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Executive order authorizes secondary sanctions on companies doing business in targeted Cuban sectors

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The U.S. government increases pressure on Cuba with a new executive order authorizing broad sectoral and secondary sanctions, which appears intended to discourage non-Cuban companies from doing business in Cuba.

In an escalation of the U.S. government's ongoing efforts to increase economic pressure on Cuba, President Trump issued new Executive Order (E.O.) 14404, "Imposing Sanctions on Those Responsible for Repression in Cuba and for Threats to United States National Security and Foreign Policy."[1] E.O. 14404 effectively creates a new secondary sanctions regime targeting entities doing business with Cuba by authorizing the imposition of blocking sanctions on third-country actors that are operating in certain sectors of the Cuban economy, including financial services and mining. The E.O. also authorizes the imposition of blocking sanctions on persons providing support or services to the Cuban government or to persons designated pursuant to the E.O., as well as the imposition of correspondent account or blocking sanctions on foreign financial institutions that engage in significant transactions with persons sanctioned under the E.O. The new E.O. is separate from and does not affect the longstanding Cuba embargo implemented under the Cuban Assets Control Regulations (CACR), 31 C.F.R. part 515, including by making allowances for the continuation of transactions licensed or otherwise permitted under the CACR, and the secondary sanctions regime does not apply to entities sanctioned under other Cuba-related authorities.

E.O. 14404 creates new sanctions risks for third-country companies doing business in Cuba, particularly where such business involves the sectors of the Cuban economy identified in the E.O. or persons that are or may be designated under the E.O. These risks were made more concrete by the first designations under the order, announced on May 7, 2026 and targeting Cuba's Grupo de Administracion Empresarial S.A. (GAESA), a military-controlled umbrella organization that reportedly controls a substantial portion of Cuba's economy, and Moa Nickel SA (MNSA), a major nickel and cobalt producer and joint venture with a publicly traded Canadian company, Sherritt International.[2] As with other secondary sanctions authorities, the goal of E.O. 14404 is likely to induce "voluntary" withdrawal from dealings with Cuba and sanctioned entities (indeed, Sherrit has already announced its withdrawal from the Moa joint venture), and it seems likely that the E.O. will result in entities' derisking from Cuba rather than extensive targeting of third-country actors with actual sanctions. Non-U.S. companies that do business in Cuba (and in particular those that have operated in targeted sectors of the Cuban economy or deal with designated entities) will need to carefully weigh the new risk environment.

We provide below an overview of the sanctions outlined in the E.O. and their implications.

Overview of the executive order

E.O. 14404 is issued under the authority of the International Emergency Economic Powers Act (IEEPA) and relies on the national emergency declared with respect to Cuba in another IEEPA-based executive order issued in January of this year, E.O. 14380, which authorized the imposition of tariffs on countries selling oil to Cuba.[3] It reinforces the ongoing efforts of the U.S. government to apply economic pressure with the goal of inducing political change in Cuba, a policy that has been pursued without success for more than 60 years but has been reinvigorated following U.S. actions in

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Venezuela earlier this year, which removed a key economic lifeline for the Cuban government.

Scope of sanctions under E.O. 14404

Broadly speaking, the E.O. establishes a sectoral and secondary sanctions regime targeting Cuba that is similar in many respects to the types of measures the U.S. government has used in recent years to target Iran, Russia, and Venezuela. Since Cuba has long been subject to a comprehensive embargo under the CACR that includes blocking sanctions applicable to all Cuban nationals in Cuba, the E.O. will not meaningfully change the sanctions prohibitions applicable to Cuba or Cuban nationals or the compliance obligations of persons transacting within U.S. jurisdiction; rather it appears aimed at third-country companies that do business in Cuba that had previously been outside of U.S. sanctions enforcement jurisdiction. E.O. 14404 now provides a basis for the U.S. government to impose sanctions on such companies if they engage with certain sectors of the Cuban economy or certain Cuban persons that are or may be identified pursuant to the E.O.

Specifically, Section 1 of the E.O. authorizes the imposition of blocking sanctions on foreign persons determined to:

1. **operate in or have operated in the energy, defense and related materiel, metals and mining, financial services, or security sector of the Cuban economy, or other sectors that may subsequently be identified by the Secretary of State or Secretary of the Treasury**;
2. be owned, directly or indirectly, controlled or directed by, or act on behalf of the Government of Cuba or persons designated under the E.O.;
3. own or control, directly or indirectly, persons designated under the E.O..;
4. **have materially assisted sponsored, or provided financial, material or technological support for, or goods or services to or in support of, the Government of Cuba or persons designated under the E.O.;**
5. be or have been a leader, official, senior executive officer, or member of the board of directors of the Government of Cuba or an entity designated under the E.O.;
6. be a political subdivision, agency, or instrumentality of the Government of Cuba;
7. be responsible for or complicit in, or have directly or indirectly engaged or attempted to engage in, serious human rights abuse in Cuba;
8. be responsible for or complicit in, or to have directly or indirectly engaged or attempted to engage in, corruption related to Cuba, including corruption by, on behalf of, or otherwise related to the Government of Cuba, or a current or former official at any level of the Government of Cuba, such as the misappropriation of public assets, expropriation of private assets for personal gain or political purposes, or bribery; or
9. be an adult family member of a person designated under the E.O.

Persons designated pursuant to Section 1 of the E.O. will be subject to standard blocking sanctions, meaning that their property and property interests subject to U.S. jurisdiction will be blocked and may not be transferred or otherwise dealt in, and transactions with the blocked persons by U.S. persons or otherwise falling within U.S. jurisdiction will be prohibited unless licensed by OFAC or exempt. Cuban nationals who may be sanctioned under the E.O. are already subject to comparable prohibitions under the CACR.

The first and fourth designation prongs (noted in bold text above) are the key provisions that create risk for third-country actors. Based on experience in other sanctions program, we expect that the implementing agencies will interpret these provisions broadly, and in particular that they will not consider targeting under those provisions to be limited to third-country companies that are physically present in Cuba. For example, similar sector-based designation criteria have been used in the Russia sanctions programs to impose or threaten to impose sanctions on companies that have supplied goods and services from outside of Russia to persons operating in specified sectors of the Russian economy.

Individuals sanctioned pursuant to Section 1 of the E.O. are also made subject to State Department-administered visa sanctions under Section 3 of the E.O., meaning that they will generally be ineligible for entry into the United States.

Section 4 of the E.O. authorizes the imposition of correspondent account or blocking sanctions on foreign financial institutions determined to have conducted or facilitated a significant transaction or transactions for or on behalf of any person subject to blocking sanctions under the E.O. Authority to administer these sanctions is delegated to the Secretary of the Treasury and will presumably be re-delegated within Treasury to the Office of Foreign Assets Control (OFAC).

Interaction with the CACR

Section 1(b) of the E.O. provides that blocking sanctions imposed under the order shall not affect the validity of licenses issued under the CACR. OFAC has implemented this provision through the issuance of Cuba-related General License 1, which authorizes all transactions prohibited by E.O. 14404 to the extent such transactions are authorized (by either

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general or specific license) or exempt under the CACR. This ensures that existing licensed transactions can continue notwithstanding the involvement of Cuban nationals that become sanctioned under the new order. Additionally, because the U.S. government has a general policy of not imposing secondary sanctions on a non-U.S. person for activity that would be permissible for a U.S. person, existing general licenses and other authorizations under the CACR should provide a guide as to the types of activity that will not expose third-country companies to secondary sanctions risk.

Sectoral sanctions with potential for significant impact outside of Cuba

While E.O. 14404 expressly targets the energy, defense and related materiel, metals and mining, financial services, and security sectors in Cuba, the sectors that will likely have the most impact on businesses outside of Cuba are the metals and mining and financial services sectors, and potentially the energy sector. Unlike defense and security, which are largely controlled and insulated from non-Cuban involvement by the Cuban government, there is a significant non-Cuban presence operating in the metals and mining and financial services sectors in Cuba. Non-Cuban companies may also be involved in providing fuel or equipment to the Cuban energy sector. This puts those businesses that may rely on or have meaningful Cuban operations in a difficult position, having to face the risks of exposure to secondary sanctions, while also potentially taking on costs to reduce or wind down activities in Cuba. This difficulty will likely be compounded by the first designations under the E.O. targeting GAESA, an umbrella organization with broad reach within Cuba's financial services, tourism, and retail and wholesale trade sectors, and MNSA, a major metals producer.

In an apparent effort to incentivize wind-down, OFAC issued a response to Frequently Asked Questions (FAQ) stating that the U.S. government does not intend to target foreign persons under E.O. 14404 for engaging in wind-down transactions involving GAESA or entities that it owns through June 5, 2026.[4] Notably, however, the FAQ also cautions foreign persons engaging in such wind-down transactions against returning assets to blocked persons, or transferring such assets to third countries where they may be made available to such persons. Additionally, this grace period apparently does not extend to wind-down transactions involving MNSA.

Non-U.S. persons should monitor for further designations and guidance regarding the E.O. and take proactive steps to assess potential exposure and review compliance policies and procedures. Non-U.S. persons can likely look to similar sanctions programs, such as Iran, Russia and Venezuela to get a sense of how sanctions under E.O. 14404 may evolve. U.K., E.U., and Canadian businesses will also need to navigate how to mitigate sanctions risk under the E.O. in relation to their country's respective blocking statutes, each of which prohibit each country's respective citizens from complying with certain extra-territorial U.S. sanctions in respect to Iran and Cuba.[5]

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

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[1] 91 Fed. Reg. 25061 (May 7, 2026).

[2] *See* "U.S. Sanctions Target Cuba's Military Regime, Elites" (May 7, 2026), *available at* https://www.state.gov/releases/office-of-the-spokesperson/2026/05/u-s-sanctions-target-cubas-military-regime-elites/.

[3] E.O. 14038 of January 29, 2026, "Addressing Threats to the United States by the Government of Cuba," 91 Fed. Reg. 5085 (Feb. 3, 2026). The tariff-related provisions of E.O. 14038 were rescinded in February 2026 following the Supreme Court decision holding that IEEPA does not authorize the imposition of tariffs. *See* E.O. 14389 of February 20, 2026, "Ending Certain Tariff Actions," 91 Fed, Reg, 9437 (February 20, 2026).

[4] OFAC, FAQ 1254, *available at*, https://ofac.treasury.gov/faqs/1254. U.S. persons may not participate in or facilitate such wind-down transactions, which would be prohibited by both E.O. 14404 and the CACR.

[5] *See* Council Regulation (EC) 2271/96 (which has also been implemented by the United Kingdom); *see also* Foreign Extraterritorial Measures Act (FEMA).

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