

Trump Administration Issues Further Restrictions on Cuba

SEPTEMBER 24, 2020

Effective September 24, 2020, the Department of the Treasury's Office of Foreign Assets Control (OFAC) is [amending the Cuban Assets Control Regulations \(CACR\)](#) to further implement President Trump's foreign policy objective of denying the Cuban regime sources of revenue. These changes will have a significant effect on persons subject to U.S. jurisdiction doing business in Cuba.

Lodging restrictions

Any person subject to U.S. jurisdiction is now prohibited from lodging, paying for lodging, or making any reservation for or on behalf of a third party to lodge, at any property in Cuba that the Secretary of State has identified as a property that is owned or controlled:

- by the Cuban government,
- a prohibited official of the Government of Cuba,
- a prohibited member of the Cuban Communist Party,
- or a close relative of a prohibited official of the Government of Cuba or the Cuban Communist Party.

OFAC has issued a list of Frequently Asked Questions (FAQs) clarifying the scope of the new restrictions and referring readers to the State Department website for a list of prohibited lodgings.

To identify such lodging properties, the State Department has created [the Cuba Prohibited Accommodations List](#), a list of properties in Cuba that meet one or more of the above criteria. Some of the names on this list are common business travel hotels as well as joint ventures with prominent European hotel chains (with a Cuban majority interest -as required under Cuban investment law).

OFAC also is amending several general licenses to adapt them to this new prohibition.

Import restrictions

Previously, the importation of Cuban-origin alcohol and tobacco products as accompanied baggage was authorized for non-commercial use under certain circumstances. OFAC is now eliminating these authorizations and amending the provisions. The import of these products is no long authorized (1) as accompanied baggage (§ 515.560(c)(3)), (2) by U.S. persons or residents (§ 515.569), (3) by Cuban nationals present in the United States (§ 515.571(a)(1)), and (4) when purchased in a third country (§ 515.585(d)).

Professional meetings and public events

OFAC has eliminated the general license authorizing the attendance and organization of professional meeting or conferences in Cuba. These activities are no longer generally authorized, and business travelers -unless authorized by other provisions- need to request a specific license from OFAC, which may delay the travel.

OFAC also eliminated the general license that authorized participation in and organization of public performances, clinics, workshops, competitions, and exhibits in Cuba. As a result of this amendment, the only remaining general license for participation in and organization of athletic competitions in Cuba will be the general license for athletic competitions by amateur or semi-professional athletes or athletic teams. OFAC again, however, clarified that other activities may be authorized *via* specific license on a case-by-case basis. Considering the licensing backlog and OFAC's prioritization of emergency medical cases or humanitarian requests, it would be reasonable to anticipate that these travel license requests could take over 12 months to process.

Takeaways

Individuals and organizations subject to U.S. jurisdiction who operate in Cuba should make sure that their travel related transactions are permitted under the revised CACR. In particular, the prohibition to lodge in properties listed in the newly issued Cuba Prohibited Accommodation List will affect U.S. travelers. It also remains to be seen whether EU countries and the European Union will take action under the EU Blocking statute that is designed to protect EU operators engaged in lawful international trade from a EU compliance perspective. The blocking statute may, for instance, nullify the effect in the EU of any U.S. administrative or judicial decision, and allow EU persons to recover in court damages caused by the extra-territorial application of the CACR. Finally, the timeline to explore new business opportunities in Cuba through in person travel has now *de facto* increased because business travelers will need to request a specific license unless their activity is covered by a general license.

For more information about these amendments or compliance with the CACR generally please contact one of the attorneys listed below.

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