



DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is amending the Cuban Assets Control Regulations to further implement portions of the President’s foreign policy toward Cuba. This rule amends and, in one case, removes certain authorizations for remittances to Cuba, and the rule also amends the general license relating to “U-turn” financial transactions to eliminate the authorization to process such transactions and instead only allow the rejection of such transactions.

DATES: Effective: [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury’s Office of Foreign Assets Control: Assistant Director for Licensing, 202-622-2480, Assistant Director for Regulatory Affairs, 202-622-4855, or Assistant Director for Sanctions Compliance & Evaluation, 202-622-2490.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC’s website (www.treasury.gov/ofac).

Background

The Department of the Treasury issued the Cuban Assets Control Regulations, 31 CFR part 515 (the “Regulations”), on July 8, 1963, under the Trading With the Enemy Act (50 U.S.C. 4301-41). OFAC has amended the Regulations on numerous occasions. In particular, on November 9, 2017, OFAC, the Department of Commerce’s Bureau of Industry and Security (Commerce), and the Department of State (State) took coordinated actions to implement National Security Presidential Memorandum-5, “Strengthening the Policy of the United States Toward Cuba,” signed by the President on June 16, 2017 (NSPM-5). Most recently, effective June 5, 2019, OFAC further restricted non-family travel by removing an authorization for group people-to-people educational travel (84 FR 25992). OFAC took the June 5, 2019 action in order to further implement NSPM-5 and the President’s foreign policy toward Cuba, as announced in an April 17, 2019 foreign policy address (April 2019 Address).

The April 2019 Address also announced forthcoming regulatory changes to impose new limits on remittances and to end the use of “U-turn” transactions. Today, OFAC, in consultation with State, is taking additional action to implement those announced changes, as set forth in more detail below. This rule provides for a 30-day implementation period before it is effective in order to allow for technical implementation of these additional restrictions.

Remittances

In accordance with the April 2019 Address, OFAC is amending several authorizations related to remittances set forth in § 515.570. OFAC is amending § 515.570(a), which authorizes family remittances, to place a cap of \$1,000 as the maximum amount that one remitter can send per quarter to one Cuban national as a family remittance. Section 515.570(a) provides that the recipient of family remittances may not be a prohibited official of the Government of Cuba, as

defined in § 515.337, or a prohibited member of the Cuban Communist Party, as defined in § 515.338. OFAC is now amending § 515.570(a) to prohibit remitters from sending remittances to close family members, as defined in § 515.339, of prohibited officials of the Government of Cuba or prohibited members of the Cuban Communist Party. OFAC also is making a conforming change in § 515.570(f), which authorizes certain remittances from blocked sources.

In further accordance with the policy to limit remittances, OFAC is eliminating the authorization in § 515.570(b) for donative remittances. In light of the removal of this authorization, OFAC also is making a conforming change by removing and reserving the unblocking authorization in paragraph (h) for previously blocked remittances that would have been authorized by paragraph (b). At the same time, in light of NSPM-5's policy to encourage the growth of a Cuban private sector independent of government control, OFAC is amending § 515.570(g), which authorizes unlimited remittances to certain individuals and independent non-governmental organizations in Cuba, to add a provision to authorize unlimited remittances to certain additional self-employed individuals. OFAC is adding a definition for qualifying self-employed individuals in § 515.340.

Ending "U-turn" transactions

OFAC previously authorized, pursuant to § 515.584(d), any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction, to process funds transfers originating and terminating outside the United States, provided that neither the originator nor the beneficiary is a person subject to U.S. jurisdiction. The April 2019 Address announced that the Department of the Treasury would implement changes to eliminate the authorization for banking institutions subject to U.S. jurisdiction to process "U-turn" transactions found in § 515.584(d). In accordance with that policy, OFAC is amending § 515.584(d) which previously authorized

such transactions, to remove the authorization to process such transactions and to replace it with an authorization to reject such transactions. OFAC is making conforming changes by removing references to § 515.584(d) in the Note to § 515.209 and § 515.584(e).

Public Participation

Because the amendments of the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of Executive Order 13771, are inapplicable. As no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”) and § 515.572 of this part. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information are covered by the Office of Management and Budget under control numbers 1505-0164, 1505-0167, and 1505-0168. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Banking, Blocking of assets, Cuba, Financial transactions, Remittances, Reporting and recordkeeping requirements, Travel restrictions, U-turn transactions.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 515 as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

1. The authority citation for part 515 continues to read as follows:

Authority: 22 U.S.C. 2370(a), 6001-6010, 7201-7211; 31 U.S.C. 321(b); 50 U.S.C. 4301- 4341; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104-114, 110 Stat. 785 (22 U.S.C. 6021-6091); Pub. L. 105-277, 112 Stat. 2681; Pub. L. 111-8, 123 Stat. 524; Pub. L. 111-117, 123 Stat. 3034; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959-1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart B — Prohibitions

§ 515.209 [Amended]

2. In the Note to § 515.209, remove the text “§ 515.584(d) relating to funds transfers or”.

Subpart C — Definitions

3. Add § 515.340 to read as follows:

§ 515.340 Self-employed individual.

The term *self-employed individual* means a Cuban national who is one or more of the following:

(a) An owner or employee of a small private business or a sole proprietorship, including restaurants (*paladares*), taxis, and bed-and-breakfasts (*casas particulares*);

(b) An independent contractor or consultant;

(c) A small farmer who owns his or her own land; or

(d) A small usufruct farmer who cultivates state-owned land to sell products on the open market.

Subpart E — Licenses, Authorizations, and Statements of Licensing Policy

4. Amend § 515.570 by:

- a. Redesignating paragraphs (a)(1) through (3) as paragraphs (a)(2) through (4);
- b. Adding new paragraph (a)(1);
- c. Revising newly redesignated paragraph (a)(3);
- d. Removing and reserving paragraph (b);
- e. Revising paragraphs (f) introductory text and (g)(3); and
- f. Removing and reserving paragraph (h).

The revisions and additions read as follows:

§ 515.570 Remittances.

(a) * * *

(1) The remitter's total remittances pursuant to paragraph (a) of this section to any one Cuban national do not exceed \$1,000 in any consecutive three-month period;

* * * * *

(3) The recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337, a prohibited member of the Cuban Communist Party, as defined in § 515.338, a close relative, as defined in § 515.339, of a prohibited official of the Government of Cuba, or a close relative of a prohibited member of the Cuban Communist Party; and

* * * * *

(f) *Certain remittances from blocked sources authorized.* Provided the recipient is not a prohibited official of the Government of Cuba, as defined in § 515.337, a prohibited member of

the Cuban Communist Party, as defined in § 515.338, a close relative, as defined in § 515.339, of a prohibited official of the Government of Cuba, or a close relative of a prohibited member of the Cuban Communist Party, certain remittances from blocked sources are authorized as follows:

* * * * *

(g) * * *

(3) To support the development of private businesses, and operation of economic activity in the non-state sector by self-employed individuals, as defined in § 515.340.

* * * * *

5. Amend § 515.584 as follows:

a. Revise paragraph (d); and

b. In the second sentence of paragraph (e), remove the text “paragraph (d) of this section, § 515.562(b),” and add the text “§ 515.562(b)” in its place.

The revision reads as follows:

§ 515.584 Certain financial transactions involving Cuba.

* * * * *

(d) *Funds transfers.* Any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction is authorized to reject funds transfers originating and terminating outside the United States, provided that neither the originator nor the beneficiary is a person subject to U.S. jurisdiction.

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Dated: September 4, 2019.

Andrea Gacki,
Director, Office of Foreign Assets Control.
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