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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 500

Foreign Assets Control Regulations: Reporting of Claims of U.S. Nationals Against the Government of North Korea

AGENCY: Office of Foreign Assets Control

ACTION: Final rule; amendment.

SUMMARY: The Office of Foreign Assets Control is amending the Foreign Assets Control Regulations to require the reporting, no later than March 9, 1998, of all outstanding claims held by U.S. nationals against the Government of North Korea or any North Korean government entity. The reports are needed to obtain information, on a one-time basis, for planning and administrative purposes in contemplation of future claims settlement negotiations. The control number assigned by the Office of Management and Budget to this information collection requirement is also included.

EFFECTIVE DATE: December 9, 1997.

FOR FURTHER INFORMATION CONTACT:

Loren L. Dohm, Chief, Blocked Assets Division, tel.: 202/622-2440, or William B. Hoffman, Chief Counsel, tel.: 202/622-2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

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Background

The Foreign Assets Control Regulations, 31 CFR part 500 (the "Regulations"), are being amended to establish a mandatory, one-time census with respect to all outstanding claims of U.S. nationals against the Government of North Korea or any North Korean government entity.

Section 500.602 is added to the Regulations to require all U.S. nationals having such claims to report the claims by letter, including the information required by paragraph (f) of that section, by March 9, 1998. The definition of the term "U.S. national" is contained in § 500.602(g). Observance of the filing deadline is extremely important. The reports are needed to obtain information, on a one-time basis, for planning and administrative purposes in contemplation of future claims settlement negotiations.

For naturalized U.S. citizens, only claims arising after becoming a U.S. citizen should be reported. Similarly, an entity must have been organized under the laws of a U.S. jurisdiction at the time of loss to have a reportable claim.

The submission of a report of a claim against the Government of North Korea or a North Korean government entity does not constitute the filing with the

United States Government of a formal claim for compensation. No formal claims adjudication program currently exists. However, failure to file a complete report with respect to claims in a timely fashion would constitute not only a failure to comply with the Regulations, but would also prevent the inclusion of the information in U.S. Government planning and may therefore be prejudicial to the interests of the claimant and other U.S. claimants. Espousal of claims of U.S. nationals against a foreign government is within the discretion of the United States Government.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

This final rule is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the collection of information contained in this final rule has been submitted to and approved by the Office of Management and Budget ("OMB") pending public comment, and has been assigned control number 1505-0160. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in the Regulations is contained in new § 500.602 of the Regulations. This information is needed by the Office of Foreign Assets Control and the U.S. Department of State for planning and administrative purposes in contemplation of future claims settlement negotiations. The likely respondents and recordkeepers are individuals and business organizations.

New § 500.602(e) provides that "[r]eports submitted pursuant to this section are regarded as privileged and confidential." It is the policy of the Office of Foreign Assets Control to protect the confidentiality of

information in appropriate cases pursuant to the exemptions from disclosure provided under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a).

Estimated total one-time reporting and/or recordkeeping burden: 100 hours.

The estimated one-time burden per respondent/recordkeeper varies from 1 hour to 3 hours, depending on individual circumstances, with an estimated average of 2 hours.

Estimated number of respondents and/or recordkeepers: 50.

Estimated frequency of responses: 1.

Comments are invited on: (a) whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimated capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments concerning the above information, the accuracy of estimated average burden, and suggestions for reducing this burden should be directed to the Office of Management and Budget, Paperwork Reduction Project, control number 1505-0160, Washington, DC 20503, with a copy to the Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220. Any such comments should be submitted not later than February 9, 1998. Comments on aspects of the Regulations other than those involving collections of information should not be sent to the OMB.

List of Subjects in 31 CFR Part 500

Administrative practice and procedure, Banks, banking, Blocking of assets, Cambodia, Exports, Fines and penalties, Finance, Foreign claims, Foreign investment in the United States, Foreign trade, Imports, Information and informational materials, International organizations, North Korea, Reporting and recordkeeping requirements, Securities, Services, Specially designated nationals, Travel restrictions, Trusts and estates, Vietnam.

For the reasons set forth in the preamble, 31 CFR part 500 is amended as follows:

PART 500—FOREIGN ASSETS CONTROL REGULATIONS

1. The authority citation for part 500 continues to read as follows:

Authority: 18 U.S.C. 2332d; 31 U.S.C. 321(b); 50 U.S.C. App. 1-44; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p.748.

Subpart F—Reports

2. Section 500.602 is added to Subpart F to read as follows:

§ 500.602 Reporting of claims of U.S. nationals against North Korea.

(a) *Requirement for reports.* Reports are required to be filed on or before March 9, 1998, in the manner prescribed in this section, with respect to all outstanding claims held by United States nationals against the Government of North Korea or any North Korean government entity.

(b) *Who must report.* A report must be submitted by each U.S. national having a claim outstanding against the Government of North Korea or any North Korean government entity. Reports should be submitted only by persons who were U.S. citizens or entities organized under the laws of a U.S. jurisdiction on the date of the loss.

(c) *How to register.* U.S. nationals filing reports of claims must submit a letter containing the information required by paragraph (f) of this section. The letter must be sent to the Blocked Assets Division, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave., NW—Annex, Washington, DC 20220, to arrive by March 9, 1998. A copy of the submission should be kept by the claimant.

(d) *Certification.* Every report shall bear the signature of the claimant or a person authorized by the claimant to sign the report. The signature will certify that, to the best of the reporter's knowledge, the statements set forth in the report, including any papers attached to or filed with the report, are true and accurate, and that all material facts in connection with the report have been set forth.

(e) *Confidentiality of reports.* Reports submitted pursuant to this section are regarded as privileged and confidential.

(f) *Contents of report.* The report must contain the following information (with responses numbered to correspond with the numbers used below):

(1) Identification of claimant.

(i) Claimant's Legal Name.

(ii) Claimant's Address.

(iii) Telephone number of individual to contact regarding the report.

(iv) If claimant is a naturalized citizen of the United States, state the place and date of naturalization.

(v) If claimant is a corporation or business, state the place of incorporation and principal place of business.

(2) Information concerning claim.

(i) Amount of loss in U.S. dollars (indicate exchange or interest rates and relevant dates utilized for any currency translation or interest calculation).

(ii) Describe the circumstances of the loss. Include the date of the loss and a description of the property, business, obligation, injury or other damage which is the subject of the claim.

(g) *Definition of United States national.* For purposes of this section, the term *United States national* or *U.S. national* means:

(1) An individual who is a citizen of the United States;

(2) An individual who, though not a citizen of the United States, owes permanent allegiance to the United States, and is not an alien; or

(3) A partnership, corporation, or other juridical entity organized under the laws of the United States or any jurisdiction within the United States.

(h) *Definition of the Government of North Korea; North Korean government entity.* For purposes of this section:

(1) The term *Government of North Korea* means the government of the territory of Korea north of the 38th parallel of north latitude, as well as any political subdivision, agency, or instrumentality thereof, or any territory, dependency, colony, protectorate, mandate, dominion, possession, or place subject to the jurisdiction thereof as of the "effective date."

(2) The term *North Korean government entity* means any corporation, partnership, or association, or other organization, wherever organized or doing business, that is owned or controlled by the Government of North Korea.

Subpart I—Miscellaneous Provisions

3. Section 500.901 is amended by adding a sentence to the end thereof to read as follows:

§ 500.901 Paperwork Reduction Act notice.

* * * The information collection requirement in § 500.602 has been approved by the Office of Management and Budget and assigned control number 1505-0160.

Dated: November 10, 1997.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: November 19, 1997.

James E. Johnson,

Assistant Secretary (Enforcement),

Department of the Treasury.

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