

ClientAlert

International Trade

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US Announces Liberalization of Cuba Sanctions Policy

On December 17, 2014, President Obama announced the relaxation of certain aspects of the comprehensive trade embargo against Cuba that the United States has maintained since the early 1960s. As set forth by the White House, the announced changes include a review of Cuba's status as a State Sponsor of Terrorism, facilitation of certain remittances to Cuba, authorization for US banks to open correspondent accounts at Cuban financial institutions, authorization for the use of US credit/debit cards in Cuba by travelers, authorization of certain exports of goods and services to Cuba, authorization of limited imports from Cuba by licensed US travelers to Cuba, and facilitation of certain travel to Cuba.

These changes will not take effect until they are implemented officially by the US Department of the Treasury's Office of Foreign Assets Control (OFAC) and the US Department of Commerce's Bureau of Industry and Security (BIS). Official implementation is expected to occur in the coming weeks. Until the changes become official, companies and individuals are expected to continue to comply with the existing economic and trade sanctions against Cuba.

Review of Cuba's Designation as a State Sponsor of Terrorism

The United States is initiating a review of Cuba's 1982 designation as a State Sponsor of Terrorism. Within six months, the State Department must provide a report to the President regarding Cuba's support for international terrorism.

Financial Sector Authorizations

A number of new measures will seek to liberalize certain financial transactions involving Cuba. For example, the definition of "cash in advance" in the regulations will be revised to specify that it means "cash before transfer of title." Currently, this is understood to mean that payment is received by the seller or the seller's agent prior to shipment of the goods from the port at which they are loaded, and relates, among other things, to licensed sales of agricultural products to Cuba. The White House has indicated that the revised definition will provide more efficient financing of authorized trade with Cuba.

Further, the present cap on authorized personal remittances will be raised from US\$500 to US\$2,000 per quarter. In addition, general licenses will authorize humanitarian remittances, support for the Cuban people, support for the development of private businesses in Cuba, and remittance forwarders.



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Finally, a number of authorizations are intended to benefit both US and non-US entities:

- Authorizations for US financial institutions and financial sector entities:
 - US financial institutions will be permitted to open correspondent accounts at Cuban financial institutions.
 - The use of US credit and debit cards in Cuba will be authorized for travelers to Cuba.
 - Accounts at US banks of Cuban nationals residing outside of Cuba will be unblocked.
- Authorizations for non-US entities:
 - US-owned or controlled entities in third countries will be authorized to provide services to and engage in financial transactions with Cuban individuals in third countries.

Export and Import Authorizations

The United States will authorize the export of certain building materials for private residential construction, goods for use by private sector Cuban entrepreneurs, and agricultural equipment for small farmers. It will also authorize the export of certain items that contribute to the ability of the Cuban people to communicate with persons around the world, including certain consumer communications devices, related software, applications, hardware, and services, and items for the establishment and update of communications-related systems. In furtherance of this, telecommunications providers will be permitted to establish necessary mechanisms for commercial telecommunications and internet services, including the provision of infrastructure.

Further, licensed US travelers to Cuba will be authorized to import US\$400 worth of goods from Cuba. No more than US\$100 of this amount can include tobacco and alcohol products combined.

Travel-Related Authorizations:

Authorized travelers in the following categories will be permitted to travel to Cuba under general licenses:

- Family visits
- Official business of the US government, foreign governments, and certain intergovernmental organizations
- Journalistic activity

- Professional research and professional meetings
- Educational activities
- Religious activities
- Public performances, clinics, workshops, athletic and other competitions, and exhibitions
- Support for the Cuban people
- Humanitarian projects
- Activities of private foundations or research or educational institutes
- Exportation, importation or transmission of information or informational materials
- Certain export transactions that may be considered for authorization under existing regulations and guidelines

Authorized travel may be arranged through service providers complying with OFAC's regulations governing travel services to Cuba, which will themselves be authorized to provide these services under a general license. As a result, the White House has stated it will be easier to provide business training for Cuban businesses and small farmers. The United States will also consider policies for travel that would promote the growth of entrepreneurship and the private sector in Cuba.

US persons will also be permitted to participate in third-country professional meetings and conferences related to Cuba. Further, foreign vessels will be permitted to enter the United States after engaging in certain humanitarian trade with Cuba.

As indicated, these measures are not effective until they are officially implemented by OFAC and BIS. This change in US policy will affect both US and non-US companies seeking to engage in trade with Cuba.

Companies doing business or wishing to do business with Cuba should monitor these developments closely to ensure compliance. The White House emphasized that "Persons must comply with all provisions of the revised regulations; violations of the terms and conditions are enforceable under US law." Penalties for noncompliance can be severe.