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White House Continues Momentum on Relaxing Cuban Restrictions

On April 13, 2009, President Obama issued a Presidential Memorandum (“Memorandum”) to the Secretaries of the Department of State, Department of the Treasury, and Department of Commerce signaling a tide change in U.S. policy toward Cuba. Further to congressional actions over the last month (see previous *GT Alert*, [Cuba: Congress Begins To Push Open The Door](#)), the White House has now directed these agencies to take the steps necessary to loosen certain U.S. restrictions on Cuba in order to promote democracy and human rights there.

We caution that none of this has become law as yet. We will keep you apprised as it goes through the regulatory process.

Specifically, the Memorandum calls for revisions to existing restrictions on Cuban-American individuals’ travel to Cuba to visit family members, as well as monetary remittances to relatives in Cuba. Additionally, the Memorandum calls for exceptions to U.S. commercial trade restrictions (by, for example, issuance of general or specific licenses) in the area of telecommunications and satellite radio/television services in order to improve the flow of information to and from the Cuban people. Finally, the Memorandum directs the agencies to increase the types of eligible humanitarian donations allowable to Cuba.

The Memorandum itself does not immediately change existing U.S. laws and regulations. In order to implement the president’s directions, each agency (State, Treasury and Commerce) will be required to draft regulations and follow formal agency rule-making procedures, including interagency review. Furthermore, each provision may be implemented through elimination of a given restriction, allowance for issuance of specific licenses, or authorization by a general license. The details of each license exception or policy will not be known until the various agency regulations are implemented.

Specifically, the Memorandum requires the following revisions to existing U.S. restrictions:

Revision of Licensing Requirements for U.S. Telecommunication Providers and Communication Products

- U.S. telecommunications network providers will be permitted to enter into agreements to establish fiber-optic cable and satellite telecommunications facilities linking the United States and Cuba.
- U.S. telecommunications service providers may receive licenses to enter into and operate under roaming service agreements with Cuba’s telecommunications service providers.

- U.S. satellite radio and satellite television service providers may receive licenses to engage in transactions necessary to provide services to customers in Cuba.
- Persons subject to U.S. jurisdiction may receive licenses to activate and pay U.S.- and third-country service providers for telecommunications, satellite radio and satellite television services provided to individuals in Cuba (except certain senior Communist Party and Cuban government officials).
- Consistent with U.S. national security concerns, the U.S. agencies will authorize exports or re-exports to Cuba of donated personal communications devices such as mobile phone systems, computers and software, and satellite receivers through a license exception. We suspect, but do not know for certain, that the agencies may place certain conditions on authorized exports (e.g., maintaining restrictions or licensing requirements for certain high-performance computers, encryption software, etc.).

Expansion of the Scope of Humanitarian Donations Eligible for Export

- Restore clothing, personal hygiene items, seeds, veterinary medicines and supplies, fishing equipment and supplies, and soap-making equipment to the list of items eligible to be included in gift parcel donations.
- Restore items normally exchanged as gifts by individuals in "usual and reasonable" quantities to the list of items eligible to be included in gift parcel donations.
- Expand the scope of eligible gift parcel donors to include any individual.
- Expand the scope of eligible gift parcel recipients to include individuals other than Cuban Communist Party officials or Cuban government officials already prohibited from receiving gift parcels, or charitable, educational, or religious organizations not administered or controlled by the Cuban government.
- Increase the value limit on non-food items to \$800.

Removal of Family Remittance Restrictions

- Authorize remittances to individuals within three degrees of family relationship (e.g., second cousins) provided that no remittances shall be authorized to currently prohibited members of the Government of Cuba or currently prohibited members of the Cuban Communist Party.
- Remove limits on frequency of remittances.
- Remove limits on the amount of remittances.
- Authorize travelers to carry up to \$3,000 in remittances.
- Establish general license for banks and other depository institutions to forward remittances.

These provisions will prompt the Departments of State, Treasury and Commerce to take action in the forthcoming weeks to implement these measures related to U.S. policy toward Cuba. We anticipate that it will take the agencies a number of weeks, if not months, to draft, publish and issue their respective regulations to implement the Memorandum's directions.

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