

Client Alert

September 2019

OFAC Amends the Cuban Assets Control Regulations

What Happened: On September 6, 2019, the Department of Treasury's Office of Foreign Assets Control (OFAC) further implemented President Donald J. Trump's foreign policy toward Cuba by amending the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR), as it relates to remittances and certain financial transactions. Additionally, OFAC published a number of Frequently Asked Questions and a Fact Sheet concerning this amendment. The amendment to the CACR took effect upon publication in the Federal Register on Monday, September 9, 2019.

The Bottom Line: OFAC is amending the CACR to eliminate the authorizations of the "U-turn" general license for banking institutions subject to US jurisdiction and impose new requirements regarding remittances to Cuba. Thus, financial institutions and other persons engaged in financial transactions involving Cuba that are persons subject to US jurisdiction should familiarize themselves with these amendments and actively monitor the development of US sanctions toward Cuba to ensure that present and future transactions comply with the CACR.

The Full Story:

On September 6, 2019, OFAC amended the CACR to further incorporate the president's foreign policy toward Cuba as announced in a foreign policy address on April 17, 2019. These amendments take effect on October 9, 2019.

Prior to OFAC's amendment of the CACR, US banking institutions were authorized to process "U-turn" transactions, or funds transfers originating and terminating outside the United States, provided that neither the originator nor the beneficiary is a person subject to US jurisdiction. The recent amendment, however, amends the general license relating to U-turn transactions, eliminating the authorization for banking institutions subject to US jurisdiction to process such transactions. Instead, the amended general license authorizes these banking institutions to reject U-turn transactions, subject to certain conditions. The result of this new, more limited authorization is that banking institutions subject to US jurisdiction will be required to either block U-turn transactions or reject them.

Concurrently, OFAC has imposed new requirements and limitations regarding the types of remittances persons subject to US jurisdiction are allowed to make to persons in Cuba. Specifically, OFAC has eliminated the authorization for donative remittances and amended the general licenses concerning family remittances and remittances to certain individuals and independent nongovernmental organizations in Cuba. Regarding family remittances, OFAC has placed a \$1,000 cap on the amount one remitter can send to one Cuban national as a family remittance in any consecutive three-month period. OFAC has also prohibited family remittances to prohibited Cuban officials and members of the Communist Party, as well as any of their close relatives. Regarding remittances to independent nongovernment organizations, OFAC has added a provision to authorize remittances to support self-employed individuals (e.g., *cuentapropistas*) in Cuba, as defined by the CACR, in an attempt to promote the growth of the Cuban private sector.

Financial institutions subject to US jurisdiction and engaging in activities related to the US sanctions toward Cuba should familiarize themselves with OFAC's amendment of the CACR in order to comply with OFAC's requirements.

The Latin America practice group and the international and cross-border transactions practice at Hunton Andrews Kurth LLP will continue to closely monitor related developments regarding US sanctions with respect to Cuba. Please contact us if you have any questions or would like further information regarding the Cuban Assets Control Regulations or sanctions governing the Cuban embargo.

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