

# OFAC

Office of Foreign Assets Control

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## NARCOTICS SANCTIONS PROGRAM

*This document is explanatory only and does not have the force of law. Executive Order 12978, applicable laws and the implementing Narcotics Trafficking Sanctions Regulations (31 C.F.R. Part 536), against narcotics traffickers centered in Colombia, as well as the Foreign Narcotics Kingpin Designation Act and the implementing regulations (31 C.F.R. Part 598), contain the legally binding provisions governing the sanctions against significant foreign narcotics traffickers and their organizations. This document does not supplement or modify the Executive Order, applicable laws or regulations.*



Updated July, 18 2014

# Contents

**I. INTRODUCTION..... 3**

**II. OVERVIEW OF AUTHORITIES ..... 3**

**III. PROHIBITED TRANSACTIONS ..... 4**

**IV. AUTHORIZED OR EXEMPT TRANSACTIONS ..... 5**

**V. PENALTIES..... 6**

# SANCTIONS AGAINST NARCOTICS TRAFFICKERS

## I. INTRODUCTION

On October 21, 1995, the President issued Executive Order (E.O.) 12978, “*Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers*,” to deal with the unusual and extraordinary posed by narcotics traffickers centered in Colombia. On March 5, 1997, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) issued the Narcotics Trafficking Sanctions Regulations, 31 C.F.R. Part 536, which implemented E.O. 12978.

On December 3, 1999, the President signed the Foreign Narcotics Kingpin Designation Act (the “Kingpin Act”) to apply economic and other financial sanctions to significant foreign narcotics traffickers and their organizations worldwide. On July 5, 2000, OFAC issued the Foreign Narcotics Kingpin Sanctions Regulations, 31 C.F.R. Part 598, which implemented the Kingpin Act.

## II. OVERVIEW OF AUTHORITIES

### E.O. 12978

On October 21, 1995, the President issued [E.O. 12978](#), declaring a national emergency to address the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States posed by the actions of significant narcotics traffickers centered in Colombia, and the extreme level of violence, corruption, and harm such actions cause in the United States and abroad. E.O. 12978 was issued under the authority of inter alia, the International Emergency Economic Powers Act (50 U.S.C. §§ 1701 *et seq.*) (IEEPA) and the National Emergencies Act (50 U.S.C. §§ 1601 *et seq.*) (NEA).

On March 5, 1997, OFAC issued the Narcotics Trafficking Sanctions Regulations, [31 C.F.R. Part 536](#), implementing E.O. 12978 and blocking the property and interests in property in the United States, or in the possession or control of U.S. persons, of the persons listed in the Annex to E.O. 12978 (the “Annex”), as well as of any foreign person determined by the Secretary of the Treasury, after consultation with the Attorney General and the Secretary of State, to be a specially designated narcotics trafficker. A specially designated narcotics trafficker, as defined in 31 C.F.R. Part 536, meets the following criteria:

- Plays a significant role in international narcotics trafficking centered in Colombia;
- Materially assists in, or provides financial or technological support for or goods or services in support of, the narcotics trafficking activities of specially designated narcotics traffickers; or
- Is owned or controlled by, or acts for or on behalf of, any other specially designated narcotics trafficker.

### THE KINGPIN ACT

On December 3, 1999, the President signed into law the [Kingpin Act](#) (21 U.S.C. §§ 1901-1908 and 8 U.S.C § 1182), providing authority for the application of sanctions to significant foreign narcotics traffickers and their organizations operating worldwide. Section 805(b) of the Kingpin Act blocks all property and interests in property within the United States, or within the possession or control of any U.S. person, which are owned or controlled by significant foreign narcotics traffickers, as identified by the President, or foreign persons designated by the Secretary of the Treasury, after consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug

Enforcement Administration, the Secretary of Defense, the Secretary of Homeland Security,<sup>1</sup> and the Secretary of State, as meeting the criteria as identified in the Kingpin Act.

On July 5, 2000, OFAC issued the Foreign Narcotics Kingpin Sanctions Regulations, [31 C.F.R. Part 598](#), which implement the Kingpin Act and block all property and interests in property within the United States, or within the possession or control of any U.S. person, which are owned or controlled by specially designated narcotics traffickers, as identified by the President, or foreign persons designated by the Secretary of the Treasury, after consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of Homeland Security and the Secretary of State, as meeting the following criteria:

- Materially assists in, or provides financial or technological support for or to, or provides goods or services in support of, the international narcotics trafficking activities of a specially designated narcotics trafficker;
- Owned, controlled, or directed by, or acts for or on behalf of, a specially designated narcotics trafficker; or
- Plays a significant role in international narcotics trafficking.

### III. PROHIBITED TRANSACTIONS

#### E.O. 12978

E.O. 12978 blocks the property and interests in property in the United States, or in the possession or control of U.S. persons, of the persons listed in the Annex to E.O. 12978, as well as of any foreign person determined by the Secretary of the Treasury, after consultation with the Attorney General and the Secretary of State, to be a specially designated narcotics trafficker.

The names of persons and entities listed in the Annex to E.O. 12978 or designated pursuant to E.O. 12978, whose property and interests in property are therefore blocked, are published in the *Federal Register* and incorporated into OFAC's list of Specially Designated Nationals and Blocked Persons (SDN List) with the OFAC program tag "[SDNT]." The SDN List is available through OFAC's web site:

<http://www.treasury.gov/sdn>

#### THE KINGPIN ACT

The Kingpin Act blocks all property and interests in property within the United States, or within the possession or control of any U.S. person, of the persons, identified by the President, or foreign persons designated by the Secretary of the Treasury, after consultation with the previously identified federal agencies.

The names of persons and entities designated pursuant to the Kingpin Act, whose property and interests in property are therefore blocked, are published in the *Federal Register* and incorporated into the SDN List with the OFAC program tag "[SDNTK]." The SDN List is available through OFAC's web site:

<http://www.treasury.gov/sdn>

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<sup>1</sup> Since the establishment of the Department of Homeland Security (DHS) pursuant to the Homeland Security Act 2002 (Public Law 107-293) on November 25, 2002, DHS has participated as a consulting authority.

## **TRANSACTIONS**

Unless otherwise authorized or exempt, transactions by U.S. persons, or in or involving the United States, are prohibited if they involve transferring, paying, exporting, withdrawing, or otherwise dealing in the property or interests in property of an entity or individual listed on the SDN List. The property and interests in property of an entity that is 50% or more owned, directly or indirectly, by a person on the SDN List are also blocked, regardless of whether the entity itself is listed. For additional guidance on the 50% rule please see:

[http://www.treasury.gov/resource-center/sanctions/Documents/licensing\\_guidance.pdf](http://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf)

## **PROCEDURES TO REQUEST RECONSIDERATION FROM THE SDN LIST**

A designated person may seek administrative reconsideration of the designation, or assert that the circumstances resulting in the designation no longer apply, and thus seek to have the designation rescinded pursuant to 31 C.F.R. § 501.807.

For example, a person designated as a Specially Designated Narcotics Trafficker may submit arguments or evidence that the person believes establishes that an insufficient basis exists for the designation pursuant to E.O. 12978 or the Kingpin Act. The Specially Designated Narcotics Trafficker also may propose remedial steps, such as corporate reorganization, resignation of persons from positions in a blocked entity, turning over seized assets or similar steps, which may negate the basis for designation. The request for reconsideration must be made in writing and addressed to the Office of Foreign Assets Control, ATTN: Office of Global Targeting, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. After OFAC has conducted a review of the request for reconsideration, it will provide a written decision to the Specially Designated Narcotics Trafficker. For additional information please see: [31C.F.R. § 501.807](#)

## **IV. AUTHORIZED OR EXEMPT TRANSACTIONS**

### **EXEMPT TRANSACTIONS**

Certain types of activities and transactions may be exempt from the prohibitions of the Narcotics Trafficking Sanctions Regulations. For example, the prohibitions in Part 536 do not prohibit the importation from any country and the exportation to any country of certain information or informational materials as defined in 31 C.F.R. § 536.306. This exemption, however, does not apply to Part 598.

### **GENERAL LICENSES**

OFAC may authorize certain types of activities and transactions, which would otherwise be prohibited by E.O. 12978, by issuing a general license. General licenses may be published in the regulations, on OFAC's Web site, or both. For example, the provision of certain legal services to or on behalf of persons whose property and interests in property are blocked pursuant to E.O. 12978 and the Kingpin Act is authorized, provided that all receipts of payment of professional fees and reimbursement of incurred expenses must be specifically licensed. See 31 C.F.R. §§ 536.506 and 598.507. For an updated list of all general licenses relating to the narcotics sanctions programs, please see 31 C.F.R. §§ 536 subpart E and 598 subpart E and visit:

<http://www.treasury.gov/resource-center/sanctions/Programs/Pages/narco.aspx>

### **SPECIFIC LICENSES**

On a case-by-case basis, OFAC considers applications for specific licenses to authorize transactions that are neither exempt nor covered by a general license. Requests for a specific license must be submitted to OFAC's Licensing Division. License requests may be submitted using any of the following methods:

- Online: <http://www.treasury.gov/resource-center/sanctions/Pages/licensing.aspx>

- Fax: (202) 622-1657
- U.S. mail: Assistant Director for Licensing, Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220

### LICENSING POLICY REGARDING SPECIFIC COLOMBIAN ENTITIES

OFAC currently authorizes the following U.S. suppliers to engage in certain transactions with Specially Designated Narcotics Traffickers that are currently Colombian Government-controlled entities, including the following entities:

- AGRONILO, Casa Grajales S.A., FREXCO, Grajales S.A., HOTEL LOS VINEDOS, Transportes del Espiritu Santo S.A., [Policy, 7/21/05 Press](#)
- G.L.G. S.A., Ramal S.A., [Policy, 2/16/07 Press](#)

## V. PENALTIES

### E.O. 12978

Civil monetary penalties of up to the greater of \$250,000 or twice the amount of the underlying transaction may be imposed administratively against any person who violates, attempts to violate, conspires to violate, or causes a violation of E.O. 12978 or the implementing regulations. Upon conviction, criminal fines of up to \$1,000,000, imprisonment for up to 20 years, or both, may be imposed on any person who willfully commits or attempts to commit, or willfully conspires to commit, or aids or abets in the commission of a violation of E.O. 12978 or the regulations.

### THE KINGPIN ACT

Penalties for violations of the Kingpin Act range from civil penalties of up to \$1.075 million per violation to more severe criminal penalties. Criminal penalties for corporate officers may include up to 30 years in prison and fines up to \$5 million. Criminal fines for corporations may reach \$10 million. Other individuals could face up to 10 years in prison and fines pursuant to Title 18 of the United States Code for criminal violations of the Kingpin Act or the regulations.

#### **ADDITIONAL RESOURCES**

**Lists of principal traffickers named under E.O. 12978 [SDNT] and all persons named in the Kingpin Act [SDNTK] along with resource documents are also available on OFAC web site:**

[www.treasury.gov/resource-center/sanctions/programs/pages/narco.aspx](http://www.treasury.gov/resource-center/sanctions/programs/pages/narco.aspx)

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The Treasury Department's Office of Foreign Assets Control also administers sanctions programs involving the Balkans, Belarus, Burma (Myanmar), the Central African Republic, Cote d'Ivoire, Cuba, the Democratic Republic of the Congo, Rough Diamond Trading (Kimberley Process), Iran, Iraq, Lebanon, Liberia, Libya, the Magnitsky Act, North Korea, Somalia, South Sudan, Sudan, Syria, Ukraine, Yemen, Zimbabwe, as well as highly enriched uranium, persons who commit, threaten to commit, or support terrorism, Foreign Terrorist Organizations, Terrorism List Governments, transnational criminal organizations, and proliferators of weapons of mass destruction and their supporters. For additional information about these programs or about sanctions involving international narcotics traffickers please contact:

OFFICE OF FOREIGN ASSETS CONTROL  
U.S. Department of the Treasury  
1500 Pennsylvania Avenue, N.W.  
Washington, D.C. 20220  
[www.treasury.gov/ofac](http://www.treasury.gov/ofac)  
202/622-2490