

# Client Alert

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## Normalization of U.S. Relations with Cuba Will Lead to New Export and Transaction Opportunities

On December 17, 2014, President Obama announced a dramatic change in U.S. policy toward Cuba. The White House declared that five decades of sanctions against Cuba have “failed to accomplish our objective of empowering Cubans to build an open and democratic country,” and have failed to advance American interests. As a result, the Obama Administration will be taking steps to normalize relations with Cuba, beginning with efforts by U.S. Secretary of State John Kerry to re-establish diplomatic ties.

This new policy of engagement is expected to result in amended regulations that will allow for increased travel and flow of money, goods, and information between Cuba and the United States. Lifting the embargo currently in place against Cuba would require Congressional approval, but the Office of Foreign Assets Control (OFAC) and the Department of Commerce will make certain changes to the restrictions against Cuba in the coming weeks by amending the Cuban Assets Control Regulations (“CACR”) and the Export Administration Regulations. As OFAC **stated** immediately following the President’s announcement, **any changes are not effective until the revised regulations are released**; all current restrictions on travel and trade with Cuba remain in force until further notice. Looking ahead, however, the Administration is **expected to** make the following limited changes:

### Exports

- Authorize the export of **certain** goods from the United States to Cuba, including construction materials for the private sector, goods for use by entrepreneurs, and agricultural equipment for small farmers, to bolster Cuba’s “nascent private sector;” and
- Authorize the export of **certain** telecommunications materials to Cuba, including communication devices and related software, hardware, applications, and services, to increase the Cuban people’s access to the internet and other technology, and enable providers to establish commercial telecommunications and the internet in Cuba.

### Imports

- Allow authorized travelers to import up to \$400 of Cuban goods into the United States, with a \$100 cap on tobacco and alcohol products, combined.

## Travel

- Issue general licenses permitting travel for existing categories of travel to Cuba, including official U.S. government business and for exportation, importation, or transmission of information or informational materials. These general licenses also will cover travel that has historically been reviewed under a favorable licensing policy, *i.e.*, family visits, as well as for a variety of journalistic, cultural, educational, research, religious, and humanitarian activities. Additionally, general licenses will be made available for authorized travelers to conduct **certain** export activities that “may be considered for authorization under existing regulations and guidelines.” General licenses will now authorize any travel service provider that complies with OFAC’s policies to facilitate travel.

## Financial Transactions

- Raise the cap on financial remittances from \$500 to \$2,000 per quarter, and no longer require remittance forwarders to obtain a specific license from OFAC for their activities;
- Allow travelers to use U.S. credit and debit cards in Cuba;
- Permit U.S. institutions to open correspondent accounts in financial institutions in Cuba; and
- For financial transactions in the sale of goods, make it easier to pay for goods by amending the definition of “cash in advance” in the CACR to make clear that it means “cash before transfer of title,” which will now allow payments to be made while licensed goods are in transit.

## Third-Country Provisions

- Allow U.S. entities in third countries “to provide services to, and engage in financial transactions with, Cuban individuals in third countries,” and unblock U.S. bank accounts of Cuban nationals residing outside of Cuba;
- Allow U.S. persons to participate in “third-country professional meetings and conferences related to Cuba;” and
- Allow “foreign vessels to enter the United States after engaging in certain humanitarian trade with Cuba.”

President Obama announced he also will be engaging with Congress to discuss lifting the comprehensive embargo on Cuba. Additionally, the President has ordered a review of Cuba’s designation as a State Sponsor of Terrorism, which would ease the current export licensing requirements on dual-use goods, software, and technology, and will welcome the participation of Cuban civil society in the upcoming 2015 Summit of the Americas in Panama. The Administration also reaffirmed its commitment to promoting democracy, human rights, and civil society in Cuba.

King & Spalding will continue to monitor the situation and will release additional guidance as the new regulations are implemented in the coming weeks. Please contact us if you would like more information on anticipated changes to the Cuban sanctions regulations.



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