



DEPARTMENT OF THE TREASURY
OFFICE OF FOREIGN ASSETS CONTROL

ENFORCEMENT INFORMATION FOR November 27, 2007

CIVIL PENALTIES – INTERIM POLICY

On October 16, 2007, the President signed into law the International Emergency Economic Powers Enhancement Act (“IEEPA Enhancement Act” or “Act”), Pub. L. No. 110-96, which, *inter alia*, increased the maximum civil penalty applicable to violations of orders or regulations issued under IEEPA. The new maximum civil penalty is the greater of \$250,000 or an amount that is twice the amount of the transaction that is the basis of the violation with respect to which the penalty is imposed. These amounts are applicable to all violations with respect to which enforcement action is pending or commenced on or after October 16, 2007. OFAC interprets this provision to mean that the new civil penalty provisions apply to all violations with respect to which a Final Penalty Notice had not been issued as of October 16, 2007.

OFAC intends to publish revised enforcement guidelines and procedures to account for the new maximum penalty amounts set forth in the IEEPA Enhancement Act. Until such time as OFAC issues revised enforcement guidelines and procedures, and with the exceptions noted below, OFAC will continue to apply its Economic Sanctions Enforcement Guidelines, 68 Fed. Reg. 4422 (Jan. 29, 2003) (“Enforcement Guidelines”), and Economic Sanctions Enforcement Procedures for Banking Institutions, 71 Fed. Reg. 1971 (Jan. 12, 2006) (“Banking Enforcement Procedures”), to the new statutory penalty provisions. As a practical matter, this means that prepenalty notices will generally be issued at the transaction amount (which, as called for by the Enforcement Guidelines, is the lesser of the transaction amount or the statutory cap). Aggravating and mitigating factors and percentages set forth in the current guidelines will also generally continue to apply.

Notwithstanding this general interim policy, OFAC will handle the categories of cases identified below in the following manner:

1. **PPN Mailed.** In all cases in which a prepenalty notice (“PPN”) was mailed to the cited party prior to October 16, 2007, OFAC will not impose a penalty in excess of the amount set forth on the PPN and will continue to apply our Enforcement Guidelines and Banking Enforcement Procedures in calculating the penalty amount.
2. **Tentative Settlement Amount Communicated and Memorialized.** In those cases in which OFAC has communicated to a party that a particular settlement amount would be recommended internally, and the party has made a written settlement offer to OFAC at that amount, OFAC will continue to process the settlement according to the terms of the communication from OFAC. That is, a draft settlement agreement will be prepared for internal review and approval, and, subject to such approval, will be sent to the party. In the event the proposed settlement is not approved, further negotiations may be commenced based on the penalty amount applicable at the time of the earlier communication.
3. **SOL Waivers.** In those cases in which a party has agreed to a statute of limitations waiver, where the statute of limitations would have otherwise expired prior to October 16, 2007 (the effective date of the Act), OFAC will calculate the penalty amount in accordance with the maximum penalty amounts applicable at the time the waiver was signed.

For further information, please contact Elton Ellison, Assistant Director, Civil Penalties, tel.: 202/622–6140 or Brad Brooks-Rubin, Office of Chief Counsel (Foreign Assets Control), tel.: 202/622-2410.