

FAC No. [text deleted]

[text deleted]
[text deleted]
[text deleted]
[text deleted]

Dear [text deleted]:

This responds to your [text deleted] letter, on behalf of [text deleted] (the "U.S. Entity"), regarding the provision of certain services and distribution of information and informational materials to persons residing in Iran. We understand that the U.S. Entity is a non-profit, professional membership association in the field of [text deleted]. The U.S. Entity's member services and publications do not consist of confidential, trade secret or security-related information, and are not specifically directed to, or customized for, any particular nationality or group. The materials that would be provided to Iranians or persons living in Iran are identical to those provided to [text deleted] throughout the world.

Background

The Iranian Transactions Regulations, 31 C.F.R. Part 560 (the "ITR"), prohibit the exportation, reexportation, sale or supply, directly or indirectly, from the United States or by a U.S. person, wherever located, of any goods, technology or services to Iran or the Government of Iran. This prohibition also applies to the exportation, reexportation, sale or supply of goods, technology or services to a person in a third country undertaken with knowledge or reason to know that the goods are intended specifically for supply, transshipment or reexportation, directly or indirectly, to Iran or the Government of Iran. ITR, § 560.204.

The prohibition in ITR § 560.204 on exports to Iran or the Government of Iran does not apply to the exportation to any country of information and informational materials. ITR, § 560.210(c). The term *information and informational materials* is defined in ITR § 560.315 to include publications, films, posters, phonograph records, photographs, microfilm, microfiche, tapes, compact disks, CD ROMs, artworks, and news wire feeds.

In addition, § 560.210(c)(2) of the ITR provides that the exemption does not apply to transactions related to information and informational materials not fully created and in existence at the date of the transactions, or to the substantive or artistic alteration or enhancement of informational materials, or to the provision of marketing and business consulting services. Also, please note that because the ITR prohibit a contract between a U.S. person and a person in Iran or the Government of Iran for the sale of informational materials not in existence or for the alteration or enhancement of informational materials, the U.S. Entity may not contract to produce new materials for its customers in Iran.

Analysis

You pose a series of questions regarding certain activities proposed by the U.S. Entity involving Iran. First, with regard to how the U.S. Entity should determine which informational materials are not exempt from the ITR, to qualify for the information and informational materials exemption, the U.S. Entity's materials must not be items that were, as of April 30, 1994, or that thereafter have become controlled for export pursuant to § 5 of the Export Administration Act of 1979, 50 U.S.C. App. §§ 2401-2420 (the "EAA"), or by § 6 of the EAA to the extent that such controls promote the non-proliferation or antiterrorism policies of the United States. For help in determining whether the informational materials described in your letter are considered to be technology or technical data, you may consult the Export Administration Regulations, 15 C.F.R. parts 730-774, or contact the U.S. Department of Commerce, Bureau of Industry and Security, Foreign Policy Controls Division, 14th and Pennsylvania Avenue, N.W., Washington, D.C. 20230, U.S.A., (tel. 1-202-482-4811) (Web site www.bis.doc.gov).

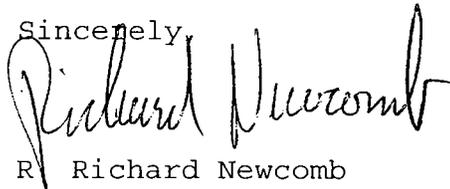
Second, you ask whether an organization may collect membership fees from persons in Iran if the fee charged exceeds the value of the publications provided to the members. The extension of membership to and acceptance of annual dues from Iran in connection with receipt by Iran of the U.S. Entity's association publications and information would not be prohibited by the ITR. In addition, the amount of annual dues may exceed the value of the information and materials provided to the member, but please note that such dues may not be collected in exchange for the provision of any unauthorized services to members in Iran, as discussed below. Further, to the extent that you receive dues from Iran through the services of a U.S. financial institution, certain restrictions apply. See 31 C.F.R. 560.516.

Finally, you ask whether non-profit organizations may provide certain types of services and benefits to Iran. The provision to Iran by either for-profit or non-profit organizations of services such as professional certification, professional certification exams, credit card services and the formation in Iran of the U.S. Entity's chapters, special interest groups and colleges or provision of any support thereto would constitute the provision of services to Iran prohibited by ITR § 560.204.

The distribution and sale in Iran by U.S. persons of informational publications concerning certification eligibility requirements, educational requirements, and examination information would qualify for the information and informational materials exemption, provided such publications were pre-existing and not created or compiled at the behest of Iranian customers. With regard to your question concerning the distribution and sale in Iran of study aids and other educational materials designed to assist candidates in preparing for certification exams, we are unable to provide further guidance at this time without a more detailed description of the subject materials, as certain types of educational materials and study-aids, such as those based on software that is not publicly available, may not qualify for the information and informational materials exemption described in § 560.210(c).

The provision of benefits by U.S. persons to Iran that relate to information and informational materials, such as attendance by Iranian nationals at public education programs sponsored by the U.S. Entity, is authorized, provided that no prohibited services of the type described above are provided.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Newcomb". The signature is written in a cursive style with a large, prominent initial "R".

R. Richard Newcomb

Director

Office of Foreign Assets Control