

§ 585.202

31 CFR Ch. V (7-1-03 Edition)

branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(b) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before 12:01 a.m. EDT, April 26, 1993, no property or interest in property of any commercial, industrial, or public utility undertakings or entities organized or located in the Federal Republic of Yugoslavia (Serbia and Montenegro), including, without limitation, the property and all interests in property of entities (wherever organized or located) owned or controlled by such undertakings or entities, that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, may be transferred, paid, exported, withdrawn or otherwise dealt in.

(c) Except as otherwise authorized, and notwithstanding the existence of any rights or obligations conferred or imposed by any international agreement or any contract entered into or any license or permit granted before 11:59 p.m. EDT, October 25, 1994, no property or interest in property of the following persons that is in the United States, that hereafter comes within the United States, or that is or hereafter comes within the possession or control of United States persons, including their overseas branches, may be transferred, paid, exported, withdrawn, or otherwise dealt in:

(1) The Bosnian Serb military and paramilitary forces and the authorities in those areas of the Republic of Bosnia and Herzegovina under the control of those forces;

(2) Any entity, including any commercial, industrial, or public utility undertaking, organized or located in those areas of the Republic of Bosnia and Herzegovina under the control of Bosnian Serb forces;

(3) Any entity, wherever organized or located, which is owned or controlled directly or indirectly by any person in, or resident in, those areas of the Republic of Bosnia and Herzegovina

under the control of Bosnian Serb forces; and

(4) Any person acting for or on behalf of any person included within the scope of paragraphs (c)(1), (2), or (3) of this section.

NOTE TO § 585.201(c): Please refer to the appendices at the end of this chapter for listings of persons designated pursuant to this section. Section 501.807 of this chapter sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or that of a vessel as blocked, or who wish to assert that the circumstances resulting in the designation are no longer applicable.

(d) Unless otherwise authorized by this part or by a specific license expressly referring to this section, the transfer (including the transfer on the books of any issuer or agent thereof), the endorsement or guaranty of signatures on, or any other dealing in any security (or evidence thereof) registered or inscribed in the name of the Government of the Federal Republic of Yugoslavia or the former Government of the Socialist Federal Republic of Yugoslavia and held within the possession or control of a U.S. person is prohibited, irrespective of the fact that at any time either at or subsequent to the effective date the registered or inscribed owner thereof may have, or appears to have, assigned, transferred, or otherwise disposed of any such security.

(e) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

[58 FR 13201, Mar. 10, 1993, as amended at 58 FR 35828, July 1, 1993; 60 FR 34145, June 30, 1995; 61 FR 32938, June 26, 1996; 62 FR 45110, Aug. 25, 1997]

§ 585.202 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date specified in § 585.301 which is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, license, or other authorization hereunder and involves any property or interest in property

blocked pursuant to § 585.201 is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power or privilege with respect to such property or property interests.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or interest in, any property or interest in property blocked pursuant to § 585.201, unless the person with whom such property is held or maintained, prior to such date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or render it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, the United Nations Participation Act, this part, and any regulation, order, directive, ruling, instruction, or license issued hereunder.

(d) Transfers of property which otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license or authorization by or pursuant to this part and was not so licensed or authorized, or if a license or authorization did purport to cover the transfer, that such license or authorization had

been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; and

(3) Promptly upon discovery that

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, license, or other direction or authorization hereunder, or

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control, or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or the withholding of material facts or was otherwise fraudulently obtained; the person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer. The filing of a report in accordance with the provisions of this paragraph shall not be deemed evidence that the terms of paragraphs (d) (1) and (2) of this section have been satisfied.

(e) Unless licensed or authorized pursuant to this part, any attachment, judgement, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property or interest in property blocked pursuant to § 585.201.

[58 FR 13201, Mar. 10, 1993, as amended at 60 FR 34145, June 30, 1995]

§ 585.203 Holding of certain types of blocked property in interest-bearing accounts.

(a)(1) Any person, including a U.S. financial institution, currently holding property subject to § 585.201, which, as of July 15, 1992, or the date of receipt if subsequent to July 15, 1992, is not being held in an interest-bearing account or otherwise invested in a manner authorized by the Office of Foreign Assets Control, shall transfer such property to, or hold such property or cause such property to be held in, an interest-bearing account or interest-bearing status in a U.S. financial institution as of July 15, 1992, or the date of receipt if subsequent to July 15, 1992, unless otherwise authorized or directed by the Office of Foreign Assets Control.