

CLIENT ALERT

OFAC Places Caps on Remittances to Cuba and Removes Authorization for “U-Turn” Transactions

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On September 9, the Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) amended the Cuban Assets Control Regulations (“CACR”), imposing new limits on remittances to Cuba and ending OFAC’s previous authorization of “U-turn” transactions. These changes will go into effect on October 9, 2019. This amendment furthers President Trump’s June 2017 National Security Presidential Memorandum (“NSPM”) Strengthening the Policy of the United States Towards Cuba. Earlier this year, the Trump Administration announced regulatory changes to implement the NSPM. Since then, there have been two amendments to the CACR: one on September 9, 2019, described here, and another implemented on June 5, 2019, in which OFAC removed the authorization for people-to-people group educational travel to Cuba.

The new action amends two categories of remittances. First, family remittances to Cuban nationals in Cuba cannot exceed \$1,000 per quarter, and cannot be sent to members of the Cuban Communist Party, a prohibited official of the Cuban government, or a close relative of such persons. Second, OFAC is now prohibiting donative remittances altogether. That said, to further its policy of promoting private business in Cuba, OFAC is now authorizing unlimited remittances to self-employed individuals and non-governmental organizations in Cuba. Although the private sector is developing in Cuba, it is still very limited and we anticipate this change to have little effect in the near future.

Perhaps more importantly, OFAC ended the authorization of “U-turn” transactions. Previously, banking institutions subject to U.S. jurisdiction were permitted to process funds transfers that originated and terminated outside the United States if neither the originator nor the beneficiary was a person subject to U.S. jurisdiction. These transfers are known as “U-turn” transactions. In practice, this change will limit the ability of persons subject to U.S. jurisdiction to transact in U.S. dollars with the involvement of the U.S. financial system. Before this amendment, OFAC had granted a general license to conduct such transactions.

Also announced on September 10, 2019, National Security Advisor John Bolton submitted his resignation to the President, relating – according to the President – to strong disagreements with his suggestions. The President announced via Twitter that Bolton’s replacement will be announced the week of September 16. Depending on who the new National Security Advisor is, there could be implications for U.S. policy toward Venezuela and Cuba.

Takeaways

OFAC’s general license for “U-turn” transactions once provided a unique exception to the comprehensive restrictions on transactions in Cuba. Now, however, that exception is gone, and financial institutions facilitating “U-turn” transactions in Cuba should act accordingly. With the change in National Security Advisor, it is unclear whether sanctions targeting Venezuela and Cuba will continue to ratchet up at the same pace and intensity as we have seen over the last few weeks.

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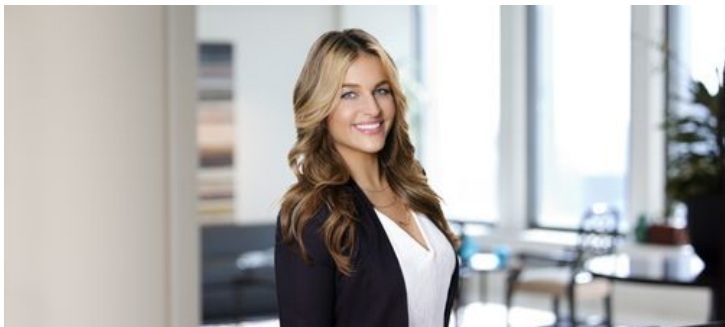
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