

blocking regulations are set forth at 31 CFR part 540.

Most recently, in Executive Order 13224 of September 23, 2001, President George W. Bush declared a national emergency under IEEPA in response to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the grave acts of terrorism and threats of terrorism committed by foreign terrorists, including the terrorist attacks committed in New York and Pennsylvania and at the Pentagon on September 11, 2001. The President also relied on the United Nations Participation Act (discussed below) as authority for the imposition of economic sanctions, citing United Nations Security Council Resolution (“UNSCR”) 1214 of December 8, 1998, UNSCR 1267 of October 15, 1999, UNSCR 1333 of December 19, 2000, and the multilateral sanctions contained therein.

*The Iraq Sanctions Act.* An additional statute containing penalty authority with respect to Iraq is the Iraq Sanctions Act of 1990 (“ISA”), Pub. L. 101–513, 104 Stat. 1079, 2047–55. The ISA dramatically increased the amount of civil and criminal penalties that may be assessed against U.S. persons violating these sanctions. ISA provides for civil penalties of up to \$250,000, adjusted for inflation to \$275,000, and criminal penalties of up to \$1,000,000 and 12 years imprisonment.

*The United Nations Participation Act.* The Iraqi sanctions are also multilateral and administered under the authority not only of IEEPA but also the United Nations Participation Act (the “UNPA”). The UNPA permits the President to incorporate United Nations-mandated economic sanctions into domestic law. The UNPA provides for criminal penalties of up to \$10,000 in fines and up to ten years’ imprisonment. Fines for criminal violations may be increased pursuant to 18 U.S.C. 3571. The UNPA also provides for forfeiture authority. United Nations-sponsored multilateral economic sanctions against the Federal Republic of Yugoslavia (Serbia & Montenegro) were imposed in 1992 in response to the disintegration of the former Yugoslavia and the civil strife fomented and genocide committed by the Milosevic regime in Bosnia and Herzegovina.

*The Antiterrorism and Effective Death Penalty Act.* Title III of the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), Pub. L. 104–132, 110 Stat. 1214, makes it a criminal offense to (1) engage in a financial transaction with the government of a country designated as supporting international terrorism, or

(2) provide material support or resources to a designated foreign terrorist organization. Violators may be fined or imprisoned for not more than ten years, or both. AEDPA also provides that any financial institution that knowingly fails to retain possession of or control over blocked funds or to report the existence of such funds shall be subject to a civil penalty in an amount that is the greater of \$50,000 per violation, or twice the amount of the funds at issue. Regulations implementing these sanctions are set forth at 31 CFR parts 596 and 597.

*The Foreign Narcotics Kingpin Designation Act.* In 1999, new legislation expanded the scope of the 1995 sanctions against narcotics traffickers centered in Colombia. The Foreign Narcotics Kingpin Designation Act (the “FNKDA”), 21 U.S.C. 1901–08, provides for criminal penalties of up to ten years imprisonment, fines in the amounts provided in title 18 of the U.S. Code, or both, or, in the case of an entity, fines of not more than \$10,000,000 per violation. Criminal penalties for any officer, director, or agent range up to \$5,000,000 or 30 years imprisonment, or both. Civil penalties not to exceed \$1,000,000 per violation also may be imposed. Regulations implementing these sanctions are set forth at 31 CFR part 598.

#### List of Subjects

##### 31 CFR Part 501

Administrative practice and procedure, Reporting and recordkeeping requirements.

##### 31 CFR Part 515

Administrative practice and procedure, Banks, Banking, Cuba, Currency, Foreign investments in United States, Foreign trade, Penalties, Reporting and recordkeeping requirements, Securities, Travel restrictions.

For the reasons set forth in the preamble, 31 CFR parts 501 and 515 are amended as follows:

#### PART 501—REPORTING AND PROCEDURES REGULATIONS

1. Part 501 is amended by adding the following appendix to read as follows:

##### Appendix to Part 501—Economic Sanctions Enforcement Guidelines

**Note:** These guidelines provide a procedural framework for the enforcement of all economic sanctions programs administered by the Office of Foreign Assets Control (“OFAC”). Attention is directed to the appendix to the Cuban Assets Control Regulations, 31 CFR part 515, for additional

guidelines specifically dealing with particular violations of those regulations.

#### I. Enforcement of Economic Sanctions; Determination of Violation

*A. OFAC Civil Investigation and Enforcement Action.* Civil investigation and enforcement with respect to economic sanctions violations rest primarily with OFAC, with certain investigations conducted by the U.S. Customs Service. OFAC investigations may lead to one or more of the following: a cautionary letter, a warning letter, a requirement to furnish information, an order to cease and desist, or a civil penalty proceeding. In addition to or instead of such actions, if the party involved is currently acting pursuant to an OFAC license, that license may be suspended or revoked.

*B. OFAC’s Evaluation of Violative Conduct.* The type of enforcement action undertaken by OFAC depends on the nature of the apparent violation and the foreign policy goals of the particular sanctions program involved. In evaluating whether to initiate a civil penalty action, OFAC determines whether there is reasonable cause to believe that a violation of the regulations, pertinent statute, or Executive Order has occurred. Parts II and III of these Guidelines set forth the criteria used by OFAC to determine the appropriate response to an apparent violation.

*C. Criminal Investigations and Prosecutions.* If the evidence suggests willful violations of substantive prohibitions or requirements, OFAC may refer those cases to other federal law enforcement agencies for criminal investigation. Cases that are referred to the Department of Justice for criminal prosecution also may be processed by OFAC as civil penalty matters. This is generally done after the Justice Department’s declination of criminal prosecution or the termination of criminal proceedings or as part of a global settlement of criminal and civil violations by the Justice Department.

#### II. License Suspension and Revocation; Cautionary and Warning Letters

*A. License Suspension and Revocation.* In addition to or instead of other administrative actions, OFAC authorization to engage in transactions pursuant to a general or specific license may be suspended or revoked for reasons including, but not limited to, the following:

1. The party has willfully made or caused to be made in any license application, or in any report required pursuant to a license, any statement that was, at the time and in light of the