

NASD NOTICE TO MEMBERS 97-87

Treasury Updates List Of Specially Designated Persons And Entities

Suggested Routing

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Executive Summary

As requested by the Department of Treasury (Treasury), the National Association of Securities Dealers, Inc. (NASD[®]) provides members with information from the Office of Foreign Assets Control (OFAC) about persons and entities identified as "Specially Designated Nationals and Blocked¹ Persons." On September 9, 1997, OFAC updated its master list, adding one blocked person and one blocked entity who have been determined to act for or on behalf of, or to be owned or controlled by, the Government of Libya. In addition, two individuals were removed from the list.

Background

The U.S. government mandates that all financial institutions located in the United States, overseas branches of these institutions and, in certain instances, overseas subsidiaries of the institutions comply with OFAC regulations governing economic sanctions and embargo programs regarding the accounts and other assets of countries identified as threats to national security by the President of the United States. This always involves accounts and assets of the sanctioned countries' governments, and may also involve the accounts and assets of individual nationals of the sanctioned countries. Also, these regulations prohibit unlicensed trade and financial transactions with such countries.

Under these regulations, financial institutions must block identified assets and accounts when such property is located in the United States, is held by U.S. individuals or entities, or comes into the possession or control of U.S. individuals or entities. The definition of assets and property is very broad and covers direct, indirect, present, future, and contingent interests. In addition, Treasury identifies certain individuals and entities

located worldwide that are acting on behalf of sanctioned governments, and that must be treated as if they are part of the sanctioned governments.

OFAC may impose criminal or civil penalties for violations of these regulations. Criminal violations may result in corporate fines of up to \$500,000 and personal fines of up to \$250,000 and 10 years in jail; civil penalties of up to \$11,000 per violation may also be imposed. To ensure compliance, OFAC enlists the cooperation of various regulatory organizations and recently asked the NASD to remind its members about these regulations.

Foreign Assets Control Regulations

OFAC currently administers sanctions and embargo programs against Libya, Iran, Iraq, the Federal Republic of Yugoslavia (Serbia and Montenegro), Serb-controlled areas of Bosnia and Herzegovina, Bosnian Serb military and civilian leaders, North Korea, and Cuba. In addition, OFAC prohibits certain exports to the UNITA faction in Angola and prohibits transactions with terrorists threatening to disrupt the Middle East peace process.

Broker/dealers cannot deal in securities issued from these target countries and governments and must block or freeze accounts, assets, and obligations of blocked entities and individuals when this property is in their possession or control.

According to OFAC, broker/dealers need to establish internal compliance programs to monitor these regulations. OFAC urges broker/dealers to review their existing customer accounts and the securities in their custody to ensure that any accounts or securities blocked by existing sanctions are being treated properly. Broker/dealers also should review

any other securities that may represent obligations of, or ownership interests in, entities owned or controlled by blocked commercial or government entities identified by OFAC.

Broker/dealers must report blockings within 10 days by fax to OFAC's Compliance Division at (202) 622-1657. Firms are prohibited from making debits to blocked customer accounts, although credits are authorized. Blocked securities may not be paid, withdrawn, transferred (even by book transfer), endorsed, guaranteed, or otherwise dealt in.

OFAC has issued general licenses authorizing continued trading on the national securities exchanges on behalf of blocked Cuban and North Korean customer accounts under conditions preserving the blocking of resulting assets and proceeds. Secondary market trading with respect to certain Yugoslav debt securities issued pursuant to the "New Financing Agreement" of September 20, 1988, is also authorized; however, certain restrictions and reporting

requirements apply.

List Of Sanctioned Governments And Individuals

Whenever there is an update to its regulations, an addition or removal of a specifically designated national, or any other pertinent announcement, OFAC makes the information available electronically on the U.S. Council on International Banking's INTERCOM Bulletin Board in New York and the International Banking Operations Association's Bulletin Board in Miami. The information also is immediately uploaded onto Treasury's Electronic Library (TEL) on the FedWorld Bulletin Board network and is available through several other government services provided free of charge to the general public.

In addition, members can use the NASD Regulation, Inc., Web site (www.nasdr.com) to link to OFAC's list of individuals and companies subject to economic or trade sanctions. OFAC's Web site contains additional information that may be helpful to members and may be

accessed directly (www.ustreas.gov/treasury/services/fac/fac.html). Members may also refer to *NASD Notices to Members* 97-35, 97-4, 96-23, and 95-97.

NASD members are urged to review their procedures to ensure compliance with OFAC regulations.

Questions concerning this *Notice* may be directed to OFAC, at (202) 622-2490.

Endnote

¹ Blocking, which also may be called freezing, is a form of controlling assets under U.S. jurisdiction. While title to blocked property remains with the designated country or national, the exercise of the powers and privileges normally associated with ownership is prohibited without authorization from OFAC. Blocking immediately imposes an across-the-board prohibition against transfers or transactions of any kind with respect to the property.

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