

Commerce and Treasury Narrow Travel General Licenses to Cuba

JUNE 5, 2019

In a joint action by the U.S. Departments of Treasury and Commerce, the U.S. Government has implemented measures to further the Administration's stated goal of weakening the Cuban government by further curbing its tourism industry. These changes implement the instructions of the Administration, announced on April 17, 2019.

Key Takeaways:

- The U.S. Treasury Department has removed the general license that had allowed group people-to-people educational travel;
- The other 11 general licenses for U.S. person travel remain in place;
- The U.S. Commerce Department has restricted the availability of license exceptions to export non-commercial vessels and aircraft.

On June 4, 2019, the Department of the Treasury's Office of Foreign Assets Control (OFAC) amended the Cuban Assets Control Regulations (CACR) to remove the general authorization for group people-to-people educational travel to Cuba. OFAC also published a Fact Sheet and updated 17 Frequently Asked Questions (FAQs). In conjunction with this action, the Department of Commerce's Bureau of Industry and Security (BIS) unveiled regulatory changes to the Export Administration Regulations (EAR) by ending exports of passenger vessels, recreational vessels, and private aircraft. The State Department explained that the objective of this action is to prevent U.S. funds from enriching the Cuban regime particularly the military, intelligence, and security services through "veiled tourism."

Changes to the Cuban Assets Control Regulations (CACR)

Effective June 5, 2019, the authorization for group people-to-people educational travel no longer applies. OFAC also added a "grandfathering" provision, which states that anyone who had been previously authorized and had already made some kind of travel-related transaction, such as purchasing a flight, prior to June 5, 2019, continues to be authorized to travel to Cuba for that pre-authorized trip.

The final change made to the CACR is the addition of a note highlighting the fact that the export of an aircraft that provides the carrier service authorized under § 515.572(a)(2) of the CACR is subject to the licensing requirements of the EAR.

BIS Regulatory Changes:

BIS is amending License Exception Aircraft, Vessels, and Spacecraft (AVS) to generally prohibit non-commercial aircraft from flying to Cuba and passenger and recreational vessels from sailing to Cuba. Only air ambulances and commercial aircraft operating under Air Carrier Operating Certificates or other Federal Aviation Administration (FAA) Certificates will be eligible for a License Exception AVS.

Cargo vessels used for the transportation of separately authorized items are eligible for export or report to Cuba. Other applications that do not meet the criteria listed above will be reviewed on a case-by-case basis, such as a cargo vessel's need to stay beyond 14 days on the island.

Applications for private and corporate aircraft, cruise ships, sailboats, fishing vessels, and other similar aircraft and vessels will generally be denied, unless it is consistent with national security interests, such as those used in response to an oil spill.

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