



31 July 2017

Brian Callanan, Acting General Counsel
Office of the General Counsel
U.S. Department of the Treasury
Washington, D.C.

Re: Response to Review of Regulations, 82 Fed. Reg. 27217-27218 (June 14, 2017)

Dear Mr. Callanan:

The Association of University Export Control Officers (AUECO) respectfully submits this letter recommending increased simplification and harmonization of the education- and research-related general licenses across the comprehensive sanctions programs administered by the Office of Foreign Assets Controls (OFAC). The suggestions described below, offered in response to Review of Regulations, 82 Fed. Reg. 27217-27218 (June 14, 2017), would reduce unnecessary regulatory complexity and burdens while also facilitating U.S. academic engagement with persons in sanctioned countries, consistent with U.S. foreign policy objectives.¹ The global exchange of people and ideas in the university context often serves as a foundation for critical cultural and diplomatic relations.

AUECO is an association of over 200 senior export control professionals with compliance responsibility at over 140 institutions of higher education within the United States. AUECO is committed to monitoring changes in the administration of export and sanctions laws and regulations that may impact the unique nature of higher education, including academic and research collaborations.

Harmonization: Academic Exchanges

Current OFAC sanctions programs (including Cuba, Iran, Sudan, and Syria) permit different types of academic exchanges via general licenses having varying levels of specificity and complexity. To encourage and enhance the lawful and efficient conduct of educational activities involving sanctioned countries, we recommend standardizing, to the extent possible, authorization to engage in specified academic exchanges and transactions across programs. This sort of harmonization would both improve the ability of academic institutions to comply with the regulations, and reduce the need for specific license requests, which draw scarce resources from U.S. Government agencies as well as the regulated community. Moreover, a more harmonized general license regime applicable to academic activities

¹ The suggestions offered herein would not affect existing obligations to comply with the Export Administration Regulations, 15 C.F.R. pts 730-774, and the International Traffic in Arms Regulations, 22 C.F.R. pts. 120-130, which impose licensing requirements in addition to those administered by OFAC.

would be easier to understand, potentially reducing the number of inadvertent violations, voluntary self-disclosures, and related investigations.

Our specific recommendation is that OFAC generally authorize (either as a standalone general license or within the Foreign Assets Control Regulations) persons subject to U.S. jurisdiction—including academic institutions and their faculty, staff and students—to engage in the academic activities (and related transactions, including financial and travel-related transactions) described below. These are the sorts of activities that are either currently authorized in certain general licenses, such as 31 C.F.R. § 515.565 (Cuba) and General License G under 31 C.F.R. pt. 560 (Iran), or very often authorized in specific licenses.

- (a) *Academic exchanges*: Permit in-country participation in structured educational programs as part of a course offered for credit by a U.S. graduate or undergraduate degree-granting academic institution that is sponsoring the program.
- (b) *Noncommercial academic research*: Permit in-country participation in noncommercial academic research, specifically for the purposes of obtaining an undergraduate or graduate degree.
- (c) *Distance Learning*: Permit provision of internet-based courses, including distance learning and Massive Open Online Courses, to specified country nationals, wherever located, provided the course content is at the undergraduate level or below. In addition, permit the awarding of certificates of completion, continuing education credits, credits towards an academic degree, academic degrees, and similar forms of recognition for online work completed.
- (d) *Recruitment, hiring and employment*: Permit the export of services related to the recruitment, hiring, or employment in a teaching capacity of sanctioned country nationals, wherever located, who are ordinarily resident in country and regularly employed at a university in a sanctioned country, provided such individuals will not be employed in a teaching capacity within the United States without being granted appropriate visas by the U.S. Department of State.
- (e) *Standardized testing*: Permit provision of standardized testing services, including university entrance exams, language examinations, professional certificate examinations, and related preparatory services, to sanctioned country nationals, wherever located.
- (f) *Financial services*: Permit provision of services related to educational activities, including the acceptance of payments for applications and tuition from or on behalf of sanctioned country nationals, wherever located. Permit payment, whether by cash, check, or debit/credit card, for transportation, lodging, meals, other living expenses, communications, medical treatment, supplies, and services in support of in-country research or educational activities.

- (g) *Academic conferences*: To the extent that participation in academic or medical conferences in sanctioned countries is not already allowable, permit attendance and discussion of publicly-available information at such events.

- (h) *Activities and services related to certain nonimmigrant and immigrant categories*: Permit the exchange of services with persons from sanctioned countries having U.S. visas or nonimmigrant status, wherever located, when such services relate to activities for which a visa has been granted by the U.S. State Department or such nonimmigrant status or related benefit has been granted by the U.S. Department of Homeland Security.

We understand that specific U.S. Government foreign policy objectives may dictate variances by country, and suggest that describing such differences within a harmonized general license structure would reduce regulatory burden and potential confusion. Some of the activities above could be conditioned as needed on a country-specific basis to reflect the more restrictive policies currently applied in certain sanctions programs, such as the criteria in General License G (Iran) that limit distance learning and study abroad authorizations to the humanities, social sciences, law, or business.²

Harmonization: Research

Only the Cuban Assets Control Regulations (CACR) and the Iranian Transaction and Sanctions Regulations (ITSR) grant general licenses for research, and the regulatory language in these programs differs. There are significant opportunities for research in Cuba, Iran, Sudan, and Syria in the areas of medicine, humanitarian programs, basic humanities, social science, law, business, and scientific research that would enhance enrichment of students and would lead to new publications to share scientific findings and improve the lives of individuals across the globe. International research also provides an opportunity for meaningful non-governmental people-to-people interactions. Academic research, including the provision of services related to the conduct of research and travel to conduct research, is paramount to the missions of U.S. educational institutions.

AUECO recommends that OFAC maximize continuity across regulations by combining current general licenses³ in the CACR and ITSR and extending this authorization to the Syrian Sanctions Regulations and the Sudanese Sanctions Regulations as follows (with distinctions included as needed to reflect more restrictive requirements in certain sanctions programs):

- (a) Allow persons subject to U.S. law to engage in transactions related to noncommercial medical, humanitarian, and basic scientific research, including travel-related transactions, to conduct in-country research in the individual's area of expertise, when performed in conjunction with a U.S. institution of higher education; and

² General License G under 31 C.F.R. pt. 560.

³ For example, 31 C.F.R. § 515.547, 31 C.F.R. § 515.564(a), and General License G under 31 C.F.R. pt. 560.

- (b) Allow persons subject to U.S. law to engage in transactions related to noncommercial medical, humanitarian, and basic scientific research, including travel-related transactions, to conduct in-country research at an institution of higher education.

Conclusion

Currently, the general licenses for academic and research activities vary significantly across OFAC sanctions programs. We believe it is critical that laws and regulations be clear and concise in an effort to ease regulatory burden and decrease redundancy. The ability of U.S. academic institutions to facilitate the global exchange of ideas, enhance their international scholarly reputations, increase educational opportunities and cultural understanding for all persons, regardless of location, and create meaningful, publishable research results, would be strengthened by our proposed changes. We appreciate there are differences in sanctions regulations due to changing foreign policy and national security concerns; however, we would like to emphasize the importance of coherence and harmonization across regulations. AUECO appreciates the opportunity to submit this comment letter.

Please don't hesitate to email us at contact@aeuco.org with any questions about this submission. Thank you.

With best regards,

/s/

J. Patrick Briscoe

Chair

Association of University Export Control Officers

Website: <http://aeuco.org>