

ALERT

Treasury Department Amends Cuba Sanctions, Expands Access to Internet and Financial Services for Cuban Nationals

June 4, 2024

On May 28, 2024, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) announced amendments to the Cuban Assets Control Regulations (CACR), which expand authorizations for certain financial and internet-based activities for Cuban nationals. OFAC's press release noted that the amended regulations seek to "promote internet freedom in Cuba, support independent Cuban private sector entrepreneurs, and expand access to certain financial services for the Cuban people." OFAC's amendments became effective upon publication of the final rule in the Federal Register on May 29, 2024.

The amendments expand and update the list of examples and definitions for authorized services under the CACR, including updating and clarifying authorizations in support of internet-based services, updating definitions to support independent Cuban private sector entrepreneurs, and expanding access to certain financial services for Cuban nationals, among other changes. OFAC also released six new, Cuba-related frequently asked questions (FAQs 1174-1179) and amended eight others (FAQs 732, 736, 745, 748, 757, 769, 770, and 785). Specifically, the amendments make the following changes:

- **Additional examples of authorized internet-based services:**
To keep pace with technological trends and consistent with changes OFAC previously made in its Iran sanctions program, OFAC provided additional examples of authorized services incident to the exchange of communications over the internet, such as social media platforms, video conferencing, e-gaming, user authentication, and instant translation services. The

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amendments clarify that cloud-based services may be exported to Cuba to support the exchange of communications over the internet.

- **Updated definition of independent private sector entrepreneurs:** OFAC replaced the definition of “self-employed individual” with a new definition for “independent private sector entrepreneur,” which includes self-employed individuals, such as owners or employees of private businesses or sole proprietorships, and private cooperatives or small private businesses that are wholly owned by or consist solely of these individuals. OFAC excluded prohibited officials of the Government of Cuba and members of the Cuban Communist Party from this definition. Among other activities, the provision of remittances to support the development of private businesses and operation of economic activity to, and the import of certain goods and services produced by, such independent private sector entrepreneurs are authorized under the CACR.
- **Authorization of U.S. bank accounts for Cuban nationals in the private sector:** Independent private sector entrepreneurs in Cuba are now permitted to open, maintain, and remotely use U.S. bank accounts, including through online payment platforms, to conduct authorized or exempt transactions, whether the independent private sector entrepreneurship is physically located in the United States, Cuba, or another territory. However, U.S. banking institutions may not open an account for a Cuban business that is wholly or partially owned by a prohibited government official or Communist Party member.
- **Reinstating authorization of “U-turn” transactions:** U.S. banking institutions are once again authorized to process “U-turn” transactions, which occur when fund transfers originate and terminate outside the United States and neither the originator nor the beneficiary is subject to U.S. jurisdiction. The amendments also authorize the unblocking and return of any transfer that would have been authorized under the reinstated authorization.
- **New email reporting requirement:** OFAC is replacing its fax and paper mail reporting process for telecom-related transactions in Cuba authorized under the general license in Section 515.542 of the CACR and now requires email reports.

The amendments reflect the Biden Administration’s continued efforts to alleviate economic pressures on Cuba’s private sector while managing ongoing tensions with the Government of Cuba. In May 2022, the Biden Administration announced several other changes that liberalized U.S. policy toward Cuba, including policies regarding family reunification, authorized travel, support for Cuba’s private sector, and family remittances. In June 2022, OFAC amended the CACR to authorize group people-to-people educational travel to Cuba and to remove certain restrictions on authorized academic educational activities; authorize travel to attend or organize professional meetings or conferences in Cuba; remove the \$1,000 quarterly limit on family remittances; and authorize donative remittances to Cuba. At a press conference on May 28, 2024 announcing the most recent amendments, Biden Administration officials confirmed that these amendments “fully implement” the Administration’s May 2022 policy announcement. Officials did not indicate any immediate plans to alter the comprehensive economic sanctions on Cuba. The amendments mark a return of policies to ease trade restrictions on Cuba. In 2015, the Obama Administration announced a series of amendments that

significantly liberalized restrictions on U.S. trade and investment in Cuba, which the Trump Administration partly reversed in 2017.

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