

Federal Register

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Part III

Department of the Treasury

Office of Foreign Assets Control

Iranian Assets Control Regulations

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 535

Iranian Assets Control Regulations;
Restrictions on Property of the Former
Shah of Iran

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purpose of the amendment is to prohibit transfers of all property and assets located in the United States within the control of the estate of the former Shah of Iran or any close relative of the former Shah served as a defendant in litigation in courts within the United States brought by Iran seeking the return of property alleged to belong to Iran. The need for the amendment is to implement the provisions of Executive Order No. 12284, signed by the President on January 19, 1981, requiring the blocking of such property and assets to protect the rights of litigants in courts within the United States, and directing the Secretary of the Treasury to require reports on such property and assets. The effect of the amendment is that all transfers of such property and assets will be prohibited when Iran proves to the Office of Foreign Assets Control (OFAC) that there has been service in such cases on such persons and OFAC publishes a notice to this effect in the Federal Register.

EFFECTIVE DATE: January 19, 1981.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, Tel. (202-376-0236).

SUPPLEMENTARY INFORMATION: Since the regulations involve a foreign affairs function, 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.

Pursuant to Executive Order 12284 of January 19, 1981 the Office of Foreign Assets Control will conduct a census of property and assets within the control of the estate of the former Shah or close relatives of the former Shah served in litigation by Iran. Litigation has been filed naming numerous individuals. To avoid duplication, the census will be temporarily deferred to allow a period of time in which the Government of Iran

may provide proof of service of defendants to the Office of Foreign Assets Control.

31 CFR Part 535 is amended as follows:

1. Section 535.217 is added to read as follows:

§ 535.217 Blocking of property of the former Shah of Iran and of certain other Iranian nationals.

(a) For the purpose of protecting the rights of litigants in courts within the United States, all property and assets located in the United States in the control of the estate of Mohammad Reza Pahlavi, the former Shah of Iran, or any close relative of the former Shah served as a defendant in litigation in such courts brought by Iran seeking the return of property alleged to belong to Iran, is blocked as to each such estate or person, until all such litigation against such estate or person is finally terminated. This provision shall apply only to such persons as to which Iran has furnished proof of service to the Office of Foreign Assets Control and which the Office has identified in paragraph (b) of this section.

(b) [Reserved]

(c) The effective date of this section is January 19, 1981.

Section 535.580 is added to read as follows:

§ 535.580 Necessary living expenses of relatives of the former Shah of Iran.

The transfer, payment or withdrawal of property described in § 353.217 is authorized to the extent necessary to pay living expenses of any individual listed in that section. Living expenses for this purpose shall include food, housing, transportation, security and other personal expenses.

(Sec. 201-207, 91 Stat. 1626, 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12211, 45 FR 26685; E.O. No. 12284, 46 FR 7929)

Dated: February 24, 1981.

Dennis M. O'Connell,
Director.

Approved:

John P. Simpson,
Acting Assistant Secretary (Enforcement and Operation).

Filed: February 25, 1981.

Publication date: February 26, 1981.

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31 CFR Part 535

Iranian Assets Control Regulations

AGENCY: Office of Foreign Assets Control.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is amending the Iranian Assets Control Regulations. The purposes of the amendments are to add new directive provisions and related definitions and interpretations; and to revoke certain trade and financial sanctions against Iran, in order to implement the agreements reached between the United States and Iran on January 19, 1981, and related agreements (the "agreements"), which commit the United States and Iran to take certain steps to free the American hostages and to resolve certain claims between the United States and its nationals and Iran and its nationals.

EFFECTIVE DATE: January 19, 1981.

FOR FURTHER INFORMATION CONTACT: Raymond W. Konan, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202/376-0236.

SUPPLEMENTARY INFORMATION: The need for the amendments is (a) to implement Executive Order 12276, signed by the President on January 19, 1981, providing for the establishment of an Escrow Agreement and to implement Executive Orders 12277, 12278, 12279, 12280 and 12281 of the same date licensing, authorizing, directing and compelling: (1) the transfer by the Federal Reserve Bank of New York of all assets held by it for the Government of Iran and its entities ("Iran") to accounts held for the Federal Reserve Bank of New York at the Bank of England, (2) the transfer by overseas branches and offices of United States banks of all deposits and securities held by them for Iran to the account of the Federal Reserve Bank of New York at the Bank of England, (3) the transfer by domestic banks of all funds, securities and deposits held by them for Iran to the Federal Reserve Bank of New York, (4) the transfer by persons which are not banking institutions of funds or securities of Iran to the Federal Reserve Bank of New York and (5) the transfer by all persons subject to the jurisdiction of the United States of certain properties, not including funds and securities, owned by Iran, as directed by the Government of Iran acting through its authorized agent; (b) to implement Executive Order 12282 of January 19, 1981, revoking various sanctions and prohibitions against transactions involving Iran; and Executive Order 12283 of January 19, 1981, barring the prosecution of certain claims against Iran arising from specified occurrences and terminating any previously instituted judicial proceedings based upon such claims;

and (c) to revoke miscellaneous provisions rendered unnecessary by the above described amendments. Certain of the amendments are also needed for purposes of prohibiting and nullifying the acquisition, by litigation or otherwise, of any rights or interests in the assets subject to the transfer directives which would interfere with the transfer of those assets and with implementation of the agreements between the United States and Iran.

The effect of the amendments is that prohibitions in the Regulations on the transfer of the assets covered by the directives, as well as rights and interests in the assets other than those of the Government of Iran or its entities will be removed so that the agreements can be effectuated. The amendments also have the effect of revoking miscellaneous sanctions against Iran; and of providing for the non-prosecution of certain claims against Iran.

Since the Regulations involve a foreign affairs function, 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.

The President has signed a series of executive orders implementing the agreements between the U.S. and Iran.

Executive Order 12276 of January 19, 1981, authorizes the Secretary of the Treasury to enter into and to license, authorize, direct and compel any appropriate official and/or the Federal Reserve Bank of New York, as fiscal agent of the United States, to enter into escrow or related agreements under which certain money and other assets shall be transferred in implementation of the agreements between the United States and Iran. This Executive Order also authorizes the Secretary of the Treasury to license, authorize, direct and compel the Federal Reserve Bank of New York to receive certain money and other assets of the Government of Iran.

Executive Order 12277 of January 19, 1981, licenses, authorizes, directs and compels transfers into accounts at the Bank of England, and then into the escrow account, of assets of the Government of Iran held by the Federal Reserve Bank of New York.

Executive Order 12278 of January 19, 1981, licenses, authorizes, directs and compels the transfer of funds, securities and deposits of Iran, including interest at commercially reasonable rates, held by overseas branches and offices of United States banks to the account of the Federal Reserve Bank of New York at the Bank of England, to be held or transferred as directed by the Secretary of the Treasury. The assets transferred

pursuant to this Executive Order are to be further transferred as provided for in the agreements.

Executive Order 12279 of January 19, 1981, licenses, authorizes, directs and compels the transfer of funds, securities and deposits of Iran, including interest at commercially reasonable rates, held by domestic branches or offices of banks which branches or offices are located within the United States to the Federal Reserve Bank of New York to be held or transferred as directed by the Secretary of the Treasury.

Executive Order 12280 of January 19, 1981, licenses, authorizes, directs and compels the transfer of funds and securities of Iran held by persons which are not banking institutions to the Federal Reserve Bank of New York to be held or transferred by the Secretary of the Treasury. This Executive Order applies to both overseas and domestically held assets.

Executive Order 12281 of January 19, 1981, licenses, authorizes, directs and compels the transfer by all persons subject to the jurisdiction of the United States of properties, not including funds and securities, owned by Iran, as directed by the Government of Iran acting through its authorized agent.

Executive Order 12282 of January 19, 1981, revokes various sanctions, and prohibitions against transactions involving Iran.

Executive Order 12283 of January 19, 1981, bars the prosecution of certain claims against Iran arising from specified occurrences and terminating any previously instituted judicial proceedings based upon such claims.

These amendments to the Iranian Assets Control Regulations implement the above-described executive orders and are summarized below.

1. Direction to establish an escrow agreement.

New § 535.210(a) licenses, authorizes, directs and compels the Federal Reserve Bank of New York as fiscal agent of the United States to enter into escrow or related agreements under which certain money and other assets will be transferred to the escrow account. In connection with the implementation of the escrow agreement, § 535.210(b) licenses, authorizes, directs and compels the Federal Reserve Bank of New York, as fiscal agent of the United States, to receive money and other assets in which Iran has an interest, and to hold or to transfer those assets in such a manner as the Secretary of the Treasury deems necessary to fulfill the rights and obligations of the United States under the agreements between the United States and Iran.

2. Direction involving transfers of assets held by the Federal Reserve Bank of New York.

New § 535.211 licenses, authorizes, directs and compels the Federal Reserve Bank of New York to transfer to its account at the Bank of England, and subsequently to transfer to the escrow account, all gold bullion and other assets held by it for Iran when and in the manner directed by the Secretary of the Treasury.

3. Direction to transfer assets held by overseas branches and offices of United States banks.

New § 535.212 licenses, authorizes, directs and compels any overseas branch or office of a United States bank which, on or after 8:10 a.m., e.s.t., on November 14, 1979, has been or is in possession of funds or securities owned by Iran, or has carried or is carrying on its books deposits standing to the credit of Iran, to transfer such assets, including interest at commercially reasonable rates, to the account of the Federal Reserve Bank of New York at the Bank of England, to be held or transferred as directed by the Secretary of the Treasury. The funds, securities and deposits described in this section shall be further transferred as provided for in the agreements between the United States and Iran.

Section 535.212(b) provides that any bank subject to the jurisdiction of the United States that executed set-offs against deposits or securities held by them for Iran are authorized and directed to cancel such set-offs and to include in the directed transfer all assets subject to the set-offs, including interest at commercially reasonable rates.

4. Direction to transfer assets held by domestic banks.

New § 535.213 licenses, authorizes, directs and compels the transfer by domestic banks of all funds, securities and deposits held by them for Iran, including interest from November 14, 1979, at commercially reasonable rates, to the Federal Reserve Bank of New York, to be held or transferred as directed by the Secretary of the Treasury.

5. Direction to transfer other financial assets.

New § 535.214 licenses, authorizes, directs and compels persons subject to the jurisdiction of the United States, which are not banking institutions to transfer all funds or securities of Iran in their possession or control to the Federal Reserve Bank of New York, to be held or transferred as directed by the Secretary of the Treasury. However, such transfers are not required until certain disputes as to Iran's entitlement are resolved.

6. Direction to transfer other properties.

New § 535.215 licenses, authorizes, directs and compels all persons subject to the jurisdiction of the United States to transfer properties, not including funds and securities, which are owned by Iran and are in the possession or control of such persons as directed by the Government of Iran, acting through its authorized agent. (New § 535.333 defines the term "properties" as used in § 535.215.)

7. Certain claims against Iran barred.

New § 535.216 bars persons subject to the jurisdiction of the United States from prosecuting, in any court within the United States or elsewhere, any claim against the Government of Iran arising out of certain specified events. These events relate to the seizure and detention of the hostages, injury to United States property or property of United States nationals within the United States Embassy compound in Tehran and injury to United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran.

Section 535.216 also bars the prosecution of such claims in any court within the United States by persons who are not United States nationals.

Section 535.216 bars further action in any previously instituted judicial proceedings which are based upon any of the above-described claims and provides that all such proceedings shall be terminated. In addition, § 535.216 prohibits the enforcement of any judicial order issued in the course of such proceedings.

8. Prohibitions with respect to assets subject to transfer directives; Nullification of attachments and similar remedies; Prohibitions on judicial action.

New § 535.218(a) revokes and withdraws all licenses and authorizations for acquiring or exercising any right, power or privilege by court order, attachment or otherwise, with respect to any of the properties covered by the directives in §§ 535.211 to 535.215. New § 535.218(b) provides that all rights, powers and privileges relating to the assets described in §§ 535.211 to 535.215 which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m., e.s.t., including those derived from § 535.504 of the Regulations, whether acquired by court order or otherwise, are nullified. The nullification does not apply to rights, powers or privileges of Iran. New § 535.218(c) prohibits the acquisition or

exercise of any right, power or privilege with respect to any property (and any income earned thereon) referred to in the directives in §§ 535.211 to 535.215. New § 535.218(d) provides that the prohibition on the acquisition of rights contained in § 535.218(c) does not apply to the Government of Iran, its agencies, instrumentalities or controlled entities. New § 535.218(e) provides that § 535.218 does not revoke or withdraw certain specific licenses, issued prior to January 19, 1981, until April 15, 1981.

9. Compliance with this part a legal acquittance and discharge of the obligation of any person.

New § 535.219, pursuant to Section 203(a)(3) of the International Emergency Economic Powers Act, states that compliance in good faith with the directive provisions in §§ 535.210 to 535.215 or any other orders, regulations, instructions or directions which license, authorize, direct or compel the transfer of assets referred to in those sections shall, to the extent thereof, be a full acquittance and discharge for all purposes of the obligations of the person making the same. No person shall be held liable in any United States court for such good faith compliance.

10. Timing of transactions.

New § 535.220 provides that transfers of overseas bank assets required by § 535.212 shall be executed no later than 6:00 a.m., e.s.t., January 20, 1981.

11. Compliance with other directive provisions.

New § 535.221(a) provides that compliance with the directive provisions of §§ 535.213 and 535.214 pertaining to domestic bank assets and other financial assets requires that persons affected by these directives implement them as soon as reasonably practicable. New § 535.221(b) states the U.S. policy, until further notice, not to seek sanctions against any party who does not make any transfer required by §§ 535.213 to 535.215 while challenges to the authority of the United States to order the transfers are pending in U.S. courts.

12. Suspension of claims eligible for Claims Tribunal.

New § 535.222 provides (a) that all claims which may be presented to the Iran-United States Claims Tribunal provided for in the agreements between the United States and Iran and all claims for equitable or other relief in connection with such claims, are suspended, (b) that the section does not prohibit assertions of defense, set-off or counterclaim in any pending or future judicial proceeding commenced by Iran, (c) that the section does not preclude actions to toll periods of limitations for commencement of action, (d) that

dismissal for want of prosecution is not required, (e) that the suspension shall terminate if the Claims Tribunal determines it lacks jurisdiction, (f) that a determination on the merits by the Tribunal shall operate as a final resolution and discharge of the claim, provided that full payment of the award is paid, and (g) that the section does not apply to certain claims concerning standby letters of credit, performance or payment bonds or other similar instruments.

13. Definition of "properties."

New § 535.333 defines "properties" as used in § 535.215 to include only uncontested and non-contingent liabilities and property interests of Iran. Specifically excluded are (1) funds, (2) securities, (3) bank deposits, and (4) obligations under standby letters of credit or similar instruments. Properties are not Iranian properties owned by Iran unless necessary obligations, charges and fees are discharged.

14. Definition of an act of the Government of Iran.

New § 535.334 defines an act of the Government of Iran as including any acts ordered, authorized, allowed or ratified by Iran or its entities.

15. Definition of "claim arising out of events in Iran."

New § 535.335 states that a claim is one arising out of events in Iran of the type specified in § 535.216 only if such event is the specific act that is the basis of the claim.

16. Definition of "funds."

New § 535.337 defines "funds" as used in this part to mean currency and coin, trust, escrow and special funds held by non-banking institutions.

17. Status of Central Bank of Iran.

New § 535.433 provides that, for purposes of this part, the Central Bank of Iran (Bank Markazi Iran) is an agency, instrumentality and controlled entity of the Government of Iran.

18. Effect on other authorities.

New § 535.437 states that nothing in this part relieves any persons from the necessity of securing licenses or other authorizations as required by the Secretary of State, the Secretary of Commerce or other relevant agency prior to executing the transactions authorized or directed by this part.

19. Standby letters of credit.

New § 535.438 states that nothing contained in §§ 535.212, 535.213 and 535.214 or in any other provision, revocation or amendment affects the prohibition in § 535.568 on the payment under certain standby letters of credit, performance or payment bonds and similar obligations. Section 535.568(a) prohibits the payment under a standby letter of credit into a blocked account

provided that the account party avails itself of the specific licensing procedure to establish a blocked account on its books. The prohibition and the procedure remain in effect. The section also provides that the term "funds and securities" as used in this part excludes the substitute blocked accounts established under § 535.568 relating to standby letters of credit, performance or payment bonds and similar obligations.

20. Commercially reasonable interest rates.

New § 535.440 provides that the meaning of the term "commercially reasonable rates" depends on the particular circumstances of the deposit.

21. Exclusion of pre-judgment attachments and similar proceedings from general license for judicial proceedings.

The general license in § 535.504 for judicial proceedings is amended to exclude pre-judgment attachments and other proceedings of similar or analogous effect with respect to property subject to §§ 535.211 through 535.215 and reference is made to the claims suspension provisions of § 535.222.

22. Authorization for new transactions.

New § 535.579 authorizes new transactions involving property of Iran. Transactions involving standby letters of credit, performance or payment bonds and similar obligations remain subject to the provisions of § 535.568. The section also highlights that attachment, injunction and similar orders are prohibited with respect to property not blocked on January 19, 1981, which is or becomes subject to U.S. jurisdiction for the express purpose of settling claims against Iran.

23. Reports on transfers of other assets.

Section 535.618 provides that any person failing to transfer property as directed by Iran is required to submit a brief report to the Office of Foreign Assets Control explaining why the property was not transferred.

24. Revocation of general license for overseas set-offs.

Section 535.902 is amended to revoke the general license in paragraph (a) authorizing overseas set-offs and by adding paragraph (c) to provide that for purposes of this section, set-offs include combinations of accounts or any similar actions.

25. Revocation of sanctions, prohibitions and obsolete provisions.

These amendments revoke various sanctions and prohibitions against transactions involving Iran, including certain prohibitions against imports from Iran, financial transactions with

Iran, exports to Iran, and travel-related transactions. They also revoke miscellaneous definitions, interpretations and statements of licensing policy that are obsolete as the result of the above amendments.

Additional sections of the existing regulations may be revoked and additional provisions may be added, as appropriate.

31 CFR Part 535 is amended as follows:

1. Section 535.210 is added as follows:

§ 535.210 Direction for establishing an escrow agreement.

(a) The Federal Reserve Bank of New York, as fiscal agent of the United States, is licensed, authorized, directed and compelled to enter into escrow and related agreements under which certain money and other assets shall be credited by the Bank of England to escrow accounts.

(b) The Federal Reserve Bank of New York is licensed, authorized, directed and compelled, as fiscal agent of the United States, to receive certain money and other assets in which Iran or its agencies, instrumentalities or controlled entities have an interest and to hold or transfer such money and other assets, and any earnings or interest payable thereon, in such manner and at such times as the Secretary of the Treasury deems necessary to fulfill the rights and obligations of the United States under the Declaration of the government of the Democratic and Popular Republic of Algeria dated January 19, 1981, and the Undertakings of the Government of the United States of America and the Government of Islamic Republic of Iran with respect to the Declaration of the Government of the Democratic and Popular Republic of Algeria, and the escrow and related agreements described in paragraph (a) of this section. Such money and other assets may be invested, or not, at the discretion of the Federal Reserve Bank of New York, as fiscal agent of the United States.

2. Section 535.211 is added as follows:

§ 535.211 Direction involving transfers by the Federal Reserve Bank concerning certain Iranian property.

The Federal Reserve Bank of New York is licensed, authorized, directed and compelled to transfer to its account at the Bank of England, and subsequently to transfer to accounts in the name of the Central Bank of Algeria as Escrow Agent at the Bank of England that are established pursuant to an escrow and related agreements approved by the Secretary of the Treasury, all gold bullion, together with

all other assets in its custody (or the cash equivalent thereof), of Iran or its agencies, instrumentalities or controlled entities. Such transfers, and whatever further related transactions are deemed appropriate by the Secretary of the Treasury, shall be executed when and in the manner directed by the Secretary of the Treasury.

3. Section 535.212 is added as follows:

§ 535.212 Direction to transfer property in which Iran or an Iranian entity has an interest by branches and offices of United States banks located outside the United States.

(a) Any branch or office of a United States bank or subsidiary thereof, which branch, office or subsidiary is located outside the territory of the United States, and which, on or after 8:10 a.m., e.s.t., on November 14, 1979, (1) has been or is in possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities, or controlled entities, or (2) has carried or is carrying on its books deposits standing to the credit of or beneficially owned by such government, its agencies, instrumentalities or controlled entities, is licensed, authorized, directed and compelled to transfer such funds, securities and deposits, held on January 19, 1981, including interest from November 14, 1979, at commercially reasonable rates, to the account of the Federal Reserve Bank of New York, as fiscal agent of the U.S., at the Bank of England, to be held or transferred as directed by the Secretary of the Treasury. The funds, securities and deposits described in this section shall be further transferred as provided for in the Declarations of the Government of the Democratic and Popular Republic of Algeria and the Undertakings of the Government of the United States of America and the Government of the Islamic Republic of Iran with respect to the Declaration.

(b) Any banking institution subject to the jurisdiction of the United States that has executed a set-off on or after 8:10 a.m., e.s.t., November 14, 1979, against Iranian funds, securities or deposits referred to in paragraph (a) of this section is hereby licensed, authorized, directed and compelled to cancel such set-off and to transfer all funds, securities and deposits which have been subject to such set-off, including interest from November 14, 1979, at commercially reasonable rates, pursuant to the provisions of paragraph (a) of this section.

4. Section 535.213 is added as follows:

§ 535.213 Direction involving property held by offices of banks in the U.S. in which Iran or an Iranian entity has an interest.

(a) Any branch or office of a bank, which branch or office is located within the United States and is, on the effective date of this section, either (1) in possession of funds or securities legally or beneficially owned by the Government of Iran or its agencies, instrumentalities or controlled entities, or (2) carrying on its books deposits standing to the credit of or beneficially owned by such government or its agencies, instrumentalities or controlled entities, is licensed, authorized, directed and compelled to transfer such funds, securities and deposits, held on January 19, 1981, including interest from November 14, 1979, at commercially reasonable rates, to the Federal Reserve Bank of New York, as fiscal agent of the U.S., to be held or transferred as directed by the Secretary of the Treasury.

(b) Transfers of funds, securities or deposits under paragraph (a) of this section shall be in accordance with the provisions of § 535.221 of this part.

5. Section 535.214 is added as follows:

§ 535.214 Direction involving other financial assets in which Iran or an Iranian entity has an interest held by any person subject to the jurisdiction of the United States.

(a) Any person subject to the jurisdiction of the United States which is not a banking institution and is on January 19, 1981, in possession or control of funds or securities of Iran or its agencies, instrumentalities or controlled entities is licensed, authorized, directed and compelled to transfer such funds or securities to the Federal Reserve Bank of New York, as fiscal agent of the U.S., to be held or transferred as directed by the Secretary of the Treasury. However, such funds and securities need not be transferred until any disputes (not relating to any attachment, injunction or similar order) as to the entitlement of Iran and its entities to them are resolved.

(b) Transfers of funds, securities or deposits under paragraph (a) of this section shall be in accordance with the provisions of § 535.221 of this part.

(c) Any funds, securities or deposits subject to a valid attachment, injunction or other like proceeding or process not affected by § 535.218 need not be transferred as otherwise required by this section.

6. Section 535.215 is added as follows:

§ 535.215 Direction involving other properties in which Iran or an Iranian entity has an interest held by any person subject to the jurisdiction of the United States.

All persons subject to the jurisdiction of the United States in possession or control of properties, as defined in § 535.333 of this part, not including funds and securities owned by Iran or its agencies, instrumentalities or controlled entities are licensed, authorized, directed and compelled to transfer such properties held on January 19, 1981 as directed after that date by the Government of Iran, acting through its authorized agent. Except where specifically stated, this license, authorization and direction does not relieve persons subject to the jurisdiction of the United States from existing legal requirements other than those based upon the International Emergency Economic Powers Act.

7. Section 535.216 is added as follows:

§ 535.216 Prohibition against prosecution of certain claims.

(a) Persons subject to the jurisdiction of the United States are prohibited from prosecuting in any court within the United States or elsewhere, whether or not litigation was commenced before or after January 19, 1981, any claim against the Government of Iran arising out of events occurring before January 19, 1981 relating to:

(1) The seizure of the hostages on November 4, 1979;

(2) The subsequent detention of such hostages;

(3) Injury to United States property or property of United States nationals within the United States Embassy compound in Tehran after November 3, 1979; or

(4) Injury to United States nationals or their property as a result of popular movements in the course of the Islamic Revolution in Iran which were not an act of the Government of Iran.

(b) Any persons who are not United States nationals are prohibited from prosecuting any claim described in paragraph (a) of this section in any court within the United States.

(c) No further action, measure or process shall be taken after the effective date of this section in any judicial proceeding instituted before the effective date of this section which is based upon any claim described in paragraph (a) of this section, and all such proceedings shall be terminated.

(d) No judicial order issued in the course of the proceedings described in paragraph (c) of this section shall be enforced in any way.

8. Section 535.218 is added as follows:

§ 535.218 Prohibitions and nullifications with respect to property described in §§ 535.211, 535.212, 535.213, 535.214 and 535.215.

(a) All licenses and authorizations for acquiring or exercising any right, power or privilege, by court order, attachment, or otherwise, including the license contained in § 535.504, with respect to the property described in §§ 535.211, 535.212, 535.213, 535.214 and 535.215 are revoked and withdrawn.

(b) All rights, powers and privileges relating to the property described in §§ 535.211, 535.212, 535.213, 535.214 and 535.215 and which derive from any attachment, injunction, other like proceedings or process, or other action in any litigation after November 14, 1979, at 8:10 a.m., e.s.t., including those derived from § 535.504, other than rights, powers and privileges of the Government of Iran and its agencies, instrumentalities and controlled entities, whether acquired by court order or otherwise, are nullified, and all persons claiming any such right, power or privilege are hereafter barred from exercising the same.

(c) All persons subject to the jurisdiction of the United States are prohibited from acquiring or exercising any right, power or privilege, whether by court order or otherwise, with respect to property (and any income earned thereon) referred to in §§ 535.211, 535.212, 535.213, 535.214 and 535.215.

(d) The prohibitions contained in paragraph (c) of this section shall not apply to Iran, its agencies, instrumentalities or controlled entities.

(e) This section does not revoke or withdraw specific licenses authorizing the operation of blocked accounts which were issued prior to January 19, 1981 and which do not relate to litigation. Such licenses are revoked as of April 15, 1981, unless extended by further general or specific license.

9. Section 535.219 is added as follows:

§ 535.219 Discharge of obligation by compliance with this part.

Compliance with §§ 535.210, 535.211, 535.212, 535.213, 535.214 and 535.215, or any other orders, regulations, instructions or directions issued pursuant to this part licensing, authorizing, directing or compelling the transfer of the assets described in those sections, shall, to the extent thereof, be a full acquittance and discharge for all purposes of the obligation of the person making the same. 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, such orders, regulations, instructions or directions.

10. Section 535.220 is added as follows:

§ 535.220 Timing of transfers required by § 535.212.

Transfers required by § 535.212 to the account of the Federal Reserve Bank of New York, as fiscal agent of the U.S., at the Bank of England shall be executed no later than 6 a.m., e.s.t., January 20, 1981, when the banking institution had knowledge of the terms of Executive Order 12278 of January 19, 1981.

11. Section 535.221 is added as follows:

§ 535.221 Compliance with directive provisions.

(a) Compliance with the directive provisions of §§ 535.213 and 535.214 requires that persons affected by these sections shall implement the directives as soon as reasonably practicable.

(b) Until the Secretary of the Treasury determines that the authority of the United States to order these transfers has been the subject of a definitive legal ruling, the United States Government will not seek to impose civil or criminal sanctions on any party who does not make the transfers required by §§ 535.213, 535.214 and 535.215 and Executive Orders 12279-81 of January 19, 1981.

(c) Transfers of deposits or funds required by §§ 535.213 and 535.214 of this part shall be effected by means of wire transfer to the Federal Reserve Bank of New York for credit to the following account: Federal Reserve Bank of New York as fiscal agent of the United States, Special Deposit Account.

(d) Securities to be transferred as required by §§ 535.213 and 535.214 of this part must be delivered to the Federal Reserve Bank of New York in fully transferable form, accompanied by all necessary transfer documentation, e.g., stock or bond powers, powers of attorney, and also accompanied by instructions to deposit such securities to the following account: Federal Reserve Bank of New York, as fiscal agent of the United States, Special Custody Account.

(1) Securities which are in book-entry form shall be transferred by wire transfer to the Federal Reserve Bank of New York for credit to the account named in paragraph (d) of this section.

(2) Definitive securities which are in bearer or registered form shall be hand delivered or forwarded by registered mail, insured, to the Federal Reserve Bank of New York, Safekeeping Department.

(e) If a security in which Iran or an Iranian entity has an interest is

evidenced by a depositary receipt or other evidence of a security, the legal owner of such security shall arrange to have it placed in registered form in the name of Iran or the Iranian entity having an interest in such security, as appropriate, and transferred pursuant to paragraph (d)(2) of this section.

(f) Securities in which Iran or an Iranian entity has an interest that are held in the name of a nominee must be re-registered in the name of Iran or the Iranian entity having an interest in such security, as appropriate, and transferred pursuant to paragraph (d)(2) of this section.

(g) Any person delivering a security or securities to the Federal Reserve Bank of New York under paragraph (d) shall provide the Bank at least two business days prior written notice of such delivery, specifically identifying the sending person, the face or par amount and type of security, and whether the security is in bearer, registered or book entry form.

12. Section 535.222 is added as follows:

§ 535.222 Suspension of claims eligible for Claims Tribunal.

(a) All claims which may be presented to the Iran-United States Claims Tribunal under the terms of Article II of the Declaration of the Government of the Democratic and Popular Republic of Algeria Concerning the Settlement of Claims by the Government of the United States of America and the Government of the Islamic Republic of Iran, dated January 19, 1981, and all claims for equitable or other judicial relief in connection with such claims, are hereby suspended, except as they may be presented to the Tribunal. During the period of this suspension, all such claims shall have no legal effect in any action now pending in any court in the United States, including the courts of any state and any locality thereof, the District of Columbia and Puerto Rico, or in any action commenced in any such court after the effective date of this section.

(b) Nothing in paragraph (a) of this section shall prohibit the assertion of a defense, set-off or counterclaim in any pending or subsequent judicial proceeding commenced by the Government of Iran, any political subdivision of Iran, or any agency, instrumentality or entity controlled by the Government of Iran or any political subdivision thereof.

(c) Nothing in this section precludes the commencement of an action after the effective date of this section for the purpose of tolling the period of

limitations for commencement of such action.

(d) Nothing in this section shall require dismissal of any action for want of prosecution.

(e) Suspension under this section of a claim or a portion thereof submitted to the Iran-United States Claims Tribunal for adjudication shall terminate upon a determination by the Tribunal that it does not have jurisdiction over such claim or portion thereof.

(f) A determination by the Iran-United States Claims Tribunal on the merits that a claimant is not entitled to recover on a claim or part thereof shall operate as a final resolution and discharge of such claim or part thereof for all purposes. A determination by the Tribunal that a claimant shall have recovery on a claim or part thereof in a specified amount shall operate as a final resolution and discharge of such claim or part thereof for all purposes upon payment to the claimant of the full amount of the award including any interest awarded by the Tribunal.

(g) Nothing in this section shall apply to any claim concerning the validity or payment of a standby letter of credit, performance or payment bond or other similar instrument.

(h) The effective date of this section is February 24, 1981.

13. Section 535.333 is added as follows:

§ 535.333 Properties.

(a) The term "properties" as used in § 535.215 includes all uncontested and non-contingent liabilities and property interests of the Government of Iran, its agencies, instrumentalities or controlled entities, including debts. It does not include bank deposits or funds and securities. It also does not include obligations under standby letters of credit or similar instruments in the nature of performance bonds, including accounts established pursuant to § 535.568.

(b) Properties are not Iranian properties or owned by Iran unless all necessary obligations, charges and fees relating to such properties are paid and liens against such properties (not including attachments, injunctions and similar orders) are discharged.

(c) Liabilities and property interests may be considered contested if the holder thereof reasonably believes that a court would not require the holder, under applicable law to transfer the asset by virtue of the existence of a defense, counterclaim, set-off or similar reason. For purposes of this paragraph, the term "holder" shall include any person who possesses the property, or who, although not in physical

possession of the property, has, by contract or otherwise, control over a third party who does in fact have physical possession of the property. A person is not a "holder" by virtue of being the beneficiary of an attachment, injunction or similar order.

(d) Liabilities and property interests shall not be deemed to be contested solely because they are subject to an attachment, injunction or other similar order.

14. Section 535.334 is added as follows:

§ 535.334 Act of the Government of Iran.

For purposes of § 535.216, an act of the Government of Iran, includes any acts ordered, authorized, allowed, approved, or ratified by the Government of Iran, its agencies, instrumentalities or controlled entities.

15. Section 535.335 is added as follows:

§ 535.335 Claim arising out of events in Iran.

For purposes of § 535.216, a claim is one "arising out of events" of the type specified only if such event is the specific act that is the basis of the claim.

16. Section 535.337 is added as follows:

§ 535.337 Funds.

For purposes of this part, the term "funds" shall mean monies in trust, escrow and similar special funds held by non-banking institutions, currency and coins. It does not include accounts created under § 535.568.

17. Section 535.433 is added as follows:

§ 535.433 Central Bank of Iran.

The Central Bank of Iran (Bank Markazi Iran) is an agency, instrumentality and controlled entity of the Government of Iran for all purposes under this part.

18. Section 535.437 is added as follows:

§ 535.437 Effect on other authorities.

Nothing in this part in any way relieves any persons subject to the jurisdiction of the United States from securing licenses or other authorizations as required from the Secretary of State, the Secretary of Commerce or other relevant agency prior to executing the transactions authorized or directed by this part. This includes licenses for transactions involving military equipment.

19. Section 535.438 is added as follows:

§ 535.438 Standby letters of credit, performance or payment bonds and similar obligations.

Nothing contained in §§ 535.212, 535.213 and 535.214 or in any other provision or revocation or amendment of any provision in this part affects the prohibition in § 535.201 and the licensing procedure in § 535.568 relating to certain standby letters of credit, performance bonds and similar obligations. The term "funds and securities" as used in this part does not include substitute blocked accounts established under section 535.568 relating to standby letters of credit, performance or payment bonds and similar obligations.

20. Section 535.440 is added to read as follows:

§ 535.440 Commercially reasonable interest rates.

For purposes of §§ 535.212 and 535.213, what is meant by "commercially reasonable rates" depends on the particular circumstances of the deposit. Where, for example, a deposit has in fact operated as a demand account under Treasury license, it would be appropriate to treat the deposit for purposes of §§ 535.212 and 535.213 as a non-interest-bearing account.

21. Section 535.504 is revised to read as follows:

§ 535.504 Certain judicial proceedings with respect to property of Iran or Iranian entities.

(a) Subject to the limitations of paragraphs (b) and (c) of this section and § 535.222, judicial proceedings are authorized with respect to property in which on or after 8:10 a.m., e.s.t., November 14, 1979, there has existed an interest of Iran or an Iranian entity.

(b) This section does not authorize or license:

(1) Any pre-judgment attachment or any other proceeding of similar or analogous effect pertaining to any property (and any income earned thereon) subject to the provisions of § 535.211, 535.212, 535.213, 535.214 or 535.215 on January 19, 1981, including, but not limited to, a temporary restraining order or preliminary injunction, which operates as a restraint on property, for purposes of holding it within the jurisdiction of a court, or otherwise;

(2) Any payment or delivery out of a blocked account based upon a judicial proceeding, pertaining to any property subject to the provisions of § 535.211, 535.212, 535.213, 535.214 or 535.215 on January 19, 1981;

(c) A judicial proceeding is not authorized by this section if it is based

on transactions which violated the prohibitions of this part.

22. Section 535.579 is added as follows:

§ 535.579 Authorization of new transactions concerning certain Iranian property.

(a) Transactions involving property in which Iran or an Iranian entity has an interest are authorized where:

(1) The property comes within the jurisdiction of the United States or into the control or possession of any person subject to the jurisdiction of the United States after January 19, 1981, or

(2) The interest in the property of Iran or an Iranian entity (e.g. exports consigned to Iran or an Iranian entity) arises after January 19, 1981.

(b) Transactions involving standby letters of credit, performance or payment bonds and similar obligations, entered into prior to January 20, 1981, described in § 535.568 remain subject to the prohibitions and procedures contained in §§ 535.201 and 535.568.

(c) Property not blocked under § 535.201 as of January 19, 1981, in which the Government of Iran or an Iranian entity has an interest, which after that date is or becomes subject to the jurisdiction of the United States or comes within the control or possession of a person subject to the jurisdiction of the United States for the express purpose of settling claims against Iran or Iranian entities, is excluded from any authorization in this part for any attachment, injunction or other order of similar or analogous effect and any such attachment, injunction or order is prohibited by §§ 535.201 and 535.203.

23. Section 535.618 is added to read as follows:

§ 535.618 Report of contested property.

(a) *Requirement for reports.* Reports are required to be filed within 15 days of receipt of a direction from Iran to transfer any interests in property claimed or believed to be an interest of Iran which was blocked by the Iranian Assets Control Regulations if the party receiving the direction to transfer has not transferred such claimed interest in property.

(b) *Who must report.* Reports must be filed by every person subject to the jurisdiction of the United States who does not transfer any interest or claimed interest in property described in paragraph (a) of this section within 15 days of a direction from Iran to transfer it.

(c) *Contents of report.* Each report shall contain the following information.

(1) Name and address of entity making the report.

(2) Name of person and entity directing the transfer.

§ 535.418 [Removed]

(3) Date of the direction and date of its receipt.

§ 535.419 [Removed]

(4) Description of the interest or claimed interest in property directed to be transferred.

§ 535.422-432 [Removed]

(5) Statement or estimate of value of the interest or claimed interest in property.

§ 535.550 [Removed]

§ 535.562 [Removed]

(6) Explanation why property was not transferred as directed.

§ 535.563 [Removed]

§ 535.572 [Removed]

(7) Statement of any planned actions with respect to the interest or claimed interest in the property described.

§ 535.574 [Removed]

§ 535.575 [Removed]

§ 535.577 [Removed]

(d) *Filing.* Reports shall be prepared in triplicate. Two copies shall be sent in a set to Unit 617, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220. The third copy must be retained with the reporter's records.

§ 535.578 [Removed]

§ 535.603 [Removed]

Dated: February 24, 1981.

Dennis M. O'Connell,
Director.

Approved:

John P. Simpson,
Acting Assistant Secretary, Enforcement and Operations.

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

24. Section 535.902 is revised to read as follows:

§ 535.902 Set-offs by U.S. owned or controlled firms abroad.

(a) Branches and subsidiaries in foreign countries of persons subject to the jurisdiction of the United States are licensed to set-off their claims against Iran or Iranian entities by debit to blocked accounts held by them for Iran or Iranian entities.

(b) The general license in paragraph (a) of this section is revoked as of January 19, 1981.

(c) For purposes of this section, set-offs include combinations of accounts and any similar actions.

25. Part 535 is amended by the revocation and removal of sections 535.204, 535.206, 535.207, 535.209, 535.331, 535.332, 535.418, 535.419, 535.422, 535.423, 535.424, 535.425, 535.426, 535.427, 535.428, 535.429, 535.430, 535.431, 535.432, 535.550, 535.562, 535.563, 535.572, 535.574, 535.575, 535.577, 535.578, and 535.603.

§ 535.204 [Removed]

§ 535.206-207 [Removed]

§ 535.209 [Removed]

§ 535.331 [Removed]

§ 535.332 [Removed]

(Sec. 201-207, 91 Stat. 1626, 50 U.S.C. 1701-1706; E.O. No. 12170, 44 FR 65729; E.O. No. 12205, 45 FR 24099; E.O. No. 12211, 45 FR 26605; E.O. No. 12276, 46 FR 7913; E.O. No. 12279, 46 FR 7919; E.O. No. 12280, 46 FR 7921; E.O. No. 12281, 46 FR 7923; E.O. No. 12282, 46 FR 7925; E.O. No. 12283, 46 FR 7927, and E.O. No. 12294, 46 FR —.)

[FR Doc. 81-3812 Filed 2-25-81; 9:16 am]

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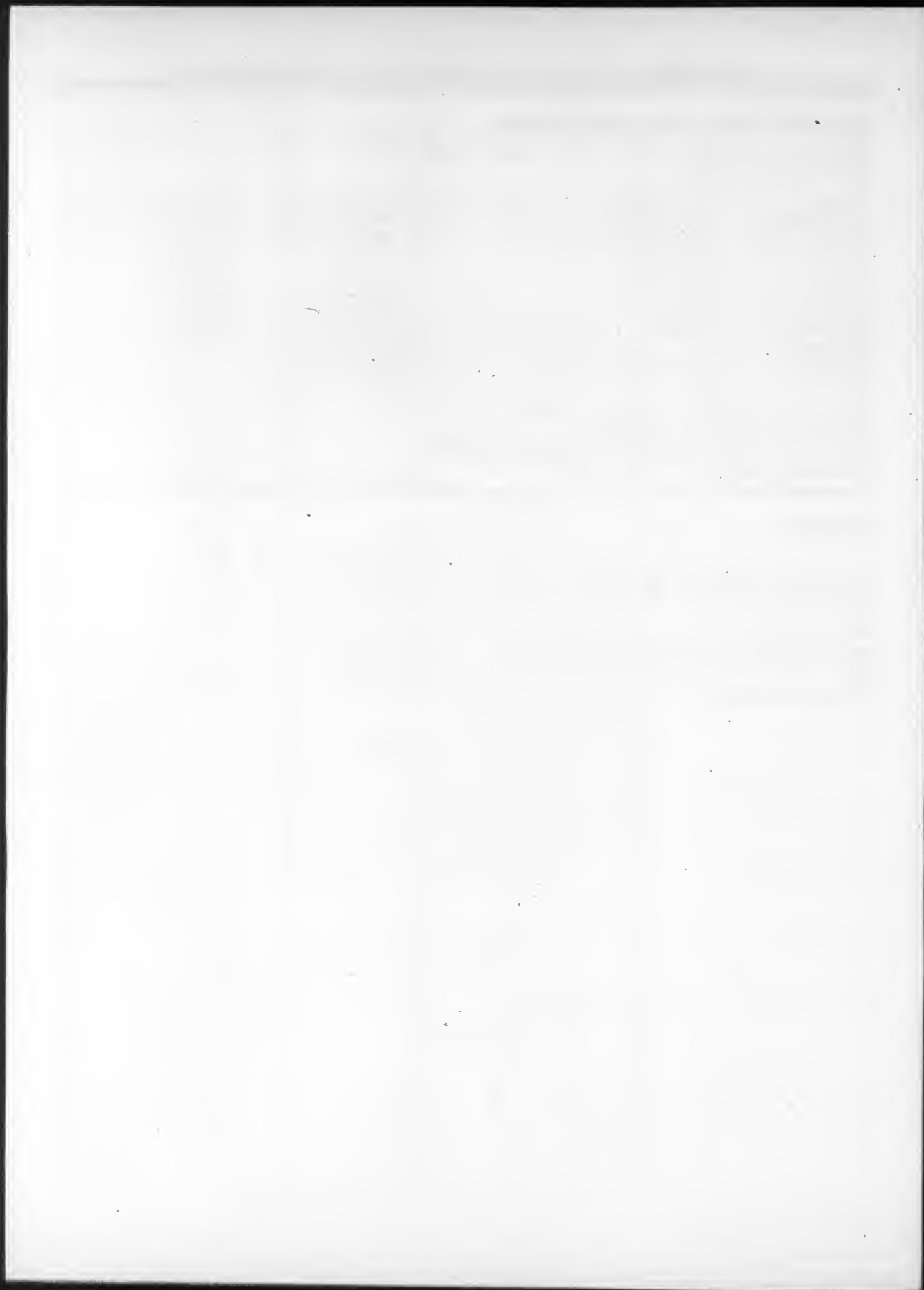
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