

Cuba: Sanctions overview

In December 2014, President Obama announced that he would take steps to resume normal diplomatic relations between the United States of America (U.S.) and Cuba after more than 50 years of isolation.

These steps include:

- Re-establishing diplomatic ties.
- Reviewing Cuba's designation as a State Sponsor of Terror.
- Facilitating remittances to Cuba by U.S. persons.
- Expanding travel licenses.
- Authorising certain sales and exports from the U.S. to Cuba.

Between January 2015 and March 2016, the U.S. Department of Commerce, Bureau of Industry and Security (BIS), Department of Treasury and the Office of Foreign Assets Control (OFAC) amended both the Cuban Assets Control Regulations (CACR) and the Export Administration Regulations (EAR) in order to implement changes previously announced by the President. These changes provide key benefits to the travel, shipping, finance, humanitarian and educational sectors.

The most recent amendments to CACR became effective on 17 October 2016 and OFAC have published a set of [Frequently Asked Questions](#) which provide an overview of their regulations with regards to Cuban sanctions and highlight the changes that have been made as a result of President Obama's announcement on 17 December 2014.

Whilst these changes reflect the softening stance of the U.S. towards Cuba, Members should note that most transactions between the U.S., or persons subject to U.S. jurisdiction, and Cuba continue to be prohibited.

Highlighted below are some of the key changes that may be of interest to our Members.

Changes to the CACR to lift the 180 day ban with respect to non U.S. vessels

The 180 day ban is a reference to the prohibition on U.S. and non U.S. vessels from calling in the U.S. to load or unload cargo for 180 days after calling in Cuba. On 16 October 2016, the U.S. Treasury Department announced that OFAC would be issuing a general license that will waive the restriction prohibiting foreign (non U.S.) vessels from entering a U.S. port for purposes of loading or unloading freight for 180 days after calling on a Cuban port for trade

purposes. This is providing that the items the vessel carried to Cuba would, if subject to the EAR, be designated as EAR99 or controlled on the Commerce Control List for anti-terrorism reasons only.¹

Processing indirect transactions in U.S. dollars

The CACR 'U-turn' general license, authorises U.S. banking institutions to process transactions originating and terminating outside the U.S. provided that neither the originator nor the beneficiary is a person subject to U.S. jurisdiction. This means that transactions related to third-country commerce involving Cuba or Cuban nationals may be processed in U.S. dollars through the U.S. financial system via financial institutions located in the U.S. that serve as intermediary banks. Foreign branches or subsidiaries of U.S. banking institutions may act as the originating or beneficiary banks for such transactions.

Summary

There has been a thawing of relations between the U.S. and Cuba. [Full details of the changes can be found on the website of the U.S. Department of the Treasury](#). However, it is to be noted that most transactions between the U.S., or persons subject to U.S. jurisdiction, and Cuba continue to be prohibited.

Members are reminded that the [Club Rules](#) provide that liabilities are excluded to the extent the Club is unable to recover from its pooling partners and reinsurers as a result of sanction related prohibitions. The continuation of sanctions on U.S. insurers/reinsurers with respect to Cuba may impact upon the ability of the Club's reinsurers to make payments.

¹Further information on EAR99 and the Commerce Control List can be found here in the U.S. Department of Commerce, BIS Guide to Export Licensing Requirements.