

Client Alert

News Flash

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Top 10 Things to Know About President Obama's Cuba-Related Announcement

While signalling a dramatic shift in the US-Cuba relationship, the President's authority to lift sanctions is limited in several key respects.

On December 17, 2014, President Obama [announced](#) that the United States will restore full diplomatic relations with Cuba — which were severed in 1961 — and in his words, end “an outdated approach that for decades has failed to advance our interests.” This diplomatic shift will include potentially re-establishing a US embassy in Havana in the coming months. Below are the key takeaways from the President's announcement.

1. Timing

The changes announced on December 17 will take effect only when the Departments of the Treasury and Commerce issue revised regulations: the Treasury Department's Office of Foreign Assets Control (OFAC) administers the [Cuban Assets Control Regulations](#), and the Commerce Department's Bureau of Industry and Security (BIS) maintains the [Export Administration Regulations](#). OFAC [announced](#) that it intends to issue regulatory amendments “in the coming weeks.”

2. Embargo Remains

This US policy shift does not lift the comprehensive US embargo of Cuba, which is a product of several overlapping statutes and regulations. While the Obama Administration can ease certain aspects of the US sanctions through executive authority, significant elements of the embargo are maintained by legislation — notably the [Cuban Democracy Act of 1992](#) and the [Cuban Liberty and Democratic Solidarity \(Libertad\) Act of 1996](#) (more commonly known as Helms-Burton) — which would require congressional action or acquiescence to roll back.

3. Third-country Trade with Cuba

According to a White House [Fact Sheet](#), US-owned or controlled entities in third countries (e.g., foreign subsidiaries of US companies) will benefit from a new OFAC general license to engage in certain financial transactions with and provide services to “Cuban individuals” located in third countries. The Fact Sheet does not suggest, however, that foreign subsidiaries of US companies will yet be granted broader permission to trade in goods and services with Cuban companies outside of Cuba. Regulatory changes will also reportedly include unblocking the US bank accounts of Cuban nationals who have relocated outside of Cuba and allowing US persons to participate in professional meetings and conferences related to Cuba in third countries.

4. Expanded Exports

According to the same White House [Fact Sheet](#), an expanded list of items will be authorized for export from the United States to Cuba, including “certain building materials for private residential construction, goods for use by private sector Cuban entrepreneurs, and agricultural equipment for small farmers.” We expect that such items will be identified in BIS’ updated regulations.

5. Travel Restrictions

The policy shift announced on December 17 does not signal permission for US persons in the near term to travel to Cuba for tourism. However, [the White House announced](#) that general licenses will be made available for the 12 categories of travel to Cuba authorized by law:

- Family visits
- Government business
- Journalism
- Professional research and meetings
- Educational activities
- Religious activities
- Public performances, clinics, workshops, athletic and other competitions, and exhibitions
- Support for the Cuban people
- Humanitarian projects
- Activities of private foundations or research or educational institutes
- Work concerning the export, import, or transmission of information
- Work concerning the export transactions authorized under regulations and guidelines

Some of these categories of travel are already authorized by general license, while others may qualify for a specific license. When OFAC releases updated regulations, the new general licenses could attach restrictions and limitations. For example, some of the currently available general licenses require pre- and post-travel reporting to OFAC as well as *per diem* spending restrictions.

6. Travel-related Imports

US travelers who engage in licensed travel to Cuba (either through a general or specific license) will be allowed to return to the United States with up to US\$400 worth of Cuban goods, of which US\$100 in value can consist of alcohol and tobacco.

7. Telecommunications

[According to the White House](#), Cuba currently has an internet penetration of about five percent — one of the lowest in the world. Once issued, the updated regulations will reportedly permit US companies to export commercial telecommunications equipment to expand Cuba’s sparse internet infrastructure, including the sale of “certain consumer communications devices, related software, applications, hardware, and services, and items for the establishment and update of communications-related systems.” In 2009 OFAC and BIS eased restrictions on the provision of telecommunications goods and services to Cuba. How these agencies will further loosen their regulations in light of this announcement remains unclear at this stage.

8. Financial Systems

US financial institutions will be permitted to open correspondent accounts at Cuban financial institutions, and US bank-issued credit and debit cards will be allowed to be used in Cuba.

9. State Sponsor of Terrorism Designation

Secretary of State John Kerry [announced](#) that the Department of State will initiate a review of Cuba's longstanding designation as a State Sponsor of Terrorism. In general terms, [State Sponsors of Terrorism](#) are subject to four main categories of sanctions, including restrictions on US foreign assistance, a ban on defense exports and sales, certain dual-use export controls, and various financial and other restrictions. (The other designated State Sponsors of Terrorism are Iran, Sudan and Syria.) The Department of State will provide a report to the President within six months concerning Cuba's support for international terrorism.

10. Remittances

With some restrictions, US persons will be able to send US\$2,000 per quarter — an increase from the previous limit of US\$500 per quarter — to persons in Cuba. These remittances can be personal remittances in support of humanitarian projects or in support of developing private businesses in Cuba, among other reasons. Parties acting as remittance forwarders will no longer require a specific OFAC license to send such funds to Cuba.

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