

What Does End of Cuban Embargo Actually Mean

Commentary by Jennifer R. Diaz

President Barack Obama announced that the U.S. will lay out “a new course in our relations with Cuba.” This could mean changes in the travel, financial services, telecommunications sectors and companies specializing in building materials and agricultural equipment.



Diaz

The current sanctions in place will be eased in five ways for those engaged in trade and commerce. For instance, does this mean that Cuban cigars will be readily available for U.S. consumers? No. The specific details are not in place yet, however they should be in the coming weeks.

This does not mean the sanctions imposed by the Cuban Assets Control Regulations issued in 1963 will end (that would take congressional approval), they will just be eased



JIM BOURG/ BLOOMBERG NEWS

President Barack Obama promises “a new course in our relations with Cuba.” But what exactly does that mean?

in the following ways.

TRAVEL

Travel to Cuba by U.S. persons will still be restricted. “Specific licenses” will not be necessary if you are traveling to Cuba as one of the 12 “authorized travelers”. Instead, “authorized travelers” will now be able to travel to Cuba under a “general license,”

the major difference being under a general license “authorized travelers” can travel to Cuba without the requirement of having to first apply to the Office of Foreign Assets Control and receive a license prior to travel to Cuba. The 12 authorized traveler categories are:

- Family visits
- Official business of the U.S.

government, foreign governments and certain intergovernmental organizations

- Journalism
- Professional research and professional meetings
- Educational
- Religious
- 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
- Exportation, importation or transmission of information or information materials and
- Certain export transactions that may be considered for authorization under existing regulations and guidelines.

TELECOM

- Exports to Cuba of certain consumer communications devices, related software, applications, hardware and services will be authorized.
- Exports of items for the establishment and update of communications-related systems will be authorized.

BUILDING MATERIALS

Exports of certain building materials for private residential construction, goods for use by private sector Cuban entrepreneurs and agricultural equipment for small farmers will be authorized.

FINANCIAL SERVICES

- “Authorized travelers” to

Cuba will be able to use their U.S. credit and debit cards.

- U.S. institutions will be permitted to open correspondent accounts at Cuban financial institutions to facilitate the processing of authorized transactions.
- The regulatory definition of “cash in advance” will be revised to specify that it means “cash before transfer of title,” proving more efficient financing of authorized trade with Cuba.

BOARD OF CONTRIBUTORS

PERSONAL IMPORTS

“Authorized travelers” to Cuba will be authorized to import into the U.S. \$400 worth of goods from Cuba, of which no more than \$100 can consist of tobacco products and alcohol combined and for personal use only.

DETAILS TO COME

OFAC made it clear, changes will not be effective immediately. The changes above may take place, but the overall Cuba sanctions will still stand. In order for the above changes to take place OFAC has to amend its Cuban Assets Control Regulations and the Department of Commerce has to change its export administration regulations. None of the changes will take effect until the new regulations are issued.

Currently, the Cuban Assets Control Regulations “prohibit

any person subject to U.S. jurisdiction from dealing in any ‘property’ in which Cuba or a Cuban national has or has had any interest.” The definition of property is very broad and includes such things as contracts and services.

“Importing from Cuba requires dealing in property in which Cuba or a Cuban national has an interest, and is therefore prohibited.” Currently, “with certain exceptions, no products, technology or services may be exported from the United States to Cuba or a Cuban national, either directly or through third countries such as Canada or Mexico, without a license from OFAC.” Currently, it is a violation of the Cuban Assets Control Regulations to sign a contract with a foreign firm if the contract terms include Cuba-related provisions, even if those provisions are contingent upon the lifting of the embargo.

This means that Cuban cigars still cannot be purchased by any U.S. person, and unless you fall within the specific regulation changes to be announced, you would not be legally able to do business with Cuba.

In short, new changes are on the horizon. But there are many details that will need to be worked out. Stay tuned.

Jennifer R. Diaz is a Miami shareholder with Becker & Poliakoff and chair of the firm’s customs and international trade law practice group.