



SANCTIONS UPDATE

Cuba - U.S. Department of Commerce and U.S. Department of the Treasury Implement Regulatory Changes

As previously reported, President Obama announced on December 17, 2014 that the United States and Cuba will seek to normalize their relations, including an easing of U.S. sanctions against Cuba intended to further engage and empower the Cuban people. On January 15, 2015, the U.S. Department of Treasury's Office of Foreign Assets Control (OFAC) and the U.S. Department of Commerce's Bureau of Industry and Security (BIS) announced the forthcoming publication of the amended Cuban Assets Control Regulations (CACR) and Export Administration Regulations (EAR), respectively, which will implement these changes to the sanctions. The amendments took effect on January 16, 2015, when the regulations were published in the Federal Register.

With these new amendments, OFAC and BIS implemented policy changes and authorized a number of previously prohibited activities related to travel, financial services, telecommunications, trade and shipping. These amendments are summarized below.

1. Travel to Cuba for Authorized Purposes

OFAC authorized travel-related transactions and other transactions incident to activities within the twelve existing travel categories in OFAC's regulations, including (1) family visits; (2) official governmental business; (3) journalistic activities; (4) professional research and meetings; (5) educational activities; (6) religious activities; (7) public performances, clinics, workshops, athletic and other competitions and exhibits; (8) support for the Cuban people; (9) humanitarian projects; (10) activities of private foundations or research or educational institutes; (11) export, import or transmission of information or informational materials; and (12) certain export transactions. The amended regulations will not require travelers to secure case-by-case specific licenses for these categories. The regulations contain certain restrictions appropriate to each category of activities, and continue to prohibit travel for tourist activities.

2. Travel Services

Persons subject to U.S. jurisdiction, including travel agents and airlines, will be able to provide certain travel and air carrier services without needing to apply for a specific license from OFAC.

3. Remittances

OFAC increased the limits on generally licensed remittances to Cuban nationals (other than certain prohibited Cuban Government and Cuban Communist Party officials) from \$500 to \$2,000 per quarter. Certain remittances to Cuban nationals for humanitarian projects, support for the Cuban people and development of private business in Cuba are generally authorized without limitation. OFAC also raised the total amount of

remittances that a traveler may carry to Cuba to \$10,000. Banking institutions are permitted to process authorized remittances to Cuba without having to apply for a specific license.

4. Credit and Debit Cards, Per Diem, and Importation of Certain Goods and Services

OFAC authorized U.S. financial institutions to enroll merchants and process credit and debit card transactions for travel-related and other transactions consistent with the regulations. These measures are expected to improve the speed and efficiency of authorized payments between the United States and Cuba. OFAC also eliminated the per diem limitation on authorized spending in Cuba, and permitted authorized U.S. travelers to Cuba to import up to \$400 worth of goods acquired in Cuba for personal use. This amount cannot include more than \$100 of alcohol or tobacco products.

5. Micro-Financing, Business and Commercial Import Activities

OFAC authorized certain micro-financing projects and entrepreneurial and business training, such as those for private business and agricultural operations. In addition, commercial imports of certain independent Cuban entrepreneur-produced goods and services are authorized.

6. Financial Transactions

OFAC created a general license to permit depository institutions to open and maintain correspondent accounts at Cuban financial institutions in order to facilitate the processing of authorized transactions, as well as to permit U.S. financial institutions to reject and process certain funds transfer transactions.

7. “Cash in Advance”

The regulatory interpretation of “cash in advance” has been liberalized from “cash before shipment” to “cash before transfer of title and control” to allow expanded financing options for authorized exports to Cuba.

8. Telecommunications

A new OFAC general license facilitates the establishment of commercial telecommunications facilities linking third countries and Cuba and within Cuba. The commercial export of certain items that will aid in the ability of the Cuban people to communicate with people within Cuba, in the United States and with the rest of the world is allowed under a new BIS license exception (Support for the Cuban People (SCP)). This includes the commercial sale of certain consumer communication devices, related software, applications, hardware and services, as well as items for the establishment and update of communications-related systems. OFAC also authorized persons subject to U.S. jurisdiction to provide additional services incident to internet-based communications and related to certain exportations and re-exportations of communications items.

9. Consumer Communications Devices

BIS’s existing license exception Consumer Communication Devices (CCD) has been amended to authorize the commercial sale of communication devices, including personal computers, mobiles, televisions, memory devices, recording devices and consumer software to eligible persons and NGO’s in Cuba. Previously, the license exception authorized only donations of these items.

10. Transactions with Cuban Nationals Located Outside of Cuba

A new CACR provision authorizes U.S.-owned or -controlled entities in third countries, including banks, to provide goods and services to Cuban nationals in third countries. Such transactions may not involve a commercial exportation of goods or services to or from Cuba. OFAC also authorized the unblocking of accounts of Cuban nationals who have permanently relocated outside of Cuba. OFAC will allow funds transfers through the United States for the personal expenditures of employees, grantees, contractors and persons who share a common dwelling as a family member of such employees, grantees and contractors, of third-country official missions in Cuba, or any intergovernmental organization of which the United States is a member or holds observer status in Cuba. Transactions related to third-country professional meetings and conferences attended by Cuban nationals will be authorized, and the provision of certain goods and services to Cuban national sailors sequestered aboard ships in U.S. ports will be permitted.

11. Official Government Business and Cuban Official Missions

In an effort to support significant U.S. government interests, OFAC expanded an existing authorization related to the conduct of official business to cover all Cuba-related transactions by employees, grantees and contractors of the U.S. Government, foreign governments and certain international organizations in their official capacities.

To facilitate the reestablishment of diplomatic relations with Cuba, OFAC authorized transactions with Cuban official missions and their employees in the United States.

12. Insurance

OFAC authorized insurance companies to offer global insurance policies to cover third-country nationals traveling to Cuba. Health, life and travel insurance-related services will continue to be permitted for authorized U.S. travelers to Cuba.

13. Vessels

Under the amended regulations, foreign vessels are authorized to enter the United States after engaging in certain trade with Cuba.

14. Support for the Cuban People

License exception SCP also authorizes exports and re-exports of certain items to provide support for the Cuban people in three areas: (1) improving living conditions and supporting independent economic activity; (2) strengthening civil society; and (3) improving communications. To improve living conditions and support independent economic activity, SCP authorizes building materials, equipment and tools for use by the private sector to construct or renovate privately-owned buildings; tools and equipment for private agricultural activity; and tools, equipment, supplies and instruments for use by private sector entrepreneurs. To strengthen civil society, SCP allows the export and re-export of donated items for use in scientific, cultural, educational, sporting and similar activities. Exports and re-exports to certain human rights organizations, individuals or non-governmental organizations are authorized. A traveler will be able to temporarily export items for use in professional research in the traveler's profession or full time field of study, as long as the activities or research are not related to items on the U.S. Munitions List or items controlled by the Commerce Control List (CCL). To improve communications, SCP will allow exports and re-exports of items for use by news media personnel and

U.S. news bureaus. SCP will not authorize the export of items on the CCL for sensitive reasons (*i.e.*, national security, nuclear proliferation, regional stability, etc.).

15. Gift Parcels

BIS's license exception GFT now authorizes consolidated shipments of gift parcels in addition to individual gift parcels.

16. Liberalization of License Application Review Policy

BIS also set forth a general policy of approval for license applications related to the export and re-export of items necessary for the environmental protection or enhancement of U.S. and international air and water quality or coastlines.

If you have any questions regarding this update, please contact the Sidley lawyer with whom you usually work, or

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