

CIRCULAR 2000

TRAVEL, CARRIER and REMITTANCE FORWARDING SERVICE PROVIDER PROGRAM

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INTRODUCTION

This Circular summarizes the current regulatory program, administered by the Treasury Department's Office of Foreign Assets Control ("OFAC"), that permits certain transactions involving property in which Cuba has an interest with respect to the provision of travel services, carrier services and the forwarding of remittances under the Cuban Assets Control Regulations, 31 CFR Part 515, and the Reporting and Procedures Regulations, 31 CFR Part 501 (jointly, the "Regulations"). However, the Regulations and terms of specific OFAC letters and/or licenses are controlling in all matters.

This Circular provides the basic information applicable to all authorized service providers: Travel Service Providers ("TSPs"), Carrier Service Providers ("CSPs"), and Remittance Forwarders ("RFs") (collectively, the "Service Providers"). It further sets forth information particular to each category of Service Provider in three separate appendixes designated as "Appendix I" for TSPs, "Appendix II" for CSPs, and "Appendix III" for RFs. This body of information, along with the applicable Regulations and specific authorizations issued by OFAC, is referred to as the "Service Provider Program."

This Circular will be reissued in its entirety in September of each year, bearing the name of the year in which it is issued. All procedural and policy changes occurring during the interim period will be issued as amendments to the Circular currently in effect. Other actions, including additions and deletions to the list of authorized Service Providers, will be effected by administrative notice mailed to each Service Provider and will not be incorporated in the Circular.

PART I. -- BASIC PROHIBITIONS AND PENALTIES

The Regulations prohibit all unlicensed transactions by persons subject to the jurisdiction of the United States involving property in which Cuba or a Cuban national has any interest whatsoever, direct or indirect, unless exempt or otherwise authorized. Such property includes, but is not limited to, Cuban passports; Cuban visas; food, lodging, and ground transportation in Cuba; remittances where the beneficiary is a Cuban national; and any Cuba travel-related services.

Consistent with OFAC's enforcement function, civil and criminal fines and penalties and the loss of operating authority may be imposed for violations of, or activity inconsistent with, the Service Provider Program. Criminal penalties for violation of the Regulations range up to 10 years in prison, and \$1 million in corporate and \$250,000 in individual fines. OFAC may impose civil penalties up to \$55,000 per violation.

A Service Provider must be aware of the authorizations and restrictions applicable to individual travelers using its services. The following is a summary of OFAC authorizations available to such individuals, a general discussion of the three forms of authorization under the Service Provider Program, and three appendixes setting forth specific guidelines applicable to each Service Provider category.

PART II. – AUTHORIZATIONS FOR INDIVIDUALS

A. Travel-Related Transactions

It is the responsibility of persons subject to the jurisdiction of the United States, including all U.S. citizens and permanent resident aliens, wherever located, seeking to engage in travel-related transactions with Cuba or to remit funds to Cuba to ensure compliance with the Regulations. As set forth in § 515.560 of the Regulations, a person may be authorized to engage in transactions related to travel to, from and within Cuba if he or she qualifies under a general license or obtains a specific license from OFAC. Categories of travel activities are outlined below. Please refer to the Regulations and the brochures entitled "Cuba: What You Need To Know About The U.S. Embargo" and "Travel Restrictions/Restricciones de Viajes" which describe more fully the several categories of generally licensed travel transactions and those for which specific licenses are available from OFAC. These documents are available on OFAC's website: www.treas.gov/ofac.

Authorized travelers (those travelers having a general or specific OFAC license) may spend no more per day for living expenses in Cuba than the amount set by the State Department and published in the "Maximum Travel Per Diem Allowances for Foreign Areas." Travelers can check the current *per diem* rate on the Internet at <u>http://www.state.gov/www/perdiems/index.html</u>. Certain authorized travelers, such as journalists, may spend above this amount for transactions directly incident to their authorized activities. An authorized traveler may not pay more than \$500 within a year to Cuba for fees imposed by the Cuban Government for such items as passports, visas fees, and arrival/departure taxes.

Persons within the United States seeking to engage in travel-related transactions with Cuba or Cuban nationals may not use a service provider located in the United States that is not authorized by OFAC to deal in these activities. For travel arrangements booked through a TSP, those portions of the trip directly involving Cuba may be booked by the TSP, including flights on a carrier and/or charterer that is owned or controlled by Cuba or a Cuban national (a "blocked Cuban carrier"). Authorized travelers who do not use the services of a TSP or CSP must book all legs of their trip that involve arrival in or departure from Cuba by using a foreign travel agency not subject to U.S. jurisdiction.

Family visitation: This general license allows persons to engage in transactions related to travel to, from, and within Cuba once every twelve months for the purpose of visiting a close relative in Cuba for humanitarian purposes. Specific licenses may be issued if a person who has traveled to Cuba to visit a close relative under the general license seeks to engage in travel-related transactions again within the same twelve-month period due to humanitarian need. The term "close relative" refers to a person's spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or spouse, widow, or widower of any of the foregoing.

Other general licenses: Additional general licenses authorize travel-related transactions in connection with the following four categories of travel when the activities fully conform to the

criteria described in the Regulations: (a) official business of the U.S. government, foreign governments, and certain intergovernmental organizations, (b) journalistic activity engaged in by full-time journalists and their supporting broadcast or technical personnel, (c) professional research by full-time professionals and attendance at professional meetings or conferences and (d) amateur or semi-professional athletic competition.

Specific license categories: Specific licenses may be issued to accredited U.S. academic institutions to authorize travel transactions related to certain educational activities by students or employees affiliated with the institution. Such licenses are valid for multiple trips over a two-year period. Specific licenses may also be issued (in some instances with extended validity permitting multiple trips) for educational activities that do not take place under the auspices of an accredited U.S. academic institution. Religious organizations are also eligible for multiple trip, two-year specific licenses authorizing travel transactions by their representatives in connection with a program of religious activities in Cuba.

Other travel categories for which specific licenses may be issued (in some instances with extended validity permitting multiple trips) include but are not limited to: free-lance journalism; activities of recognized human rights organizations and other humanitarian projects that directly benefit the Cuban people; certain public performances, clinics, workshops, exhibitions and athletic and other competitions; certain non-commercial activities of private foundations or research or educational institutions; and travel-related transactions involving informational materials, donations of food or exportations of goods licensed by the Department of Commerce.

Any person who has received an OFAC specific license to engage in travel-related transactions should carry a copy of the license when traveling to, from and within Cuba and make available copies of that license as necessary to those who would provide authorized services in connection with the travel.

B. Fully-hosted travel

"Fully hosted" travel is travel in which all costs are completely covered by a person not subject to U.S. jurisdiction. The Regulations do not prohibit fully-hosted travel within Cuba, provided no person subject to U.S. jurisdiction makes any payment to Cuba or a Cuban national (directly or indirectly) or provides any services to Cuba or a Cuban national in conjunction with such travel. However, someone who is fully hosted is not an authorized traveler for the purposes of § 515.560(c). A fully-hosted traveler may pay for his or her transportation to and from Cuba but may not pay for any other travel-related expense such as visas. Fully-hosted travelers may not use direct charter flights between Cuba and the United States, nor may they book any portion of their trip on a blocked Cuban carrier.

A person subject to the jurisdiction of the United States would not be considered fully hosted if he or she makes payments to a person in a third-country and that person in turn directly pays all expenses in Cuba. Prepaid vacation packages arranged through a third-country travel agency do not qualify as fully-hosted travel under the Regulations. Further, a person subject to the jurisdiction of the United States would not be considered fully hosted if he or she performs services in Cuba in exchange for the compensation of having his or her travel-related transactions paid.

Section 515.420 of the Regulations establishes a rebuttable presumption that any person subject to U.S. jurisdiction determined to have traveled to Cuba without the authority of a general or specific license is presumed to have engaged in prohibited travel-related transactions. A traveler may rebut this presumption by presenting a signed statement and relevant supporting documentation (as set forth in the Regulations) from the foreign person hosting the travel.

C. Remittances

The Regulations prohibit the unauthorized transfer of funds to Cuba. A qualifying person subject to the jurisdiction of the United States may remit certain funds to a Cuban national, under the following circumstances:

Individual-to-Household and Family Remittances: Any person subject to U.S. jurisdiction who is 18 years of age or older is authorized by general license to send cash remittances to any Cuban household of up to \$300 per household in any consecutive 3-month period, provided that no member of the household is a senior-level Cuban government or senior-level Cuban communist party official. Alternatively, such a person may send cash remittances to the household of a close family member in Cuba of up to \$300 per household in any consecutive 3-month period. No more than a combined total of \$300 of individual-to-household and family remittances may be sent by a remitter to any one household in any consecutive three-month period, regardless of the number of close relatives or other persons residing in that household.

Emigration Remittances: Persons subject to U.S. jurisdiction may send up to \$1,000 per payee on a one-time basis as an "emigration-related" remittance to a Cuban national to enable the payee to emigrate from Cuba to the United States. Of this \$1,000, up to \$500 may be remitted to a Cuban national prior to the payee's receipt of a valid U.S. visa or other U.S. immigration document. The remaining amount may be remitted to the Cuban national only after the payee receives a valid U.S. visa or other U.S. immigration document and the remitter obtains a record of the document prior to sending the funds to Cuba.

Carrying Remittances: In addition to other amounts that authorized travelers may be entitled to carry, persons licensed to engage in Cuba travel-related transactions (this does not include fully-hosted travelers) may carry their own remittances, provided that they may carry no more than a combined total of \$300 of individual-to-household and family remittances, and provided that no emigration-related remittances may be carried before the payee has received a valid U.S. visa or other immigration document and the traveler can supply the visa number and the date of issuance. **Authorized travelers may not carry remittances on behalf of other persons.** Funds for remittances that are not within the above-described guidelines are subject to seizure by U.S. Customs.

Cuban nationals returning to Cuba from the United States may also carry any currency brought into the United States and registered by them with the U.S. Customs Service, as well as up to \$300 in funds received as remittances while in the United States. Cuban scholars participating in authorized exchange programs at U.S. academic institutions may carry to Cuba from the United States earned compensation up to any amount that can be substantiated through payment receipts from such institutions.

D. Recordkeeping

All persons subject to the jurisdiction of the United States engaging in transactions authorized pursuant to the Regulations are required under §§ 501.601 and 501.602 of the Regulations to maintain records of all such transactions and to make them available to OFAC for examination upon request. This recordkeeping requirement also pertains to persons claiming to have been fully-hosted with regard to documentation in support of that assertion. Records must be maintained for five years.

PART III. – AUTHORIZATIONS FOR SERVICE PROVIDERS

All persons subject to the jurisdiction of the United States who wish to provide Cuba-related travel services, carrier services, or remittance forwarding services to qualifying individuals must be authorized by OFAC in order to provide these services pursuant to § 515.572 of the Regulations. OFAC maintains an up-to-date list of such Service Providers, which is available on its Fax-on-Demand service ((202) 622-0077) and at <u>www.treas.gov/ofac</u>. Additions and deletions to the list of Service Providers may also be circulated periodically by administrative notice that will be mailed to all persons currently holding OFAC authorizations or licenses to operate as Service Providers.

A. Application

A person subject to the jurisdiction of the United States may apply to OFAC to become a Service Provider by satisfying the criteria laid out in § 515.572 of the Regulations. OFAC considers such applications on a case-by-case basis. A person seeking to operate in more than one capacity, for example as both a TSP and CSP, must specifically request each type of authorization. Thus, OFAC will consider an application as seeking two types of authorization only if the application so states and only if each type of authorization is addressed in detail.

The information OFAC requires as part of the initial application process, including the basic application materials, the identities of the parties seeking to operate under the license and the forms and procedures to be used by the applicant, must not only be true and complete at the time of application, but must also be kept up-to-date with OFAC notwithstanding the issuance of an authorization. Failure to inform OFAC in writing of any changes in these areas on an ongoing basis may result in an enforcement action.

Letters of application for authorization to engage in transactions as a TSP, CSP, and/or RF should be mailed to the following address:

Office of Foreign Assets Control U.S. Department of the Treasury 909 SE First Ave #736 Miami, FL 33131

Questions concerning the Service Provider Program may be directed to Charles Bishop, Sanctions Coordinator, OFAC-Miami Office, at (305) 810-5140.

B. Conditions of Operation

A Service Provider may provide travel, carrier and/or remittance services only from the Service Provider's principal place of business or branch office(s) as identified in the Service Provider's application and as set forth in OFAC's letter of provisional authorization or specific license (as amended, if applicable). A Service Provider may not provide Cuba-related services after any changes in ownership or control of the Service Provider, changes in location, or the addition of new locations without first receiving further authorization from OFAC.

Service Providers wishing to use other companies (for example: travel agencies booking seats on behalf of passengers) to assist in the licensed service they provide must ensure that transactions are conducted only with other OFAC-authorized Service Providers operating from authorized locations. If a Service Provider has any questions about using the services of another company, the Service Provider should contact OFAC prior to commencing any such transactions. The authorization to operate as a Service Provider does not itself give authorization to carry funds to Cuba.

C. Recordkeeping

Once authorization is granted to a Service Provider, that Service Provider must commence keeping records of its activities. All Service Providers engaging in transactions pursuant to the Regulations are required under §§ 501.601 and 501.602 of the Regulations to provide access to OFAC for examination of records upon request. OFAC will attempt to give prior notice to Service Providers of such requests to examine records when consistent with OFAC's compliance and enforcement objectives.

A Service Provider must engage in recordkeeping for each authorized transaction, including transactions between Service Providers. The recordkeeping must include details about individual travelers or remitters and their circumstances sufficient to allow identification and verification that the subject transactions comply with the Regulations. These records must be maintained for five years. The recordkeeping requirement includes all records of any transfer of funds, whether made directly to Cuba or though another Service Provider. The records must be sufficient to link the receipt of funds from a customer to the transfer of the funds to Cuba.

D. Reporting

A Service Provider must furnish periodic reports covering the Service Provider's activity, or lack thereof, during the preceding calendar year. Unless otherwise noted in the authorization, reports must be filed no later than January 20 of each year. Unless otherwise specified by OFAC, reports must be mailed to the OFAC-Miami Office. OFAC may from time to time require other reports.

OFAC provides Service Providers with a suggested format for each category of report (one format tailored specifically to each category of Service Provider). Copies of the suggested formats are attached at the end of each Appendix. If you prefer not to use the OFAC-suggested formats for filing your reports, please make sure that your report contains all of the information requested in the OFAC formats.

APPENDIXES TO CIRCULAR 2000

APPENDIX I. – TRAVEL SERVICE PROVIDERS

A TSP, as described in § 515.572(a)(1) of the Regulations, may provide services in connection with arranging and assisting authorized travelers to engage in transactions related to travel to, from, and within Cuba. The TSP must ensure that each person seeking to engage in such travel-related transactions qualifies for one of the general license authorizations or has a specific license issued by OFAC, except with respect to the limited transactions a TSP may do in arranging travel through a third country to and from Cuba on behalf of fully-hosted travelers. The TSP must put each passenger on notice about the Cuba embargo prohibitions, both verbally and in writing.

A TSP may not require the purchase of hotel accommodation packages by customers in order to obtain expedited visas or for any other purpose, as this is an example of a discriminatory practice inconsistent with the Regulations. A TSP may assist a Cuban American in obtaining or renewing a Cuban passport, regardless of whether or not the individual is planning to travel to Cuba.

A. Direct Flights

A TSP may make reservations for and issue tickets to an authorized traveler on direct CSP-operated charter flights between the United States and Cuba. A TSP must provide the following information about each traveler on an ongoing basis to the CSP prior to the CSP accepting a reservation or selling a seat on a CSP flight for the passenger: full name (including mother's maiden name), address, date of birth, passport number and country of issuance, airport of departure from the United States and category of travel (identify applicable general or specific license). The terms and conditions of this informational report are described in Appendix II-B.

B. Flights Through Third Countries

A TSP may make reservations for and issue tickets to an authorized or fully-hosted traveler on thirdcountry airline flights between third countries and Cuba. TSPs may arrange travel between a third country and Cuba on a blocked Cuban Carrier on behalf of an authorized traveler, but may not provide such services to fully-hosted travelers. If a TSP were to book fully-hosted travelers on such flights and the fully-hosted travelers were to pay their own airfare, they would be making a payment to Cuba for transportation and would accordingly forfeit their fully-hosted status. The TSP arranging such travel could also be subject to penalties and loss of operating authority for violation of the Regulations.

Attachment to Appendix I

• Suggested Reporting format

APPENDIX II. -- CARRIER SERVICE PROVIDERS

A CSP, as described in § 515.572(a)(2) of the Regulations, may operate direct charter flights for authorized passengers between the United States and Cuba. The CSP must put each passenger on notice about the Cuba embargo prohibitions, both verbally and in writing. This holds true even if passage on the carrier was booked by another Service Provider. CSPs must also use their best effort to (1) honor reservations of U.S. Government personnel and (2) guarantee cargo/diplomatic pouch space on any flight as requested by the U.S. Government.

A. Passengers Eligible for Direct Flights

A CSP may provide direct-flight services to individuals falling into the categories discussed below. Direct flights are not available to those individuals traveling to Cuba fully hosted.

- 1. Individuals traveling from the United States to Cuba:
 - Individuals who are traveling to Cuba to engage in activities in Cuba that qualify under a general license or for which a specific license has been issued by OFAC;
 - Cuban citizens returning to Cuba after visiting the United States under a valid visa or visa waiver issued by the State Department;
 - Individuals returning to Cuba after traveling in the United States on official government business or under a specific license issued by OFAC; and
 - Individuals traveling on diplomatic passports (including accompanying minor children traveling on any passport).

Please note that third-country nationals departing from the United States for Cuba are subject to U.S. jurisdiction at the time of departure and must abide by rules on the carriage of currency to Cuba and other applicable departure requirements.

- 2. Individuals traveling from Cuba to the United States:
 - Individuals who are returning to the United States from Cuba after having engaged in activities in Cuba that met the criteria for a general license or for which a specific license was issued;
 - Cuban citizens entering the United States under a valid visa or visa waiver issued by the State Department;
 - Individuals who are traveling to the United States on official government business or under a specific license issued by OFAC; and
 - Individuals traveling on diplomatic passports (including accompanying minor children traveling on any passport).

Please note that eligible travelers may return from Cuba on direct flights without having traveled to Cuba on a direct flight at the outset of their trip. In addition, please note that the general license for

family visits covers only visits to close relatives who reside in Cuba, not in the United States. Thus, a third-country national visiting Cuba would not be eligible to book passage on a direct flight to visit close relatives living in the United States.

B. Procedural Guidelines

Approved Airports: Direct flights between Cuba and the United States must operate on a non-stop basis between Cuba and one of the following U.S. airports: Miami International Airport ("MIA"), Los Angeles International Airport ("LAX"), or John F. Kennedy International Airport ("JFK"), during normal Customs business hours of 8:00 am and 10:00 pm. If a CSP seeks to depart outside of these hours, then clearance must be received in advance both from the OFAC-Miami Office and from the official with the discretion to provide clearance on behalf of the U.S. Customs Service at the following contact numbers:

Airport	Department	Telephone
MIA:	Service Port Director	(305) 869-2800
JFK:	Area Director	(718) 553-1542
LAX:	Port Director	(310) 215-2618

CSPs must provide OFAC with a copy of their schedule of flights as submitted to the Department of Transportation (the "charter prospectus") as soon as possible prior to the month of operation using this fax number: (305) 810-5148. A CSP that is not required to file a charter prospectus with the Department of Transportation must notify Customs of an intended departure 24 hours prior to such departure for purposes of outbound inspection via phone and fax:

Airport	Department	Telephone	Fax
MIA:	CET Operations	(305) 869-2720	(305) 869-2738
JFK:	Outbound	(718) 553-1509	(718) 553-0093
LAX:	Outbound	(310) 215-2444	(310) 215-2013

Passenger Information: As set forth in Appendix I, each TSP must, on an ongoing basis, provide details about every authorized traveler to the CSP prior to the CSP accepting a reservation or selling a seat on a CSP flight. The CSP must in turn provide detailed information to OFAC in Washington, DC by electronic mail 48 to 72 hours prior to departure of the flight. The content of this informational report is as follows: 1) All the information provided by the TSP particular to each authorized traveler; 2) U.S. departure and return dates; and 3) the name of the TSP(s) who arranged for the travel. CSPs must file the data by means of a file transfer using a modem and Internet connection. OFAC will make the necessary software available and, if possible, will install such software on a CSP's computer. OFAC will also instruct you in the details of accomplishing this filing. Please contact the OFAC-Miami Office to schedule a date for installation and instruction. After installation, technical assistance is available by calling OFAC's Compliance Programs Division at (202) 622-2490.

Flight Announcement: CSPs operating regularly scheduled charter flights must make the attached OFAC flight announcement in English and Spanish in such a way that it can be clearly heard and understood by those at the departure gate approximately 45 minutes and 25 minutes before boarding. For charter flights not operating on a regular basis to Cuba, CSPs need not read the announcement, but in that case they must distribute the announcement to every traveler as part of the check-in procedure at the ticket counter.

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C. Passenger Forms

OFAC Outbound Declaration Card: A CSP must have available copies of U.S. Treasury Department Travel Declaration Card [TDF 90-22.39 (05/89)], bearing OMB number 1505-0118. This form is entitled: *Travel to Cuba/Viajes a Cuba*, and is attached to this Appendix. CSPs are to ensure that every passenger receives an Outbound Declaration Card as part of the check-in procedure at the ticket counter assigned to the charter. CSPs must collect completed, signed Outbound Declaration Cards from each adult traveler before the traveler passes into the jet way for the outbound aircraft. CSPs may not allow any adult passenger to board any aircraft bound for Cuba without first collecting a completed, signed Outbound Declaration Card.

CSPs must make available to the U.S. Customs Service inspector at the departure gate the completed Outbound Declaration Cards. The Customs inspector may return the forms to the CSP after reviewing them. When completed Cards are returned, or if no Customs inspector is present at the departure gate, then all of the completed Cards must be forwarded to the OFAC-Miami office no later than the fifth day of the month following the month of travel or as otherwise arranged with the Miami Sanctions Coordinator. Contact the OFAC-Miami Office for blank Outbound Declaration Cards: (305) 810-5140.

Customs Form 4790: A CSP must have available copies of Customs Form 4790 for use by travelers carrying more than \$10,000 in authorized currency or monetary instruments, consistent with applicable Customs laws and regulations.

D. Department of Commerce Requirements

The aircraft used for flights to Cuba must be licensed for temporary export by the U. S. Commerce Department's Bureau of Export Administration ("BXA"). In accordance with Parts 740.15(a)(1) and 740.15(a)(2)(i) of the Commerce Department's Export Administration Regulations, 15 C.F.R. Parts 730-774, the aircraft may qualify for Commerce License Exception AVS and not require a specific export license. If the aircraft does not qualify under the provisions of AVS, a specific export license must be obtained from the Commerce Department. For more information on the Commerce Department's export control requirements pertaining to Cuba, call BXA at (202) 482-4252.

Additionally, BXA is responsible for licensing exports of medicines, medical supplies and other humanitarian goods from the United States to Cuba. Although OFAC is responsible for licensing travel transactions for sales representatives from pharmaceutical and medical companies in connection with permitted sales of health care products to Cuba, samples taken to Cuba by the sales representatives still require BXA licensing. Licensed shipments will be permitted to depart the United States for Cuba from an authorized U.S. airport under established U. S. Customs rules. Please direct any questions concerning this matter to BXA at 202-482-4252 and to OFAC at 305-810-5140.

Failure to obtain the appropriate authorization from any federal governing authority for any exportation may result in the imposition of a fine, penalty, or loss of operating authority, pursuant to the Regulations.

Attachments to Appendix II

- Outbound Declaration Card "Travel to Cuba/Viajes a Cuba"
- Airport flight announcement in English/SpanishSuggested Reporting format

APPENDIX III – REMITTANCE FORWARDERS

An RF, as described in § 515.572(a)(3) of the Regulations, may forward authorized remittances to Cuba on behalf of authorized remitters (see discussion of authorized remitters in Part II-C of this Circular). U.S. depository institutions, as defined in § 515.333 of the Regulations, are generally authorized in § 515.572(a)(3) to forward authorized remittances to Cuba through third countries, but may apply for authorization as an RF in order to do so directly. All RFs and U.S. depository institutions are required to use the OFAC Remittance Affidavit to ensure compliance with the Regulations regarding the eligibility of remitters and the limitations on dollar amounts and frequency of transfers.

Attachments to Appendix III

- Remittance Affidavit (TDF 90-22.52)
- Suggested Reporting format