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ALERT

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Cuba to Be Removed from U.S. State Sponsors of Terrorism List

On April 14, 2015, President Obama announced the removal of Cuba from the State Department's list of State Sponsors of Terrorism (SSOT) and formally submitted the statutorily required delisting notification to Congress. Cuba has been designated an SSOT since March 1, 1982. Removing Cuba from the SSOT list opens the door for the United States to lift certain economic sanctions imposed by the U.S. government on Cuba and paves the way for the restoration of diplomatic relations between the two countries. Congress now has 45 days to consider the President's removal of Cuba from the SSOT list before the delisting becomes effective, but it can reverse the President's determination only through separate legislation that would require a veto-proof majority.

As of the writing of this *Alert*, Cuba's SSOT delisting is unlikely to result in a significant easing of the existing U.S. sanctions and exports controls imposed on Cuba. The U.S. embargo against Cuba is composed primarily of federal statutes enacted by Congress that are not tied to Cuba's SSOT designation. Accordingly, lifting most existing U.S. restrictions on investment, trade, and financial transactions with Cuba requires a separate act of Congress.

Nevertheless, the SSOT delisting has the potential to impact certain Cuba-related trade restrictions and sanctions as described below. We note that none of these measures will enter into force until the relevant U.S. government agencies promulgate implementing regulations and guidance:

- expansion of U.S. Department of Commerce authority to issue licenses for the export to Cuba of certain dual-use items subject to the Export Administration Regulations (EAR);
- possible removal of certain restrictions on the provision to Cuba of U.S. foreign assistance and humanitarian aid; and
- lifting of additional miscellaneous restrictions, including the possible easing of disclosure requirements in connection with filings with the U.S. Securities and Exchange Commission (SEC).

Additionally, the removal of Cuba from the SSOT list may make trade and investment in Cuba more attractive to non-U.S. persons and entities, which, while not subject to U.S. jurisdiction, have historically been concerned with the implications of doing business with an SSOT-designated country.

Recognizing the Limitations of Permissible Cuba-Related Activities

U.S. businesses and individuals interested in pursuing opportunities in Cuba should continue to carefully review U.S. sanctions and export controls rules and regulations to determine whether their proposed Cuba-related activities are permissible. It is important to remember that while Cuba's SSOT delisting may result in the easing of certain U.S. sanctions against Cuba, significant sanctions and export controls will continue to remain in place, and that the U.S. Congress may attempt to prevent the implementation of some or all changes to the U.S. sanctions against Cuba. Finally, as of today, the U.S. sanctions against Cuba remain fully in place.

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