

OFAC Amends Cuba Sanctions Regulations to Remove “U-Turn” General License and Impose Limits on Remittances

September 11, 2019

On September 9, 2019 the U.S. Treasury Department’s Office of Foreign Assets Control (“**OFAC**”) published a **final rule** (the “Rule”) amending the Cuban Assets Control Regulations (“**CACR**”), 31 C.F.R. part 515, to: (1) remove the general license authorizing so-called “U-Turn” transactions involving Cuba; and (2) impose limits on authorized remittances to Cuba, including by re-establishing monetary caps on family remittances and removing a broad general license authorizing “donative” remittances to Cuban nationals. These changes to the CACR will become effective 30 days from the date of the Rule, on **October 9, 2019**.

The Rule implements changes announced in an April 2019 **policy speech** by National Security Adviser John Bolton, and follows June amendments to the **CACR** and the **Export Administration Regulations**, which respectively ended authorizations for group “people-to-people” travel and the use of non-commercial aircraft or passenger vessels, including cruise ships, for Cuba-related travel. These changes are the latest step in a partial rollback by the Trump administration of the significant easing in Cuba sanctions that occurred under the Obama administration. In particular, the current policy appears intended to further restrict transactions that generate revenue for the Cuban government, in response to, among other things, that government’s support for the Maduro regime in Venezuela.

We provide below additional details of these regulatory changes.

Revocation of the “U-Turn” General License

The most significant change resulting from the Rule is the revocation of the U-Turn general license, 31 C.F.R. § 515.584(d), which authorizes “banking institutions”¹ that are persons subject to U.S. jurisdiction to process funds transfers involving Cuba that originate and terminate outside the United States, provided that neither the originator nor the beneficiary is a person subject to U.S. jurisdiction. Effective October 9, 2019, this authorization will be removed and replaced by an authorization for such banking institutions to reject, rather than block, funds transfers that would previously have qualified for the U-Turn authorization.

In a conforming change, OFAC is also amending 31 C.F.R. § 515.584(e) to remove the authorization for the unblocking of previously blocked funds transfers that would have qualified for the U-Turn authorization had it been in effect at the time of the transaction.

¹ The term “banking institution” includes any person engaged primarily or incidentally in the business of banking, of granting or transferring credits, or of purchasing or selling foreign exchange or procuring purchases and sellers thereof, as principal or agent, or any person holding credits for others as a direct or incidental part of his business, or any broker. 31 C.F.R. § 515.314.

New Limits on Remittances

With respect to remittances, OFAC is amending 31 C.F.R. § 515.570(a), which authorizes adult persons subject to the jurisdiction of the United States to make remittances to Cuban nationals who are “close relatives”² of the remitter, to impose the following new restrictions:

- The remitter’s total family remittances to any one Cuban national may not exceed \$1,000 in any consecutive three-month period; and
- The recipient may not be a “close relative” of a prohibited official of the Government of Cuba or prohibited member of the Cuban Communist Party (collectively, “**Prohibited Officials**”).³ Previously, only the Prohibited Officials themselves were excluded from the remittance authorization.⁴

OFAC is also removing from the CACR the broad authorization in 31 C.F.R. § 515.570(b) for “donative” remittances to Cuban nationals other than Prohibited Officials, as well as the associated general license at 31 C.F.R. § 515.570(h) authorizing the unblocking of previously blocked remittances that would have qualified for that broad authorization had it been in place at the time of the transaction.

Finally, OFAC is clarifying the authorization in 31 C.F.R. § 515.570(g)(3) for remittances to individuals and independent non-governmental organizations in Cuba to support the development of private businesses. The amended authorization will permit such remittances to support the development of private businesses, and operation of economic activity in the non-state sector by “self-employed individuals.” A new provision, 31 C.F.R. § 515.340, defines the term “self-employed individuals” to include:

- An owner or employee of a small private business or a sole proprietorship, including restaurants (paladares), taxis, and bed-and-breakfasts (casas particulares);
- An independent contractor or consultant;
- A small farmer who owns his or her own land; or
- A small usufruct farmer who cultivates state-owned land to sell products on the open market.

As with the revocation of the U-Turn license, these changes all take effect on October 9, 2019. Banking institutions, including U.S.-registered money transmitters, continue to be authorized pursuant to 31 C.F.R. § 515.572(a)(3) to provide services in connection with the collection, forwarding, or receipt of authorized remittances, and the Rule makes no changes to this general license. As yet, OFAC has not provided any guidance with respect to its expectations as to what steps, if any, banking institutions should take to ensure that their customers comply with new requirements under the Rule. Amended [Cuba Frequently](#)

² The term “close relative” means any individual related to a person by blood, marriage, or adoption who is no more than three generations removed from that person or from a common ancestor with that person. 31 C.F.R. § 515.339.

³ The term “prohibited official of the Government of Cuba” means Ministers and Vice-Ministers; members of the Council of State and the Council of Ministers; members and employees of the National Assembly of People’s Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors, and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; and members and employees of the Supreme Court (Tribuno Supremo Nacional). 31 C.F.R. § 515.337. “Prohibited member of the Cuban Communist Party” means members of the Politburo. 31 C.F.R. § 515.338.

⁴ In a conforming change, OFAC also is amending 31 C.F.R. § 515.570(g), which authorizes certain remittances from blocked sources, so that this authorization also excludes remittances to close relatives of Prohibited Officials.

Asked Questions (“**FAQs**”) published by OFAC in connection with the announcement of the Rule merely restate the content of the regulatory changes.

Looking Forward on Cuba

The Rule appears to complete the implementation of the policy changes announced in Ambassador Bolton’s April speech. Additional tightening of sanctions remains possible, however, either as part of the Trump administration’s ongoing response to the situation in Venezuela, or in support of President Trump’s 2020 re-election campaign in Florida.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

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