

Additional Amendments to Cuba Sanctions Regulations

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PRACTICE AREAS

- Cuba

Amendments Ease Financing Rules on Exports and Further Facilitate Travel to Cuba

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The U.S. Departments of the Treasury and the Department of Commerce issued additional amendments to the Cuban Assets Control Regulations and Export Administration Regulations, which went into effect on January 27, 2016.

The amendments to the Cuban Assets Control Regulations remove payment and financing restrictions for non-agricultural authorized exports and reexports to Cuba and further facilitate travel to Cuba. While the Department of Commerce new rule “builds on previous changes by authorizing additional exports including for such purposes as disaster preparedness; education; agricultural production; artistic endeavors; food processing; and public transportation,” according to U.S. Secretary of Commerce Penny Pritzker.

Since December 2014, the Obama administration has taken steps, through the amendment of existing regulations, to allow for greater people-to-people travel and commercial ties between the U.S. and Cuba. Although the U.S. embargo against Cuba remains in place, the revised regulations, published in January 2015, together with the September 2015 and the January 2016 amendments, signal the most significant change in U.S.-Cuba relations in recent history.

Among the major changes included in the new amendments to the Cuba Sanctions Regulations are:

Financing

- U.S. depository institutions are authorized to provide financing for authorized exports from the United States and reexports of 100 percent U.S.-origin items from a third country that are licensed or authorized by the Department of Commerce’s Bureau of Industry and Security (BIS), with the exception of agricultural items or commodities. Permissible payments and financing terms include: payment of cash in advance; sales on an open account; and financing, including issuance of letters of credit, by U.S. or third-country financial institutions.

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Exports

- *General policy of approval for certain exports and reexports.* New rules add a general policy of approval for exports and reexports of certain items, previously subject to case-by-case review, such as telecommunication items that would improve communications to, from, and among Cuban people; certain commodities and software to human rights organizations and non-governmental organizations intended to strengthen civil society in Cuba; commodities and software to U.S. news bureaus in Cuba; and certain agricultural items such as insecticide, pesticide and herbicides; and items necessary to ensure the safety of civil aviation and the safe operation of commercial aircraft engaged in international air transportation.
- *Case-by-case review for certain exports and reexports to meet the needs of the Cuban people.* The amendments adopt a case-by-case review for exports and reexports of certain items to meet the needs of the Cuban people, including items for agricultural production, artistic endeavors, education, food processing, disaster preparedness, relief and response, public health and sanitation, residential construction and renovation, construction of infrastructure (facilities for water treatment and for supplying electricity or other energy, sports and recreation facilities and other infrastructure that benefits Cuban people), and public transportation.

Travel

- *Air carrier services.* Authorizes the entry into blocked space, code-sharing or leasing arrangements to facilitate the provision of carrier services by air, including the entry into such arrangements with a national of Cuba.
- *Professional meetings and conferences.* General license to travel to Cuba to organize professional meetings or conferences in Cuba. The existing general license only permitted attendance at such meetings. The traveler's profession must be related to the organization of professional meetings or conferences or the traveler must be an employee or contractor of an entity organizing such meetings or conferences.
- *Transactions related to information and informational materials.* Expands general license authorizing travel-related and other transactions directly related to the export, import, or transmission of informational materials to include professional media or artistic productions in Cuba. For example, movies and television programs, music recordings, and the creation of artworks. Authorizes transactions related to creation, dissemination, artistic

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or other substantive alteration or enhancement of informational materials, including employment of Cuban nationals and remittance of royalties and other payments.

- *Public performances, clinics, workshops, athletic, and other competitions and exhibitions.* General license to travel to Cuba to organize amateur and semi-professional international sports federation competitions and public performances, clinics, workshops or other athletic or non-athletic competitions and exhibitions in Cuba. The requirements that U.S. profits from certain events must be donated to certain organizations and that certain events be run in part by U.S. travelers have been removed.
- *Temporary sojourn.* Personnel operating vessels or aircrafts are authorized to engage in travel-related and other transactions in Cuba to facilitate the temporary sojourn of aircraft and vessels, as authorized by the Department of Commerce, in connection with the transportation of authorized travelers between United States and Cuba.
- *Humanitarian projects.* Authorized humanitarian projects now include disaster preparedness, relief, and response; medical and health-related projects; historical preservation; environmental projects; and projects involving formal or non-formal educational training in Cuba or off-island on topics such as entrepreneurship and business, journalism, civil education, advocacy and organizing, adult literacy or vocational skills.

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