

President Obama Announces Significant Relaxation of U.S. Sanctions Against Cuba

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International Trade Controls

The Obama Administration today announced a significant relaxation of the U.S. sanctions against Cuba, which have been in place for more than 50 years, as part of a broader effort to re-establish diplomatic relations with Cuba. While no changes have yet occurred, the reforms once implemented will authorize additional types of travel to Cuba; the export of certain commercial items to Cuba, such as building materials and agricultural equipment; and the export of certain consumer communications devices and services to Cuba.

The changes announced today will not become effective until they are implemented by amendments to U.S. sanctions and export control regulations, which are administered by the Departments of the Treasury and Commerce, respectively. However, because some of the U.S. sanctions against Cuba are imposed by statute, authorization of Congress would be required to change certain aspects of the embargo. It is unclear at this point whether any of the specific reforms the Obama Administration has announced would require such authorization, and how Congress will respond to any requests for legislative changes relating to the embargo.

The Treasury Department's Office of Foreign Assets Control ("OFAC"), which administers most of the sanctions that target dealings with Cuba by U.S. persons and their owned or controlled non-U.S. affiliates, has stated that it will implement the Treasury-specific changes through amendments to its Cuban Assets Control Regulations, and that it expects to issue these amendments in the coming weeks. The Department of Commerce will implement the remainder of the reforms by amendments to its Export Administration Regulations, which regulate exports from the United States to Cuba, as well as reexports to Cuba of U.S.-origin items and non-U.S.-origin items that contain U.S. content above certain levels.

Key elements of the reforms, based on information released today by the Administration, are the following:

- *Expanded commercial sales/exports from the United States.* The planned changes include authorizations for the export to Cuba of certain building materials for private residential construction, goods for use by Cuban entrepreneurs in the private sector, and agricultural equipment for small farmers.
- *Telecommunications.* The sale of certain consumer communications devices, related software, applications, hardware, and services, and items for the establishment and update of communications-related systems, will be authorized. Telecommunications providers will be permitted to establish the necessary mechanisms, including infrastructure, in Cuba to provide commercial telecommunications and internet services.
- *U.S.-owned or controlled entities in third countries.* U.S.-owned or -controlled entities in third countries will be generally licensed to provide services to, and engage in financial

transactions with, Cuban individuals in third countries. General licenses will also be issued to unblock the accounts at U.S. banks of Cuban nationals who have relocated outside of Cuba, permit U.S. persons to participate in third-country professional meetings and conferences related to Cuba, and allow the entry into the United States of foreign vessels that have engaged in certain humanitarian trade with Cuba, among other measures.

- *Expansion of travel.* Building from existing regulations, general licenses will be made available for all authorized travelers in 12 categories: (1) family visits; (2) official business of the U.S. government, foreign governments, and certain intergovernmental organizations; (3) journalistic activity; (4) professional research and professional meetings; (5) educational activities; (6) religious activities; (7) public performances, clinics, workshops, athletic and other competitions, and exhibitions; (8) support for the Cuban people; (9) humanitarian projects; (10) activities of private foundations or research or educational institutes; (11) exportation, importation, or transmission of information or informational materials; and (12) certain export transactions that may be considered for authorization under existing regulations and guidelines. Authorized travelers will be permitted to make travel arrangements through any service provider that complies with OFAC regulations governing travel to Cuba.
- *Financial services.* U.S. institutions will be permitted to open correspondent accounts at Cuban financial institutions to facilitate the processing of authorized transactions. U.S. credit and debit cards will be permitted for use by travelers to Cuba. In addition, the definition of “cash in advance” will be revised to specify that it includes cash prior to transfer of title to goods, which should facilitate U.S. trade with Cuba.
- *Remittances.* The revised regulations will increase the permitted remittance levels from \$500 to \$2,000 per quarter for general donative remittances to Cuban nationals (except to certain officials of the government or the Communist party). In addition, donative remittances for humanitarian projects, support for the Cuban people, and support for the development of private businesses in Cuba will no longer require a specific license.
- *Imports from Cuba.* Licensed U.S. travelers to Cuba will be authorized to import \$400 worth of goods from Cuba into the United States, of which no more than \$100 can consist of tobacco products and alcohol.

The move to reform sanctions is accompanied by other changes. For example, the President directed the Secretary of State to immediately initiate discussions with Cuba on the reestablishment of diplomatic relations, including establishing a U.S. embassy in Havana. In addition, the President directed the Secretary of State to review whether Cuba should continue to be designated as a state sponsor of terrorism, and announced that the U.S. government will work with the governments of Cuba and Mexico to discuss shared maritime boundaries in the Gulf of Mexico.

We are following these sanctions developments closely and will provide further updates as the situation develops. In addition, Covington has launched a Cuba Working Group to assist clients in assessing and complying with changes in U.S. sanctions, taking advantage of new business opportunities that may develop with respect to Cuba, shaping additional policy changes by the Administration or Congress, and preserving U.S. claims regarding Cuban property. Covington’s Working Group is being co-chaired by Dr. Arturo Valenzuela, former Assistant Secretary for Western Hemisphere Affairs in the U.S. Department of State, and former Deputy U.S. Trade Representative John Veroneau.

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