

CLIENT ALERT

BIS and OFAC Cuban Regulations Amended October 17th: Expanded Authorization for Medical, Pharmaceutical, Consumer Retail, Shipping, and Other Transactions

OCTOBER 19, 2016

On October 17, 2016, both the Department of Treasury's Office of Foreign Assets Control (OFAC) and the Department of Commerce's Bureau of Industry and Security (BIS) published final rules that further loosened export and import restrictions related to Cuba. Released to further President Obama's most recent [policy directive](#), which aims to further normalize relations between the United States and Cuba, the new regulations offer increased opportunity for Cubans to access American goods across several major industries. OFAC and BIS also issued a [joint press release](#) highlighting their newest changes.

BIS [amended its regulations](#), found at 15 C.F.R. parts 730–744. Certain amendments are highlighted below.

- It was clarified that cargo can now remain aboard aircraft transiting through Cuba.
- Most significantly, license exception SCP (support for the Cuban people), which allows exports or reexports of eligible EAR 99 and certain other items, was broadened to allow those items to be sold directly to individuals in Cuba, including via online retail.

OFAC regulations, found at 31 C.F.R. part 515, [made several amendments](#) regarding health, trade and commerce, aviation safety, travel and related transactions, humanitarian-related activities, and certain other activities. Certain significant amendments are highlighted below.

- OFAC now allows U.S. persons to engage in joint medical research projects with Cuban nationals.
- Transactions incident to obtaining FDA approval of Cuban-origin pharmaceuticals are authorized. Cuban pharmaceuticals can now be imported if they are related to researching, testing, or to gain approval from the FDA. Once approved by the FDA, Cuban pharmaceuticals can be imported, marketed, and sold in the United States.
- Although payment terms for "agricultural commodities" exported to Cuba are limited by statute to cash in advance or third-country financing, OFAC's new regulations clarify that "agricultural items" (such as pesticides and tractors) are not subject to these financing restrictions.
- Grants, scholarships, and awards can now be given to Cuban nationals for scientific research and religious activities, and not just educational or humanitarian activities.

- OFAC is now also allowing U.S. persons to provide Cuba or Cuban nationals with services related to developing, repairing, maintaining, and enhancing certain sectors of Cuban infrastructure.
- OFAC is issuing a general license waiving the restriction prohibiting foreign vessels from entering a U.S. port for 180 days after calling on a Cuban port if the items the vessel carried to Cuba are EAR99 goods or certain controlled goods.
- U.S. persons can now provide services globally to ensure civil aviation safety and the safety of commercial aircraft in Cuba or for Cuban nationals.

These loosened restrictions continue to ease the way for companies interested in doing business in Cuba. In addition, both OFAC and BIS continue to emphasize that the administration's position on Cuba has greatly increased the likelihood that transactions not subject to an existing general license or exemption will be granted a specific license. Winston's team of professionals is available to assist your business in understanding these amended rules and assist with transactions in Cuba.

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