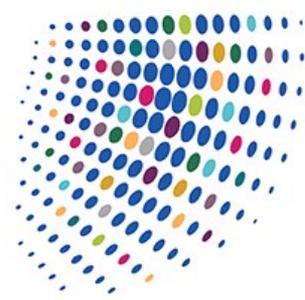


Alerts & Publications



President Trump Announces Changes to US-Cuba Policy

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On June 16, 2017, the Trump Administration issued a [memorandum](#) announcing changes to United States policy toward Cuba. Despite the breadth of the policy's stated goals and the fanfare surrounding its announcement, the policy leaves intact many of the Obama Administration's diplomatic and regulatory changes involving Cuba—for instance, measures facilitating the provision of infrastructure and telecommunications services in Cuba. Instead, the policy sets the stage for two principal changes: (1) prohibiting financial transactions involving the Cuban military, intelligence, and security services, with some exceptions; and (2) prohibiting individual "people-to-people" travel, while also requiring increased scrutiny of travel by the Treasury Department. These changes will not take effect until the Treasury and Commerce Departments issue amended regulations—and even then will not affect existing travel, contracts, and licenses.

Trump Administration's Cuba Policy

According to the memorandum, the Administration's policy is to:

- End economic practices that "disproportionately benefit the Cuban government ... at the expense of the Cuban people";
- Ensure adherence to the ban on tourism in Cuba;
- Enhance compliance with the economic embargo of Cuba;
- Support the Cuban people through expansion of internet services, free press, free enterprise, free association, and lawful travel;
- Ensure that US-Cuba engagement advances interests including human rights, the growth of a Cuban private sector independent of government control, national security, and scientific and environmental challenges; and
- Not reinstate the "wet foot, dry foot" policy the Obama Administration previously ended, which had permitted Cubans who arrived in the US without a visa to become permanent residents.

Limits on Financial and Trade Transactions

To address "economic practices that disproportionately benefit Cuban military, intelligence, and security agencies," the policy instructs the Treasury and Commerce Departments to amend their regulations to prohibit direct financial transactions with entities controlled by the Cuban military, intelligence, and security services—such as the Grupo de Administracion Empresarial S.A. (GAESA). The State Department will identify a specific list of such entities based on an assessment of whether direct financial transactions would "disproportionately benefit" the Cuban military "at the expense of the Cuban people or private enterprise." Although the exact contours of the new prohibition will thus not become clear until the State Department takes action, it is likely to impact travel and hospitality (given the outsized role GAESA plays in that sector), as well as potentially other sectors where GAESA has involvement.

The presidential memorandum sets out several exceptions to the financial transactions prohibition, however. The forthcoming regulatory changes will not prohibit transactions (that are currently authorized under existing general licenses, license exceptions, or subject to favorable specific license policies) that:

- Concern air and sea operations that support permissible travel, cargo, or trade;
- Support the expansion of direct telecommunications and internet access for the Cuban people;
- Support the sale of agricultural commodities, medicines, or medical devices;
- Relate to sending authorized remittances; and
- Support programs to build democracy in Cuba.

Limits on Travel

To "ensure adherence to the statutory ban on tourism to Cuba," the policy directs the Treasury Department to prohibit self-directed, individual people-to-people travel that does not involve academic study or take place without a representative of a sponsoring organization. It continues to permit group people-to-people travel, however—so long as travelers engage in a full-time schedule of activities that meaningfully interact with individuals in Cuba. The Treasury Department is also directed to regularly audit travel to Cuba to ensure compliance with applicable laws and regulations.

Continued Permissible Activities

Subject to Treasury and Commerce's forthcoming regulations, the Administration's new policy leaves in place a number of measures the Obama Administration took to facilitate business in and travel to Cuba. For instance, the new policy does not contemplate rescinding measures that allow:

- The provision of services related to infrastructure in Cuba, which includes work in a broad range of sectors such as public transportation, wastewater management, non nuclear electricity generation, education, hospitals, and public housing;
- The export of certain consumer communications devices and related hardware, software, and services, together with the creation of a business presence in Cuba to provide telecommunications and Internet services; and
- Certain financial transactions involving Cuba, including processing by US banks of "U turn" transactions involving Cuba and of US-dollar monetary instruments presented indirectly by Cuban financial institutions—as well as the opening of bank accounts in the US to facilitate remittances and other authorized transactions.

The new policy also leaves intact most aspects of the Obama Administration's relaxed requirements for travel to Cuba, including the general license authorizing travel for business meetings or professional research. As noted above however, the new prohibition against financial transactions with military entities may indirectly hamper business travel, given GAESA's control of large amounts of hotel rooms and other tourist infrastructure. The full impact of this prohibition on otherwise authorized business travel will become clearer once the State and Treasury Departments have taken action.

Timing for Implementation of Policy Changes

None of the announced changes will take effect until amended regulations are issued by the relevant agencies, which are instructed to initiate the process of amending their rules within 30 days. In addition, both [Treasury](#) and [Commerce](#) have clarified that the regulatory changes will be prospective and will not affect existing contracts and licenses. Treasury has also confirmed that any Cuba-related commercial engagement or travel-related arrangements that include direct transactions with entities related to the Cuban military, intelligence, or security services that may be implicated by the new policy will be permitted if they are in place prior to the issuance of the forthcoming regulations. See [Frequently Asked Questions on President Trump's Cuba Announcement, Questions 5 and 6](#).

Other Aspects of the Administration's Policy

Finally, the policy directs: (1) the Secretary of State and UN Ambassador to oppose the lifting of the embargo on Cuba at the United Nations and international fora; (2) the Attorney General to issue a report on fugitives from American justice living in Cuba; (3) the Secretary of State and USAID administrator to review all democracy development programs in Cuba; and (4) the Secretary of State to convene a task force to examine technological challenges of expanding internet in Cuba.

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