

OFFICE OF FOREIGN ASSETS CONTROL
IRANIAN TRANSACTIONS REGULATIONS
(31 C.F.R. PART 560)

INTERPRETIVE GUIDANCE AND STATEMENT OF LICENSING POLICY ON
INTERNET FREEDOM IN IRAN

I. PERSONAL COMMUNICATIONS GENERAL LICENSE

In 2010, in order to foster and support the free flow of information to individual Iranian citizens, OFAC issued a final rule amending the Iranian Transactions Regulations, 31 C.F.R. part 560 (the “ITR”), to authorize the exportation of certain services and software incident to the exchange of personal communications over the Internet. (*75 Fed. Reg.* 10997, March 10, 2010.)

Specifically, section 560.540 of the ITR authorizes the exportation from the United States or by U.S. persons, wherever located, to persons in Iran of services incident to the exchange of personal communications over the Internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, and blogging, provided that such services are publicly available at no cost to the user. (ITR, section 560.540(a)(1).)

Section 560.540 of the ITR also authorizes the exportation from the United States or by U.S. persons, wherever located, to persons in Iran of software necessary to enable such services, provided that the software is classified as “EAR99” under the Export Administration Regulations (the “EAR”), is not subject to the EAR, or is classified by the Department of Commerce (“Commerce”) as mass market software under export control classification number (“ECCN”) 5D992, and is publicly available at no cost to the user. (ITR, section 560.540(a)(2).)

The authorizations in section 560.540 of the ITR are subject to certain restrictions. This section does not authorize (1) the direct or indirect exportation of services or software with knowledge or reason to know that such services or software are intended for the Government of Iran; (2) the direct or indirect exportation of any goods or technology listed on the Commerce Control List in the EAR, 15 C.F.R. part 774, supplement No. 1 (“CCL”), except for software necessary to enable the services authorized by the personal communications general license that is classified as mass market software under ECCN 5D992 of the EAR; (3) the direct or indirect exportation of Internet connectivity services or telecommunications transmission facilities (such as satellite links or dedicated lines); or (4) the direct or indirect exportation of web-hosting services that are for purposes other than personal communications or of domain name registration services. (*See* ITR, section 560.540(b).)

II. INTERPRETIVE GUIDANCE – SCOPE OF PERSONAL COMMUNICATIONS
GENERAL LICENSE

In order to further ensure that the sanctions on Iran do not have an unintended chilling effect on the ability of companies to provide personal communications tools to individuals in that country,

OFAC is providing illustrative guidance on the scope of the personal communications general license, section 560.540 of the ITR. OFAC has determined that the categories of services and software set forth below fall within the scope of services incident to the exchange of personal communications over the Internet or software necessary to enable such services, as described in section 560.540 of the ITR. Examples of products in most of these categories are listed in parentheses and may be exported from the United States or by U.S. persons, wherever located, to persons in Iran, provided that they meet the other criteria set forth in section 560.540 of the ITR. Please note that this list of services and software is not exhaustive. It is illustrative only.

The following illustrative services and software fall within the scope of section 560.540 of the ITR:

- Personal Communications (e.g., Yahoo Messenger, Google Talk, Microsoft Live, Skype (non-fee based))
- Updates to Personal Communications Software
- Personal Data Storage (e.g., Dropbox)
- Browsers/Updates (e.g., Google Chrome, Firefox, Internet Explorer)
- Plug-ins (e.g., Flashplayer, Shockwave, Java)
- Document Readers (e.g., Acrobat Readers)
- Free Mobile Apps Related to Personal Communications
- RSS Feed Readers and Aggregators (e.g., Google Feed Burner).

III. STATEMENT OF LICENSING POLICY

Consistent with current U.S. foreign policy to enable private persons in Iran to better and more securely access the Internet, OFAC is clarifying its existing Statement of Licensing Policy (“SLP”) that establishes a favorable licensing policy through which U.S. persons can request OFAC approval to export to Iran services and software not covered by section 560.540 of the ITR that directly benefit the Iranian people.

Specific licenses may be issued on a case-by-case basis for the exportation of other, including fee-based, services and software incident to the sharing of information over the Internet, provided the software is classified as “EAR99,” is not subject to the EAR, or is classified by Commerce as mass market software under ECCN 5D992 of the EAR. (*See* ITR, section 560.540(c).)

In particular, this SLP applies to services and software such as web hosting, online advertising, fee-based mobile apps, and fee-based Internet communication services. A brief description of some fee-based services and software is set forth below. Please note that this list of services and software is not exhaustive.

Web Hosting

Web-hosting services allow individuals and entities to run Web sites on the Internet. They host the content and code that make up a Web site.

Online Advertising

Online advertising programs (e.g., AdSense and AdWords) empower publishers to earn revenue by displaying relevant ads on their content.

Fee-Based Mobile Apps

Access to app stores and selected fee-based mobile apps related to personal communications allow for the distribution of applications, including news readers and mobile security software.

Fee-Based Internet Communication Services

Fee-based Internet communication services, such as Skype Credit and Google Talk, allow users to partially bypass the existing phone system and have the option of engaging in more secure conversations that occur exclusively over the Internet.

Note: Information on applying for specific licenses is set forth in section 501.801 of the Reporting, Procedures and Penalties Regulations, 31 C.F.R. Part 501.

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