

(e) Implementation

(1) The Secretary of the Treasury, in 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, and the Secretary of State, is authorized to take such actions as may be necessary to carry out this chapter, including—

(A) making those designations authorized by paragraphs (2), (3), and (4) of subsection (b) of this section and revocation thereof;

(B) promulgating rules and regulations permitted under this chapter; and

(C) employing all powers conferred on the Secretary of the Treasury under this chapter.

(2) Each agency of the United States shall take all appropriate measures within its authority to carry out the provisions of this chapter.

(3) Section 552(a)(3) of title 5 shall not apply to any record or information obtained or created in the implementation of this chapter.

(Pub. L. 106-120, title VIII, §805, Dec. 3, 1999, 113 Stat. 1629; Pub. L. 107-108, title III, §307, Dec. 28, 2001, 115 Stat. 1399.)

AMENDMENTS

2001—Subsec. (f). Pub. L. 107-108 struck out heading and text of subsec. (f). Text read as follows: “The determinations, identifications, findings, and designations made pursuant to section 1903 of this title and subsection (b) of this section shall not be subject to judicial review.”

§ 1905. Authorities**(a) In general**

To carry out the purposes of this chapter, the Secretary of the Treasury may, under such regulations as he may prescribe, by means of instructions, licenses, or otherwise—

(1) investigate, regulate, or prohibit—

(A) any transactions in foreign exchange, currency, or securities; and

(B) transfers of credit or payments between, by, through, or to any banking institution, to the extent that such transfers or payments involve any interests of any foreign country or a national thereof; and

(2) investigate, block during the pendency of an investigation, regulate, direct and compel, nullify, void, prevent, or prohibit any acquisition, holding, withholding, use, transfer, withdrawal, transportation, placement into foreign or domestic commerce of, or dealing in, or exercising any right, power, or privilege with respect to, or transactions involving, any property in which any foreign country or a national thereof has any interest,

by any person, or with respect to any property, subject to the jurisdiction of the United States.

(b) Recordkeeping

Pursuant to subsection (a) of this section, the Secretary of the Treasury may require recordkeeping, reporting, and production of documents to carry out the purposes of this chapter.

(c) Defenses

(1) Full and actual compliance with any regulation, order, license, instruction, or direction

issued under this chapter shall be a defense in any proceeding alleging a violation of any of the provisions of this chapter.

(2) No person shall be held liable in any court for or with respect to anything done or omitted in good faith in connection with the administration of, or pursuant to, and in reliance on this chapter, or any regulation, instruction, or direction issued under this chapter.

(d) Rulemaking

The Secretary of the Treasury may issue such other regulations or orders, including regulations prescribing recordkeeping, reporting, and production of documents, definitions, licenses, instructions, or directions, as may be necessary for the exercise of the authorities granted by this chapter.

(Pub. L. 106-120, title VIII, §806, Dec. 3, 1999, 113 Stat. 1631.)

§ 1906. Enforcement**(a) Criminal penalties**

(1) Whoever willfully violates the provisions of this chapter, or any license rule, or regulation issued pursuant to this chapter, or willfully neglects or refuses to comply with any order of the President issued under this chapter shall be—

(A) imprisoned for not more than 10 years,

(B) fined in the amount provided in title 18 or, in the case of an entity, fined not more than \$10,000,000,

or both.

(2) Any officer, director, or agent of any entity who knowingly participates in a violation of the provisions of this chapter shall be imprisoned for not more than 30 years, fined not more than \$5,000,000, or both.

(b) Civil penalties

A civil penalty not to exceed \$1,000,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this chapter.

(c) Judicial review of civil penalty

Any penalty imposed under subsection (b) of this section shall be subject to judicial review only to the extent provided in section 702 of title 5.

(Pub. L. 106-120, title VIII, §807, Dec. 3, 1999, 113 Stat. 1631.)

§ 1907. Definitions

As used in this chapter:

(1) Entity

The term “entity” means a partnership, joint venture, association, corporation, organization, network, group, or subgroup, or any form of business collaboration.

(2) Foreign person

The term “foreign person” means any citizen or national of a foreign state or any entity not organized under the laws of the United States, but does not include a foreign state.

(3) Narcotics trafficking

The term “narcotics trafficking” means any illicit activity to cultivate, produce, manufac-

ture, distribute, sell, finance, or transport narcotic drugs, controlled substances, or listed chemicals, or otherwise endeavor or attempt to do so, or to assist, abet, conspire, or collude with others to do so.

(4) Narcotic drug; controlled substance; listed chemical

The terms “narcotic drug”, “controlled substance”, and “listed chemical” have the meanings given those terms in section 802 of this title.

(5) Person

The term “person” means an individual or entity.

(6) United States person

The term “United States person” means any United States citizen or national, permanent resident alien, an entity organized under the laws of the United States (including its foreign branches), or any person within the United States.

(7) Significant foreign narcotics trafficker

The term “significant foreign narcotics trafficker” means any foreign person that plays a significant role in international narcotics trafficking, that the President has determined to be appropriate for sanctions pursuant to this chapter, and that the President has publicly identified in the report required under subsection (b) or (h)(1) of section 1903 of this title.

(Pub. L. 106-120, title VIII, §808, Dec. 3, 1999, 113 Stat. 1632.)

§ 1908. Judicial Review Commission on Foreign Asset Control

(a) Establishment

There is established a commission to be known as the “Judicial Review Commission on Foreign Asset Control” (in this section referred to as the “Commission”).

(b) Membership and procedural matters

(1) The Commission shall be composed of five members, as follows:

(A) One member shall be appointed by the Chairman of the Select Committee on Intelligence of the Senate.

(B) One member shall be appointed by the Vice Chairman of the Select Committee on Intelligence of the Senate.

(C) One member shall be appointed by the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives.

(D) One member shall be appointed by the Ranking Minority Member of the Permanent Select Committee on Intelligence of the House of Representatives.

(E) One member shall be appointed jointly by the members appointed under subparagraphs (A) through (D).

(2) Each member of the Commission shall, for purposes of the activities of the Commission under this section, possess or obtain an appropriate security clearance in accordance with applicable laws and regulations regarding the handling of classified information.

(3) The members of the Commission shall choose the chairman of the Commission from among the members of the Commission.

(4) The members of the Commission shall establish rules governing the procedures and proceedings of the Commission.

(c) Duties

The Commission shall have as its duties the following:

(1) To conduct a review of the current judicial, regulatory, and administrative authorities relating to the blocking of assets of foreign persons by the United States Government.

(2) To conduct a detailed examination and evaluation of the remedies available to United States persons affected by the blocking of assets of foreign persons by the United States Government.

(d) Powers

(1) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this section. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the chairman of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

(3) The Attorney General and the Secretary of the Treasury shall provide to the Commission, on a nonreimbursable basis, such administrative services, funds, facilities, and other support services as are necessary for the performance of the Commission’s duties under this section.

(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this section, including the provision of full and current briefings and analyses.

(5) No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

(6) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(e) Staff

(1) Subject to paragraph (2), the chairman of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and

such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III or¹ chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

(2)(A) Any employee of a department or agency referred to in subparagraph (B) may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(B) The departments and agencies referred to in this subparagraph are as follows:

- (i) The Department of Justice.
- (ii) The Department of the Treasury.
- (iii) The Central Intelligence Agency.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(f) Compensation and travel expenses

(1)(A) Except as provided in subparagraph (B), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5 for each day during which that member is engaged in the actual performance of the duties of the Commission under this section.

(B) Members of the Commission who are officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(2) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b)² of title 5.

(g) Report

(1) Not later than 1 year after December 3, 1999, the Commissions³ shall submit to the committees of Congress referred to in paragraph (4) a report on the activities of the Commission under this section, including the findings, conclusions, and recommendations, if any, of the

¹ So in original. Probably should be "of".

² So in original. Section 5703 of title 5 does not contain a subsec. (b).

³ So in original. Probably should be "Commission".

Commission as a result of the review under subsection (c)(1) of this section and the examination and evaluation under subsection (c)(2) of this section.

(2) The report under paragraph (1) shall include any additional or dissenting views of a member of the Commission upon the request of the member.

(3) The report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(4) The committees of Congress referred to in this paragraph are the following:

(A) The Select Committee on Intelligence and the Committees on Foreign Relations and the Judiciary of the Senate.

(B) The Permanent Select Committee on Intelligence and the Committees on International Relations and the Judiciary of the House of Representatives.

(h) Termination

The Commission shall terminate at the end of the 60-day period beginning on the date on which the report required by subsection (g) of this section is submitted to the committees of Congress referred to in that subsection.

(i) Inapplicability of certain administrative provisions

(1) The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this section.

(2) The provisions of section 552 of title 5 (commonly referred to as the Freedom of Information Act) shall not apply to the activities, records, and proceedings of the Commission under this chapter.

(j) Funding

The Attorney General shall, from amounts authorized to be appropriated to the Attorney General by this Act, make available to the Commission \$1,000,000 for purposes of the activities of the Commission under this section. Amounts made available to the Commission under the preceding sentence shall remain available until expended.

(Pub. L. 106-120, title VIII, § 810, Dec. 3, 1999, 113 Stat. 1633.)

REFERENCES IN TEXT

The provisions of title 5 governing appointments in the competitive service, referred to in subsec. (e)(1), are classified generally to section 3301 et seq. of Title 5, Government Organization and Employees.

The Federal Advisory Committee Act, referred to in subsec. (i), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

This Act, referred to in subsec. (j), is Pub. L. 106-120, Dec. 3, 1999, 113 Stat. 1606, known as the Intelligence Authorization Act for Fiscal Year 2000. For complete classification of this Act to the Code, see Tables.