

The United States Changes its Cuba Sanctions Rules

By Larry B. Pascal, Edward M. Lebow | November 13, 2017

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The Trump Administration has followed up on the President's June 16, 2017 speech in Miami regarding U.S. policy toward Cuba by announcing new restrictions on trade with Cuba that become effective November 9. At the heart of the new policy is a "Cuba Restricted List" in which the State Department names 180 Cuban entities with which new commercial relations (after June 16, 2017) are to be prohibited. These entities and sub-entities are under the control of, or act for or on behalf of, the Cuban military, intelligence, or security services or personnel, including, in particular, the Grupo de Administración Empresarial (GAESA). The Administration asserts that direct financial transactions with any of these entities "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 [full list](#) is available on the State Department's website.

Almost all of the General Licenses previously issued by the Treasury Department's Office of Foreign Assets Control (OFAC) with respect to Cuba are themselves now modified to forbid transactions with entities on the Cuba Restricted List with regard to the particular licensed activity. There are, however, a few exceptions, consistent with the June 16, 2017 Presidential Memorandum on Strengthening the Policy of the United States Toward Cuba. Most notable among these exceptions is that the U.S. would continue to allow certain transactions that "concern air and sea operations that support permissible travel, cargo, or trade." Not surprisingly, there are also exceptions for activities that "support the expansion of direct telecommunications and internet access for the Cuban people," that "support the sale of agricultural commodities, medicines, and medical devices" and that "relate to sending, processing, or receiving authorized remittances."

The Cuba Restricted List comprises 84 hotels, including 27 in Havana and many more throughout the country, not just in the cities but also at beach resorts. U.S. travelers to Cuba will be prohibited from staying at any of the listed hotels. Instead, U.S. citizens will be encouraged to stay in private residences and other accommodations that more directly benefit the Cuban people. Americans also will be barred from patronizing other types of establishments such as stores and restaurants that the State Department has determined are owned by or benefit members of the Cuban government.

The number of U.S. visitors may be reduced by these measures. The individual "people-to-people" travel category is eliminated and other travel for educational and religious purposes must be under the auspices of a group licensed by OFAC for that purpose, with a representative of the licensee required to accompany the traveling group.

Interestingly, as part of its attempt to shift the economic benefits of U.S. tourism, albeit at a reduced level, away from the Cuban government and towards the people, the new U.S. regulations expand upon the authorized travel category, "Support for the Cuban People." The Treasury Department explains that under the regulations:

"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.”

In short, the new U.S. policy aims to limit funds going to the Cuban government, security services and military, while still demonstrating support for the Cuban people. It is a difficult – and arguably impossible – task to restrict travel, but not by so much that substantial pain also falls on struggling and emerging local small businesses and entrepreneurs.