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## **U.S. Further Eases Restrictions on Cuba Travel and Financial Transactions**

In its most recent move in a series of changes designed to increase engagement between the United States and Cuba, and in line with the Administration's policy, on March 16, 2016, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) amended the existing Cuban Assets Control Regulations (Cuba Sanctions Regulations) in three key areas: (1) travel to Cuba, (2) financial transactions, and (3) establishment of physical presence (local offices) in Cuba. At the same time, the U.S. Department of Commerce Bureau of Industry and Security (BIS) amended the Export Administration Regulations (EAR) to simplify the transit of authorized cargo through Cuba, while making a more favorable licensing policy for U.S. exports of items that assist the Cuban private sector in exporting its goods.

These changes come a few days before President Obama's historic trip to Cuba, the first time a sitting president has visited Cuba in almost 90 years. While the amended regulations, effective immediately, continue to expand the number and scope of Cuba-related transactions in which U.S. persons can engage, they do not eliminate the United States' nearly comprehensive embargo on trade with Cuba. U.S. persons may not engage in Cuba-related transactions unless they meet the criteria for license exceptions or exemptions, or are otherwise authorized by specific license from the U.S. government.

### **OFAC Sanctions Revisions**

Specifically, OFAC implemented new measures in the following areas:

#### **1) Travel**

Educational travel and exchanges may now be conducted without a sponsoring organization. OFAC is authorizing people-to-people educational travel for individuals as long as the traveler engages in a full-time schedule of educational exchange activities. The educational exchange must support the U.S. policy of engagement with the Cuban people and the predominant part of the traveler's activities must not be with Government of Cuba or Cuban Communist Party officials.

## 2) Salaries for Cuban Nationals

OFAC is authorizing the hiring and payment of salaries to Cuban nationals in the United States on a nonimmigrant status.

## 3) Cuban-Origin Merchandise

U.S. persons located in a third country may now purchase Cuban-origin merchandise for personal consumption in a third country. They may not, however, bring such Cuban-origin merchandise into the United States, including as accompanied baggage.

## 4) Financial Transactions

The amended regulations remove three limitations to conducting transactions with Cuba or Cubans using the U.S. financial system.

- a. U-Turn Payments Through the U.S. Financial System. A funds transfer from a bank outside the United States may now pass through U.S. financial institutions (*e.g.*, through a U.S. correspondent account) before it is transferred to a non-U.S. bank outside the United States, as long as neither the beneficiary nor the originator is subject to U.S. jurisdiction.
- b. Processing of U.S. Dollar Monetary Instruments. U.S. banking institutions are now authorized in connection with authorized transactions to process U.S. dollar-denominated monetary instruments (*e.g.*, cash, certified or official checks, traveler's checks) when presented by banking institutions in third countries from Cuban financial institutions.
- c. Bank Accounts for Cuban Nationals. Cuban nationals may now open and maintain bank accounts in the United States in connection with authorized or exempt transactions. Cuban nationals may receive payments in the United States and remit such payments to Cuba.

## 5) Physical Presence

OFAC is expanding its existing authorization for U.S. persons to establish a physical presence, including an office or other physical facility, in Cuba for certain authorized purposes. U.S. persons may now establish a physical presence in Cuba for the following purposes:

- > To engage in authorized noncommercial activities relevant to Support for the Cuban People;
- > To engage in certain authorized humanitarian projects; and
- > Private foundations or research or educational institutes engaging in activities related to international relations or humanitarian projects.

## 6) Grants and Awards

U.S. persons are now authorized to provide educational grants, scholarships, or awards to Cuban nationals. Further, OFAC is clarifying that the provision of grants or awards for humanitarian projects in or related to Cuba are authorized as long as they directly benefit the Cuban people.

## 7) Telecommunications and Internet-Related Services

The import into the United States of Cuban-origin software is now authorized.

## Exports and Reexports to Cuba

Simultaneously with OFAC's regulatory amendments, BIS is similarly easing U.S. person transactions with Cuba, as follows:

### 1) Cargo Transit through Cuba

The transit of cargo through Cuban territory aboard a vessel that is passing through Cuban territory but destined for other countries is now permissible without a specific license.

### 2) Facilitating Exports of Items Produced by the Cuban Private Sector

BIS is amending its licensing policy for certain exports and reexports from the United States to Cuba. While most items continue to be subject to a licensing policy of denial, BIS will now review applications on a case-by-case basis to export and reexport items that will enable or facilitate exports by Cuba's private sector.

## Limits of Permissible Cuba Activities

Fundamentally, while the series of amendments of March 16, 2016, Jan. 27, 2016, Sept. 21, 2015, and Jan. 16, 2015, do ease certain restrictions on Cuba, significant sanctions and export controls remain in place. U.S. businesses and individuals should continue to exercise caution before pursuing opportunities in Cuba and carefully review the sanctions and export regulations to determine whether proposed activities are in fact permissible. U.S. persons doing business with Cuba should consult with their counsel regarding the implementation of sanctions and export compliance programs to avoid even inadvertent violations of the relevant laws.

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