

CLIENT ALERT

Cuba Policy: New Significant Amendments Easing Sanctions Relating to Trade, Travel, Financial Services, and Humanitarian Projects

January 26, 2016

On January 27, 2016, the Office of Foreign Assets Control (OFAC) and the Commerce Department's Bureau of Industry and Security (BIS) published in the Federal Register amendments to the Cuban Assets Control Regulations (CACR) and the Export Administration Regulations (EAR) respectively, to further relax the existing U.S. sanctions on Cuba, supplementing those previously announced on [December 17, 2014](#) and implemented [January 16](#) and [September 21, 2015](#).

OFAC

OFAC is announcing the following [further relaxations of the CACR](#):

- **Remove Financial Restrictions for Non-Agricultural Exports:** OFAC is removing the current limitations on payment and financing terms for all licensed exports and reexports to Cuba of 100 percent U.S. origin goods, but as a result of statutory requirements, OFAC will retain these restrictions with respect to the export and reexport of agricultural items and commodities. In practice, U.S. depository institutions are now authorized to issue, advise, negotiate, pay or confirm letters of credit, accept collateral for issuing or confirming letters of credit, or process documentary collections related to authorized Cuba transactions.
- **Expand Air Carrier Services:** To enable the provision of carrier services, OFAC is authorizing U.S. persons to (i) enter into blocked air space, (ii) undertake code-sharing and (iii) make lease arrangements. Such arrangements can also be entered into with a Cuban national.
- **Expand Travel Authorizations:** OFAC intends to further enable travel to Cuba relating to:
 - [Temporary Sojourn](#). Travel-related and other transactions directly incident to the temporary sojourn of authorized aircraft and vessels are allowed. This includes authorization related to the personnel required for the normal operation and service on board of a vessel in port or aircraft on the ground. The aircraft or vessel must be transporting individuals authorized for travel and the duration and scope of their duties shall be related to the temporary sojourn.
 - [Information and Informational Materials](#). OFAC is expanding the general license authorizing travel-related transactions to authorize the export, reexport, import, or transmission of informational materials to include professional media and artistic productions, including media programs, music recordings, and the creation of artworks. These changes remove restrictions relating to the substantive enhancement of informational materials.
 - [Organization of Professional Meetings and Conferences](#). OFAC is authorizing travel-related and other transactions to organize professional meetings or conferences in Cuba; previously U.S. persons could attend, but not be involved in organizing such events. They now can.

- Organization of Public Performances, Clinics, Workshops, Athletic and Other Competitions and Exhibitions. Previous regulations only authorized the attendance of these events in Cuba, but did not expressly allow individuals to organize them.
- Additional Humanitarian Projects. Finally, OFAC expanded the definition of authorized humanitarian projects to include disaster preparedness and response.

BIS

Simultaneously, BIS is amending the EAR to expand authorizations relating to transactions with Cuba. Specifically, BIS is:

- **Adopting a General Policy of Approval for the following Exports and Reexports:**
 - Telecommunications Items that would "improve communications to, from, and among the Cuban people."
 - Commodities and Software to human rights organizations or to non-governmental organizations in Cuba that promote independent activity to strengthen civil society in Cuba.
 - Commodities and Software to U.S. news bureaus in Cuba "whose primary purpose is the gathering and dissemination of news to the general public."
 - Agricultural Items that do not qualify as previously authorized "agricultural commodities," such as insecticides, pesticides, and herbicides and agricultural commodities not eligible for License Exception AGR.
 - Items to Ensure Civil Aviation Safety including "the export and reexport of such aircraft leased to state-owned enterprises."
 - Items Necessary to Protect the Environment including for the "environmental protection of U.S. and international air quality, waters, or coastlines" which includes "items related to renewable energy or energy efficiency."
- **Adopting a Case-by-Case Review Policy for Applications Involving the Government:** Additionally, BIS revised the EAR to indicate that it would consider, on a case-by-case basis, specific license applications for items intended to "meet the needs of the Cuban people" including if such items were intended for state-owned enterprises or government agencies "that provide goods and services for the use and benefit of the Cuban people." This includes items for:
 - "Agricultural Production, artistic endeavors (including the creation of public content, historic and cultural works and preservation), education, food processing, disaster preparedness, relief and response, public health and sanitation, residential construction and renovation and public transportation."
 - "Wholesale and retail distribution for domestic consumption."
 - "Construction of facilities for treating public water supplies, facilities for supplying electricity or other energy to the Cuban people, sports and recreation facilities, and other infrastructure that directly benefits the Cuban people."

The reexport from Cuba or uses that will enable or facilitate the exports from Cuba are prohibited. BIS will deny the export or reexport of items for use by state-owned enterprises, agencies and other organizations generating revenue for the state.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

Carlton Greene

Partner – Washington, D.C.
Phone: +1.202.624.2818
Email: cgreene@crowell.com

David (Dj) Wolff

Partner; Attorney at Law – Washington, D.C., London
Phone: +1.202.624.2548, +44.20.7413.1368
Email: djwolff@crowell.com