

Client Alert

April 2015

Focus on Cuba

On April 14, 2015, the White House announced that President Obama intends to remove Cuba from the government's list of nations that sponsor terrorism. This decision follows a series of important changes to US policies and regulations affecting business and commercial transactions between the United States and Cuba. As part of its ongoing effort to keep the public informed regarding these changes, on April 16, 2015 the Department of the Treasury's Office of Foreign Assets Control (OFAC) updated its Frequently Asked Questions (FAQs) pertaining to the Cuban Assets Control Regulations (CACR). Among the updates provided are:

- **Travel and Trade:** Authorized trade delegations generally fall under one of two categories authorized by the CACR: (1) transactions incident to the exportation of certain authorized good from the United States to Cuba, see 31 CFR § 515.533(d); and (2) transactions related to professional research or professional meetings in Cuba, see 31 CFR § 515.564(a). Neither of these general licenses authorizes the establishment of a permanent physical presence in Cuba. OFAC's general license allowing carrier service to Cuba does not include travel by boat, which still requires a specific license from OFAC. A person who is authorized to travel to Cuba pursuant to an OFAC general or specific license may use a personal boat for his or her travel to Cuba, but must obtain a license from the Bureau of Industry and Security (BIS) for the temporary stay of the boat in Cuba.
- **Banking and Financing:** Pursuant to Section 515.584(c) of the CACR, US financial institutions may permit the use of credit and debit cards by, and process credit and debit card transactions for, third-country nationals traveling to, from, or within Cuba.

The updated FAQs further clarify the types of microfinancing allowed pursuant to Section 515.575 of the CACR, which include the provision of certain financial services to individuals and entities who have limited access to conventional banks or other financing resources. Pursuant to Section 515.570(g)(1) of the CACR, remittances to individuals or independent non-governmental entities in Cuba are allowed to support authorized microfinancing projects. Sections 515.575 and 515.570(g)(1) do not authorize financing related to transactions involving confiscated property, the claim to which is owned by a US national, which are expressly prohibited by Section 515.208 of the CACR.

- **Importation of Cuban goods into the United States:** Section 515.582 of the CACR provides that certain goods or services produced by independent Cuban entrepreneurs may be imported directly from Cuba, as set forth on a list maintained by the State Department on its website. This list references sections and chapters of the US International Trade Commission's Harmonized Tariff Schedule (HTS) to indicate the categories of goods that are not eligible for importation, even if such goods were produced by independent Cuban entrepreneurs. Subject to the requirements set forth in Section 515.582 and all other relevant requirements under state and federal law and regulations, any other goods and all services supplied by independent Cuban entrepreneurs may be imported into the United States.

Hunton & Williams will continue to closely monitor this issue. Please contact us if you have any questions or would like further information.

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