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Treasury, Commerce, and State Implement Changes to the Cuba Sanctions Rules

*Amendments Implement President Trump's June 2017 National Security Presidential
Memorandum (NSPM) Strengthening the Policy of the United States Toward Cuba*

WASHINGTON – Today, the Department of the Treasury's Office of Foreign Assets Control (OFAC) and the Department of Commerce's Bureau of Industry and Security (BIS) are announcing amendments to the Cuban Assets Control Regulations (CACR) and Export Administration Regulations (EAR), respectively, to implement changes to the Cuba sanctions program announced by the President in June. The State Department is taking complementary steps to implement these policy changes that cumulatively seek to channel economic activities away from the Cuban military, intelligence, and security services, while maintaining opportunities for Americans to engage in authorized travel to Cuba and support the private, small business sector in Cuba. The changes will take effect on Thursday, November 9, 2017, when the regulations are published in the Federal Register.

“We have strengthened our Cuba policies to channel economic activity away from the Cuban military and to encourage the government to move toward greater political and economic freedom for the Cuban people,” said Treasury Secretary Steven Mnuchin.

For the Treasury regulations, which can be found at 31 Code of Federal Regulations (CFR) part 515, see [here](#). For the Commerce regulations, which can be found at 15 CFR parts 730-774, see [here](#). For the State Department list, which can be found on the State Department website and in the Federal Register, see [here](#). Major elements of the changes in the revised regulations include:

Financial Transactions

- In accordance with the NSPM, the State Department is publishing a list of entities and subentities that are under the control of, or act for or on behalf of, the Cuban military, intelligence, or security services or personnel and with which direct financial transactions would disproportionately benefit the Cuban military, intelligence, or security services or personnel at the expense of the Cuban people or private enterprise in Cuba – the State Department’s List of Restricted Entities and Subentities Associated with Cuba (“[Cuba Restricted List](#)”). The Cuba Restricted List is maintained by the State Department and will be published and periodically updated as necessary in the *Federal Register*.
- Persons subject to U.S. jurisdiction will now be prohibited from engaging in certain direct financial transactions with entities and subentities identified by the State Department on the Cuba Restricted List. Certain transactions will be excluded from this prohibition pursuant to exceptions detailed in the NSPM.
- Consistent with the Administration’s interest in avoiding negative impacts on American business and travelers, commercial engagements in place prior to the State Department’s listing of any entity or subentity will continue to be authorized, as will most previously arranged travel. For example, businesses will be permitted to continue transactions outlined in contingent or other types of contractual arrangements agreed to prior to the issuance of the new regulations, consistent with other regulatory authorizations.

Trade and Commerce

- In accordance with the NSPM, BIS is establishing a general policy of denial for license applications to export items for use by entities and subentities on the Cuba Restricted List unless the transaction is otherwise consistent with the NSPM.
- Consistent with the Administration’s policy to support free enterprise in Cuba, BIS is simplifying and expanding its license exception that authorizes certain license-free exports to the Cuban private sector.

People-to-People Travel

- In accordance with the NSPM, OFAC is requiring that (1) all people-to-people nonacademic educational travel be conducted under the auspices of an organization that is subject to U.S. jurisdiction and that sponsors such exchanges to promote people-to-people contact, and (2) such travelers be accompanied by a person subject to U.S. jurisdiction who is a representative of the sponsoring organization. Individual people-to-people nonacademic educational travel will no longer be authorized as announced by the President.
- Consistent with the Administration’s interest in avoiding negative impacts on Americans for arranging lawful travel to Cuba, certain people-to-people travel that previously was authorized will continue to be authorized where the traveler had already completed at least one travel-related transaction (such as purchasing a

flight or reserving accommodation) prior to the President's June 16, 2017 announcement.

Educational Travel

- In accordance with the NSPM, Americans engaging in certain authorized educational travel will now be required to do so under the auspices of an organization that is a person subject to U.S. jurisdiction.
- These authorized educational travelers will now also be required to be accompanied by a person subject to U.S. jurisdiction who is a representative of the sponsoring organization, unless the traveler is the representative and obtains a certification letter from the sponsoring organization.
- Consistent with the Administration's interest in avoiding negative impacts on Americans for arranging lawful travel to Cuba, certain educational travel that previously was authorized will continue to be authorized where the traveler has completed at least one travel-related transaction prior to the publication of the regulations on November 9.

Support for the Cuban People Travel

- In accordance with the NSPM, OFAC is requiring that each traveler under this travel category engage in a full-time schedule of activities that result in meaningful interaction with individuals in Cuba. Such activities must also enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities. Renting a room in a private Cuban residence (*casa particular*), eating at privately owned Cuban restaurants (*paladares*), and shopping at privately owned stores run by self-employed Cubans (*cuentapropistas*) are examples of authorized activities; however, in order to meet the requirement of a full-time schedule, a traveler must engage in additional authorized Support for the Cuban People activities.

Prohibited Officials

- In accordance with the NSPM, OFAC is amending the definition of the term *prohibited officials of the Government of Cuba* to include certain additional individuals. BIS is making conforming changes to three license exceptions that include the same definition. This definitional change will affect certain otherwise-authorized transactions with the expanded group of such officials.

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