

CLIENT ALERT

# OFAC Amends the Cuban Assets Control Regulations to Prohibit “U-Turn” Transactions, Further Tightening Sanctions for Cuba

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On September 6, 2019, the U.S. Department of Treasury, Office of Foreign Assets Control (“OFAC”) announced changes to the Cuban Assets Control Regulations (the “CACR”), 31 C.F.R. Part 515, available [here](#), to implement President Trump’s foreign policy towards Cuba, which he set forth in a National Security Presidential Memorandum in June 2017.<sup>1</sup> The CACR will no longer authorize financial institutions subject to U.S. jurisdiction to process so-called “U-turn” transactions for Cuban persons, and it amends several general licenses that were previously in place related to remittances. These amendments were published in the Federal Register on September 9, 2019, available [here](#), and will become effective October 9, 2019.

### a. U-Turn Transactions Prohibited

Since March 16, 2016, the CACR, at 31 C.F.R. § 515.584(d), authorized financial institutions subject to U.S. jurisdiction to process funds transfers for which Cuba or a Cuban person has an interest that originated and terminated outside of the United States, provided that neither the originator nor the beneficiary was a person subject to U.S. jurisdiction. This type of transaction, known as a “U-turn transaction,” allowed the clearance of dollar-denominated transactions in which Cuba or a Cuban national had an interest, through U.S. banks and their foreign branches and subsidiaries. Under OFAC’s recent changes, U-turn transactions will now be prohibited, as of October 9, 2019. Section 584(d) of the CACR will be

<sup>1</sup> See Strengthening the Policy of the United States Toward Cuba, 82 FR 48875, available [here](#).

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replaced with an authorization for financial institutions subject to U.S. jurisdiction to reject, rather than block, such transactions.

When a bank subject to U.S. jurisdiction, including foreign branches and subsidiaries of U.S. financial institutions, receives a transaction in which a Cuban person has an interest, it should reject the transaction and return the funds to the remitter. Non-U.S. banks should also not initiate transactions in U.S. dollars in which a Cuban person has an interest, as this could cause a violation by the U.S. correspondent bank involved in the transaction.

### b. Remittances

The newly issued amendments also make several changes to the CACR authorizations related to remittances, at 31 C.F.R. § 515.570. The general license authorizing family remittances will now include a cap of \$1,000 per quarter authorized to be sent from one remitter to one Cuban national. Additionally, the authorization for family remittances will now exclude close relatives of prohibited officials of the Government of Cuba or of prohibited members of the Cuban Communist Party. The CACR defines “close relative” as any individual related to that person by blood, marriage, or adoption who is no more than three generations removed from that person or from a common ancestor with that person.<sup>2</sup> OFAC also announced that it is eliminating all authorizations for donative remittances, which the CACR previously authorized at 31 C.F.R. § 517.570.

Finally, the amendments authorize unlimited remittances to self-employed individuals in the non-state sector in Cuba. The regulations define “self-employed individual” as 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. The stated purpose of this authorization is to support the private sector economy in Cuba.

### c. Conclusion

As noted above, financial institutions and other entities have until October 9, 2019 to implement the described changes. Financial institutions should update their policies and procedures regarding Cuba to account for the amended authorizations and must no longer process any U.S. dollar-denominated transactions relating to Cuba, even where the originating and beneficiary parties are not subject to U.S. jurisdiction, unless subject to an applicable general license or exemption.

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<sup>2</sup> See 31 C.F.R. § 515.339.

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