

United States is “prohibited or regulated” pursuant to IEEPA. Section 2002(a)(2)(D) therefore prohibits an Applicant who elects the 100 percent option from seeking to execute his or her punitive damage award against, or from seeking to attach, virtually all Iranian or Cuban assets within the jurisdiction of the United States.

To make an election, the Applicant must submit two declarations as set forth in Parts 3(f)(3–4) below. The Applicant must submit (1) either the declaration set forth in Part 3(f)(3)(A) or that set forth in Part 3(f)(3)(B), and (2) the declaration set forth in Part 3(f)(4). All declarations submitted must be completed in full.

In making payments under section 2002, subject to funds availability, the Secretary will pay post-judgment interest on 110 percent of compensatory damages or 100 percent of compensatory damages, according to whether the Applicant elects to receive payment equaling 110 or 100 percent of compensatory damages. The Secretary will not pay post-judgment interest on portions of the judgment for which the Applicant is not entitled to receive payment under section 2002, including amounts awarded as punitive damages. Nor will the Secretary pay post-judgment interest on the amounts awarded as sanctions, as section 2002(a)(1) does not provide for payment of post-judgment interest on sanctions awards.

(2) Section 201 of the Terrorism Risk Insurance Act of 2002 (the “TRIA”), Public Law No. 107–297 (“section 201”).

Section 201 amends section 2002 by, inter alia, establishing a partial, pro rata payment mechanism, which is described in Part 5 below. This partial payment mechanism, set forth in new subsection (d) of section 2002, will come into effect in the event that the Secretary of the Treasury determines that 90 percent of the amounts available to be paid under section 2002(b)(2) are inadequate to pay the total amount of compensatory damages awarded in judgments issued as of November 26, 2002, in cases identified in section 2002(a)(2)(a) with respect to Iran. If this determination is made, the payment an Applicant receives will be less than the full amount of unpaid compensatory damages awarded to the Applicant and will not include amounts necessary to pay post-judgment interest under 28 U.S.C. 1961.

Section 201 also amends section 2002 to provide, in new subsection (d)(5), that any person receiving less than the full amount of compensatory damages awarded to that party in a judgment to

which new subsection (d) applies shall not be required to make the election set forth in section 2002(a)(2)(B) (*i.e.*, relinquishing all claims and rights to compensatory damages and judicial sanctions) or, with respect to section 2002(a)(2)(D), the election relating to relinquishment of any right to execute or attach property that is subject to section 1610(f)(1)(A) of title 28, United States Code. However, such person shall be required to relinquish rights set forth (1) in section 2002(a)(2)(C) (*i.e.*, all rights and claims to punitive damages), and (2) in section 2002(a)(2)(D) with respect to enforcement against property that is at issue in claims against the United States before an international tribunal or that is the subject of awards by such tribunal.

To take account of new subsection (d)(5), the elections of the 110 percent option and the 100 percent option that appeared in prior **Federal Register** notices on this subject have been amended, as set forth in Part 3(f)(3) below. The amendments provide that, in the event the Secretary makes the determination that funds are inadequate as specified in section 2002(d)(1)(A), the payment the Applicant receives will be less than the full amount of unpaid compensatory damages, and such payment will not include amounts necessary to pay post-judgment interest under 28 U.S.C. 1961. In that event, the relinquishments already made in the declarations and described in Part 3(f)(1) above shall be null and void, and, in lieu thereof, the Applicant, as required by new subsection (d)(5), relinquishes all rights and claims to punitive damages and all rights to execute against or attach property that is at issue in claims against the United States before an international tribunal or that is the subject of awards by such tribunal.

(3) To make an election, the Applicant must submit two declarations as set forth in Parts 3(f)(3–4) below. The Applicant must submit (1) either the declaration set forth in Part 3(f)(3)(A) or that set forth in Part 3(f)(3)(B), and (2) the declaration set forth in Part 3(f)(4). The Applicant must sign each declaration pursuant to 28 U.S.C. 1746. All declarations submitted must be completed in full.

To make the election, the Applicant shall submit one of the two declarations set forth in (A) and (B) below. As set forth in Part 3(f)(1) above, applicants who have received awards of punitive damages shall elect either the declaration set forth in (A) or (B) below. Applicants who have not received awards of punitive damages shall use the declaration set forth in (B) below.

(A) “I, _____ (insert name of Applicant), elect to receive 110 percent of the amount awarded to me as compensatory damages, amounts necessary to pay post-judgment interest under 28 U.S.C. 1961, and, where applicable, amounts awarded as judicial sanctions on or in connection with the claim or claims I brought under 28 U.S.C. 1605(a)(7). By so electing, I state that I have been awarded a judgment that includes an award of punitive damages. I further state, as required by section 2002 of the Victims of Trafficking and Violence Protection Act of 2000, P.L. No. 106–386 as amended by section 686 of the Foreign Relations Authorization Act, Fiscal Year 2003, Public Law No. 107–228, and as further amended by section 201 of the Terrorism Risk Insurance Act of 2002, Public Law No. 107–297 (“section 2002”), that I relinquish (a) all claims and rights to compensatory damages and amounts awarded as judicial sanctions under such judgments and any related interest, costs, and attorneys fees, and (b) all claims and rights to punitive damages awarded in connection with such claim or claims and any related interest, costs, and attorneys fees. In relinquishing these above-mentioned claims and rights, I recognize that I relinquish any rights to seek writs of attachment, execution, or garnishment, or any other form of post-judgment process intended to obtain partial or complete satisfaction of any amounts awarded in connection with the claim or claims under 28 U.S.C. 1605(a)(7) for which I am electing to receive payment.

“I understand that this relinquishment is irrevocable once the payment is credited to the bank account I have identified in this application. I further agree and acknowledge that, pursuant to section 2002(c), once the payment is credited to the bank account I have identified in this application, and to the extent such payment is made under section 2002(b)(2)(B), the United States shall be fully subrogated and assigned to all of my rights as a judgment creditor, and to the rights, if any, of any other person or entity to whom payments are made (collectively ‘payees’), against the debtor foreign state. Such subrogation and assignment of payees’ rights as judgment creditors is binding on their guardians, heirs, executors, administrators or assigns.

“In the event that the Secretary of the Treasury determines that 90 percent of the amounts available to be paid under section 2002(b)(2) are inadequate to pay the total amount of compensatory damages awarded in judgments issued as of November 26, 2002, in cases