

NASD NOTICE TO MEMBERS 97-35

Treasury's Foreign Assets Control Office 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 NASD® provides members with information from the Office of Foreign Assets Control (OFAC) about persons and entities identified as "Specially Designated Nationals and Blocked Persons." On April 17, 1997, OFAC updated its master list, adding 46 blocked persons and 11 blocked entities designated by the President of the United States for their significant role in international narcotics trafficking centered in Columbia, or have been determined to be owned or controlled by, or to act for or on behalf of, other blocked persons on the list. The new list also contains revised information concerning 25 individuals.

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 it 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 these 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 also may 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 and Bosnian Serb military and civilian leaders, North Korea, and Cuba. In addition, it 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 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 Financ-

ing Agreement” of September 20, 1988, also are 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. In addition, the information is available through several other government services provided free of charge to the general public.

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. Additional information is available from OFAC’s Web site: www.ustreas.gov/treasury/services/fac/fac.html. Members also may refer to *NASD Notices to Members 96-23, 95-97, and 97-4*.

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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