FEDERAL RESERVE BANK
OF NEW YORK

Fiscal Agent of the United States

[Circular No. **10732**
August 30, 1994]

CUBAN ASSETS CONTROL REGULATIONS

Prohibitions on Remittances to Cuba

*To the Chief Operating Officers at All Financial Institutions
and All Overseas Branches of U.S. Financial Institutions:*

The following is quoted from a notice issued by the Office of Foreign Assets Control (OFAC) of the U.S. Department of the Treasury and transmitted to Fedwire participants on August 26, 1994:

> In accordance with President Clinton's announcement of August 20, 1994, the general authorization in section 515.563 of the Cuban Assets Control Regulations is being revoked. Remittances, including family remittances, may no longer be sent to Cuba, except for payments of not more than $500 initiated with an appropriate affidavit for legal immigration and individual transfers specifically licensed by the Office of Foreign Assets Control on a remittance-by-remittance basis. Please urgently notify your operations areas.

Printed on the following pages is an overview of the Cuban Assets Control Regulations, which reflects this and other changes to the regulations. If your institution has overseas branches, please send them a copy of this circular; additional copies may be obtained from our Circulars Division (Tel. No. 212-720-5215 or 5216).

Questions on this matter should be directed to OFAC's Compliance Programs Division (Tel. No. 202-622-2490).

WILLIAM J. McDONOUGH,
President.

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U.S. Department of the Tr
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CUBA

What You Need To Know About The U.S. Embargo

An overview of the Cuban Assets Control Regulations Title 31 Part 515 of the U.S. Code of Federal Regulations

■ **INTRODUCTION** - The Cuban Assets Control Regulations were issued by the U.S. Government on 8 July 1963 under the Trading With the Enemy Act in response to certain hostile actions by the Cuban government. They are still in force today and affect all U.S. citizens and permanent residents wherever they are located, all people and organizations physically in the United States, and all branches and subsidiaries of U.S. organizations throughout the world. On August 20, 1994, President Clinton announced additional measures designed to limit Cuba's ability to accumulate foreign exchange, and these have been incorporated into this overview. The Regulations are administered by the U.S. Treasury Department's Office of Foreign Assets Control. The basic goal of the sanctions is to isolate Cuba economically and deprive it of U.S. dollars. Penalties for violating the sanctions range up to 10 years in prison, $1,000,000 in corporate and $250,000 in individual fines. Please note that the Regulations require those dealing with Cuba to maintain records, and, upon request from the U.S. Treasury Department, to furnish information regarding such dealings.

■ **SELLING TO CUBA** - Except for publications and other informational materials, no U.S. products, technology or services may be exported to Cuba, either directly or through third countries, such as Canada or Mexico. This prohibition includes dealing in or assisting the sale of goods or commodities to or from Cuba, even if done entirely offshore. Such "brokering" is considered to be the export of a service.

■ **BUYING FROM CUBA** - Goods or services of Cuban origin may not be imported into the United States either directly or through third countries, such as Canada or Mexico. The only exceptions are $100 worth of Cuban merchandise which may be brought into the United States as accompanied baggage by authorized travelers arriving from Cuba, publications or other informational materials, and paintings and drawings created by Cubans. Sculpture created by Cubans may be licensed for importation provided it is less than $25,000 in value.

■ **SPECIALLY DESIGNATED NATIONALS** - The Regulations prohibit buying from or selling to Cuban nationals whether they are physically located on the island of Cuba or doing business elsewhere on behalf of Cuba. Individuals or organizations who act on behalf of Cuba anywhere in the world are considered by the U.S. Treasury Department to be "Specially Designated Nationals" of Cuba. Their names are published in the Federal Register, an official publication of the U.S. Government. A listing of such Specially Designated Nationals may be obtained by calling the Office of Foreign Assets Control at 202/622-2420. The listing, however, is a partial one and any U.S. individual or organization engaging in transactions with foreign nationals must take reasonable care to make certain that such foreign nationals are not specially designated. Specially Designated Nationals of Cuba operating in the United States are subject to criminal prosecution. U.S. individuals or organizations who violate the Regulations by transacting business with them are also subject to criminal prosecution or civil monetary penalties.

■ **ACCOUNTS AND ASSETS** - There is a total freeze on Cuban assets, both governmental and private, and on financial dealings with Cuba; all property of Cuba, of Cuban nationals, and of Specially Designated Nationals of Cuba in the possession of U.S. persons is "blocked." Any property in which Cuba has an interest which comes into the United States is automatically blocked by operation of law. Banks receiving unlicensed wire transfer instructions in which there is a Cuban interest, or any instrument in which there is a Cuban interest, must freeze the funds on their own books or block the instrument, regardless of origin or destination. "Suspense accounts" are not permitted. Blocking imposes a complete prohibition against transfers or transactions of any kind. No payments, transfers, withdrawals, or other dealings may take place with regard to blocked property unless authorized by the Treasury Department. Banks are permitted to take normal service charges. Blocked deposits of funds must be interest-bearing. "Set-offs" are not allowed.

Banks are required to exercise extreme caution in order not to knowingly handle or process unlicensed transactions in which Cuba has an interest. No bank in the U.S.

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nor overseas branch or subsidiary of a U.S. bank may even advise a letter of credit involving Cuba nor may it process documents referencing Cuba. All such "property" must be blocked as soon as it comes within the bank's possession or control. Banks that engage in any commercial dealings that involve unauthorized trade with Cuba, either directly or indirectly, are at risk for substantial monetary penalties and criminal prosecution.

■ **SENDING GIFTS -** Gift parcels may be sent or carried by an authorized traveler to an individual, or to a religious, charitable, or educational organization in Cuba for the use of the recipient or of the recipient's immediate family, subject to the following limitations: the combined total domestic retail value of all the items in the parcel must not exceed $200 per month; not more than one parcel may be sent or given by the same person in the U.S. to the same recipient in Cuba in any one calendar month; and content must be limited to food, vitamins, seeds, medicines, medical supplies and devices, hospital supplies and equipment, equipment for the handicapped, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, soap-making equipment, or certain radio equipment and batteries for such equipment. Organizations that consolidate and send multiple gift parcels in single shipments must obtain a validated license from the U.S. Department of Commerce. Each gift parcel in the single shipment must meet commodity, dollar-value, and frequency limitations. If a parcel being shipped or carried to Cuba fails to meet these standards, it is subject to seizure by the U.S. Government.

■ **CUBAN TRAVEL -** Only licensed flights may fly between the U.S. and Cuba and they must use Miami International Airport as their gateway. Charter operators are only authorized to carry passengers who fall into the categories discussed below:

- ✔ Persons who hold a visa from the United States Interests Section in Havana to immigrate to the United States and present such a visa to the charterer before boarding the plane in Cuba.
- ✔ Journalists who are regularly employed in such capacity by a news reporting organization.
- ✔ Persons who are officials of the United States Government or of any foreign government, or of any intergovernmental organization of which the United States is a member, and who are traveling on official business.
- ✔ Persons holding specific licenses from the Office of Foreign Assets Control.

Except as specifically licensed by the Office of Foreign Assets Control, payments in connection with any other travel to Cuba are prohibited, whether travelers go directly or via a third country such as Mexico, Canada, or another Caribbean island. "Fully hosted" travel to Cuba is not restricted, provided that the travel is not aboard a direct flight between the United States and Cuba. A fully hosted traveler may pay for transportation only if aboard a non-Cuban carrier. U.S. travel service providers, such as travel agents and tour operators, or carriers, such as airlines, who handle travel arrangements to, from, or within Cuba must hold special authorizations from the U.S. Treasury Department to engage in such activities. These authorizations are issued based on written applications from the service providers or carriers, subject to appropriate checks by the Treasury Department. A traveler should not use any travel service provider or carrier that does not hold valid Treasury authorization. If in doubt about the status of a service provider or carrier authorization, travelers should call the Office of Foreign Assets Control at 202/622-2480.

■ **WHO MAY GO? -** Only persons whose travel falls into the categories discussed below are authorized to spend money related to travel to Cuba without obtaining special permission from the U.S. Treasury Department. Even that money may be spent only for purchases of items directly related to travel such as hotel accommodations, meals, and goods personally used by the traveler in Cuba at a rate not to exceed $100 per day or for the purchase of $100 worth of Cuban merchandise to be brought into the United States as accompanied baggage. Purchases of services unrelated to travel, such as non-emergency medical services, are prohibited. Both departure from and return to the United States are closely monitored by the U.S. Customs Service. The purchase of publications and other informational material is not restricted in any way.

The following categories of travelers are permitted to spend money for Cuban travel without the need to obtain special permission from the U.S. Treasury Department:

- ✔ Official Government Travelers— U.S. and foreign government officials, including representatives of international organizations of which the United States is a member, who are traveling on official business.
- ✔ Journalists regularly employed in such capacity by a news reporting organization.

Specific licenses may be issued by the Office of Foreign Assets Control on a case by case basis authorizing travel transactions by persons in connection with the

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following travel categories:

- ✔ Humanitarian Travel— persons traveling to Cuba (1) to visit close relatives in cases involving extreme hardship, such as terminal illness or severe medical emergency, (2) persons traveling to Cuba to accompany licensed humanitarian donations (other than gift parcels) or (3) persons traveling in connection with activities of recognized human rights organizations investigating specific human rights violations.
- ✔ Travel related to telecommunications activities.
- ✔ Travel in connection with professional research or similar activities, for clearly defined educational or religious activities, or for purposes related to the exportation, importation, or transmission of informational materials.

■ **SENDING MONEY TO CUBA -** Remittances, including family remittances, may no longer be sent to Cuba without a specific license from the Office of Foreign Assets Control, except for payments of up to $500 on a one-time basis to enable a close relative to emigrate from Cuba to the United States. A close relative means a spouse, child, grandchild, parent, grandparent, great-grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, or spouse, widow, or widower of any of those people. A close relative also means mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, or brother-in-law. Service providers, including banks originating transfers on behalf of non-aggregating customers, must obtain an affidavit from the remitter certifying that the Cuban immigrant has a valid U.S. Visa. The affidavit must contain the full name, date of birth, and Visa date and number of the Cuban traveler. A travel remittance may not be sent without an affidavit and affidavits must be kept on file.

■ **FAIR BUSINESS PRACTICES -** Anyone authorized by the U.S. Department of the Treasury to provide Cuban travel services or services in connection with sending money to Cuba is prohibited from participating in discriminatory practices of the Cuban government against individuals or particular classes of travelers. The assessment of consular fees by the Cuban government, which are applicable worldwide, is not considered to be a discriminatory practice. However, requiring the purchase of services not desired by the traveler is not permitted. Persons wishing to provide information on such activities should call 202/622- 2430. All information regarding arbitrary fees, payments for unauthorized purposes, or other possible violations furnished to the U.S. Treasury Department will be handled confidentially.

■ **ESTATES AND SAFE DEPOSIT BOXES -** An estate becomes blocked whenever a Cuban is an heir or is the deceased; money from a life insurance policy is blocked whenever the deceased is a Cuban resident. It is now possible for the heir of a person who died in Cuba, or the beneficiary of a life insurance policy of a person who died in Cuba, to apply for a license from the U.S. Treasury Department to unblock the estate or insurance proceeds. Persons administering or interested in a blocked estate should contact the Department's Office of Foreign Assets Control at 202/622-2480 for more information. A safe-deposit box is blocked whenever a Cuban has an interest in the property contained in the box. Access to a blocked safe deposit box for inventory purposes may be granted under certain conditions, but the contents of the box remain blocked and may not be removed without the permission of the U.S. Treasury Department.

■ **PAYMENTS FOR OVERFLIGHTS -** Private and commercial aviators must obtain a specific license authorizing payments for overflight charges to Cuba. Banks will ask to see the originals of such licenses before executing transfers and keep a copy for their files. Such transfers must be in a currency other than U.S. dollars.

The Treasury Department's Office of Foreign Assets Control also administers sanctions programs involving Iraq, Libya, the Federal Republic of Yugoslavia (Serbia and Montenegro), North Korea, Haiti, the National Union for the Total Independence of Angola (UNITA), and Iran. It has certain residual authority with regard to former sanctions against South Africa, Vietnam, Cambodia, and the deposed Noriega regime in Panama. For additional information about these programs or about the Cuban sanctions program, please contact the:

OFFICE OF FOREIGN ASSETS CONTROL
U.S. Department of the Treasury
Washington, D.C. 20220
202/622-2520

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