

ARTICLE

U.S. Amends Cuban Sanctions Regarding Travel, Remittances and Banking

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On January 28, 2011, the Department of Treasury's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations (CACR) ^[1] to incorporate the Administration's policy changes announced on January 14. Consistent with the Administration's April 2009 initiative to promote human rights and democracy in Cuba and building upon amendments recently made to the CACR, ^[2] OFAC's most recent amendments are intended to, among other things, support civil society in Cuba and increase the flow of communication and information to, from, and among the Cuban people.

Specifically, these amendments: (1) expand authorizations for travel to Cuba for educational, cultural, religious and journalistic purposes; (2) expand the scope of general licenses for certain remittances to Cuba; (3) affirm that certain U.S. persons may open accounts in Cuba; and (4) authorize transactions with certain third-country Cuban nationals who can document that they are permanent residents of a country other than Cuba.

Travel

With respect to travel for educational activities, OFAC has amended 31 C.F.R. § 515.565 to include a new general license permitting accredited U.S. graduate and undergraduate institutions to engage in Cuba travel-related transactions incident to certain educational activities. This general license replaces the need to apply for a specific license for certain transactions related to educational studies in Cuba and broadens the scope of faculty and staff members eligible to engage in specified transactions. Further, the general license allows students to participate in academic activities in Cuba

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through *any* sponsoring U.S. academic institution, not only their home institution. In lieu of the requirement that an educational program be at least 10 weeks long, the amended regulations require only that the program of study in Cuba be accepted for credit towards the student's degree. In addition, OFAC has set forth specific licensing policies for certain incidental activities not authorized under the general license. OFAC now also affirms that U.S. academic institutions and U.S. students in Cuba may open accounts at Cuban financial institutions to access funds for permitted transactions in Cuba. Additionally, OFAC has restored a provision in the CACR that contemplates specific licenses authorizing educational exchanges that do not involve academic study but promote people-to-people contact.

In terms of travel for religious activities, OFAC has amended 31 C.F.R. § 515.566 to provide a new general license authorizing religious organizations to engage in Cuba travel-related transactions. Although incidental transactions may not be authorized under the general license, OFAC has announced its intent to consider specific licenses under this section. Consistent with the above clarifications allowing certain students and educational institutions to open accounts in Cuba, the CACR also now state that religious organizations may open accounts at Cuban financial institutions for access to funds in Cuba.

For other travel to Cuba, 31 C.F.R. § 515.567 has been revised to state that any clinics or workshops in Cuba must be organized and operated, at least in part, by the licensee to be eligible for a specific license under this Section. Moreover, 31 C.F.R. § 515.563 has expanded the scope of specific licensing authorization for journalistic activities in Cuba to include free-lance journalistic projects other than "articles."

Remittances

OFAC has expanded licensing of remittances to Cuba under 31 C.F.R. § 515.570. A new general license permits persons subject to U.S. jurisdiction to remit up to \$500 per quarter to any Cuban national (with the exception of a prohibited member of the government or the Cuban Communist party) in order to support business development and similar purposes. A second general license authorizes unlimited remittances to religious organizations in Cuba to promote religious activities. In addition, this section now includes a third general license authorizing remittances to close relatives who are authorized students in Cuba to finance certain transactions.

Authorization for Transactions with Certain Third-Country Cuban Nationals

The CACR amendments also provide a new general license authorizing certain transactions with Cuban nationals who can document their legal permanent residency outside of Cuba. Henceforth, persons subject to the jurisdiction of the U.S. may deal with third-country Cuban nationals as if they were unblocked Cuban nationals. To use this general license, persons subject to U.S. jurisdiction (e.g., a U.S. financial institution) must collect from each eligible individual at least two documents, issued by the relevant government authorities, establishing permanent residency status. Importantly, however, all property in which the Cuban nationals have an interest that was blocked prior to the issuance of these amendments or to the date on which the Cuban national became a permanent resident outside of Cuba remains blocked.

[1] See Cuban Assets Control Regulations: Final Rule, 76 Fed. Reg. 5,072 (Dep't Treasury Jan. 28, 2011).

[2] See U.S. Treasury Department Announces Amendments to OFAC's Cuba Regulations, Wiley Rein (Sept. 9, 2009).