) of the Hizballah International Financing Prevention Act of 2015 (Pub. L. 114-102, 129 Stat. 2205 (50 U.S.C. 1701 note)), a civil penalty not to exceed the amount set forth in section 206(b) of the International Emergency Economic Powers Act (IEEPA) (50 U.S.C. 1705(b)) may be imposed on any person who violates, attempts to violate, conspires to violate, or causes a violation of any license, order, regulation, or prohibition set forth in or issued pursuant to this part.

Note to paragraph (a): As of the date of publication in the Federal Register of the final rule adding this part to 31 CFR chapter V, ([INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]), IEEPA provides for a maximum civil penalty not to exceed the greater

of \$250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed.

(b) Criminal penalties. As set forth in section 102(a)(3) of HIFPA, a person who willfully commits, willfully attempts to commit, or willfully conspires to commit a violation of any license, order, regulation, or prohibition set forth in or issued pursuant to this part shall, upon conviction, be fined not more than \$1,000,000, or if a natural person, be imprisoned for not more than 20 years, or both.

(c) Adjustments to penalty amounts. (1) The civil penalties provided in IEEPA are subject to adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101-410, as amended, 28 U.S.C. 2461 note).

(2) The criminal penalties provided in IEEPA are subject to adjustment pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that “whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry” shall be fined under title 18, United States Code, imprisoned, or both.

(e) Violations of this part may also be subject to other applicable laws.

§ 566.702 Pre-Penalty Notice; settlement.

(a) When required. If OFAC has reason to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, directive, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part and determines that a civil monetary penalty or finding of violation is warranted, OFAC will issue a Pre-Penalty Notice informing the alleged violator of the agency's intent to impose a monetary penalty or finding of violation. A Pre-Penalty Notice shall be in writing. The Pre-Penalty Notice may be issued whether or not another agency has taken any action with respect to the matter. For a description of the contents of a Pre-Penalty Notice, see Appendix A to part 501 of this chapter.

(b)(1) Right to respond. An alleged violator has the right to respond to a Pre- Penalty Notice by making a written presentation to OFAC. For a description of the information that should be included in such a response, see Appendix A to part 501 of this chapter.

(2) Deadline for response. A response to a Pre-Penalty Notice must be made within 30 days as set forth below. The failure to submit a response within 30 days shall be deemed to be a waiver of the right to respond.

(i) Computation of time for response. A response to a Pre-Penalty Notice must be postmarked or date-stamped by the U.S. Postal Service (or foreign postal service, if mailed abroad) or courier service provider (if transmitted to OFAC by courier) on or before the 30th day after the postmark date on the envelope in which the Pre-Penalty Notice was mailed. If the Pre-Penalty Notice was personally delivered by a non-U.S. Postal Service agent authorized by OFAC, a response must be postmarked or date-stamped on or before the 30th day after the date of delivery.

(ii) Extensions of time for response. If a due date falls on a federal holiday or weekend, that due date is extended to include the following business day. Any other extensions of time will be granted, at the discretion of OFAC, only upon specific request to OFAC.

(3) Form and method of response. A response to a Pre-Penalty Notice need not be in any particular form, but it must be typewritten and signed by the alleged violator or a representative thereof, must contain information sufficient to indicate that it is in response to the Pre-Penalty Notice, and must include the OFAC identification number listed on the Pre-Penalty Notice. A copy of the written response may be sent by facsimile, but the original also must be sent to OFAC's Enforcement Division by mail or courier and must be postmarked or date-stamped in accordance with paragraph (b)(2) of this section.

(c) Settlement. Settlement discussions may be initiated by OFAC, the alleged violator, or the alleged violator's authorized representative. For a description of practices with respect to settlement, see Appendix A to part 501 of this chapter.

(d) Guidelines. Guidelines for the imposition or settlement of civil penalties or finding of violations by OFAC are contained in Appendix A to part 501 of this chapter.

(e) Representation. A representative may act on behalf of the alleged violator, but any oral communication with OFAC prior to a written submission regarding the specific allegations contained in the Pre-Penalty Notice must be preceded by a written letter of representation, unless the Pre-Penalty Notice was served upon the alleged violator in care of the representative.

§ 566.703 Penalty imposition.

If, after considering any written response to the Pre-Penalty Notice and any relevant facts, OFAC determines that there was a violation by the alleged violator named in the Pre-Penalty Notice and that a civil monetary penalty or finding of violation is appropriate, OFAC may issue a Penalty Notice or finding of violation to the violator containing a determination of the violation and the imposition of the monetary penalty, if appropriate. For additional details concerning issuance of a Penalty Notice or finding of violation, see Appendix A to part 501 of this chapter. The issuance of the Penalty Notice or finding of violation shall constitute final agency action. The violator has the right to seek judicial review of that final agency action in federal district court.

§ 566.704 Administrative collection; referral to United States Department of Justice.

In the event that the violator does not pay the penalty imposed pursuant to this part or make payment arrangements acceptable to OFAC, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a federal district court.

Subpart H-Procedures

§ 566.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart E, of this chapter.

§ 566.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to the Hizballah International Financing Prevention Act of 2015 (Pub. L. 114-102, 129 Stat. 2205 (50 U.S.C. 1701 note)) may be taken by the Director of OFAC or by any other person to whom the Secretary of the Treasury has delegated authority to so act.

Subpart I-Paperwork Reduction Act

§ 566.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

Dated: April 11, 2016.

John E. Smith
Acting Director, Office of Foreign Assets Control.

Approved:

Dated: April 11, 2016.

Adam J. Szubin,
Acting Under Secretary, Office of Terrorism and Financial Intelligence,
Department of the Treasury.

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