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Practice Update

New Directives Curtail U.S. Travel to Cuba

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As noted in Helms-Burton Title III Comes to Life, U.S.–Cuba relations have been deteriorating steadily since 2017, a trend that has accelerated recently in response to developments in Venezuela. In addition to Title III, White House National Security Advisor John Bolton also announced in April President Trump's decision to curtail U.S. non-family travel to Cuba by instructing federal agencies to amend regulations authorizing U.S. travel to the island.

The U.S. sanctions on Cuba are administered by the Treasury Department's Office of Foreign Assets Control (OFAC) through the Cuban Assets Control Regulations (CACR) and the Commerce Department's Bureau of Industry and Security (BIS) through the Export Administration Regulations (EAR), in consultation with the Department of State.

On June 5, 2019, federal agencies carried out the April directives by amending federal regulations as follows:

- **Ending "People-to-People" Travel:** In accordance with the administration's intention to reduce non-family travel to Cuba, OFAC amended the CACR by modifying the general license authorizing travel-related and other transactions incident to educational activities by removing the authorization for educational and cultural exchanges of a non-academic nature (so-called group "people-to-people" travel). "People-to-

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people" was the most common OFAC general license category for non-Cuban American travelers, so its elimination will affect aggregate U.S. travel to the island. However, it is also important to note that OFAC's changes did include a "grandfathering" provision, which provides that "people-to-people" groups that begun planning trips prior to June 5 and completed at least one travel-related transaction, such as purchasing a flight or reserving accommodations, will be allowed to proceed.

- **Restricting Passenger Vessels and Private Aircraft:** In accordance with the administration's intention to reduce non-family travel to Cuba, BIS amended the EAR by removing an export license exception that had permitted U.S. passenger vessels and private aircraft to undertake temporary sojourns in Cuba without applying for an export license. BIS also announced that it is reestablishing a general policy of denial for license applications involving such vessels and aircraft. This means that, until further notice, applications for temporary sojourns in Cuba will only be granted in extraordinary circumstances.

Without permission from BIS to undertake temporary sojourns in Cuba through either a standing license exception or the issuance of case-by-case export licenses, passenger cruise ships, private aircraft, and other vessels subject to the new policy will have to cease service to the island, effective immediately. However, it is also important to note that commercial airliners have been exempted from the new BIS policy and OFAC did not publish any revisions to the general licenses authorizing the provision of traveler and carrier services.

Despite the limited scope of the June 5, 2019 changes, they are likely to have a significant impact on U.S. travel to Cuba over the short-to-medium terms because they target both the most popular OFAC general license category for non-family travel (“people-to-people”), as well as cruise ships (a popular transportation option).

However, it is also worth noting that all 12 OFAC general license categories authorizing U.S. travel to Cuba remain in place and that only one of these categories—the general license covering educational activities described at §515.565 of the CACR—was amended[1]. Other popular OFAC general licenses authorizing travel for religious groups, humanitarian work, professional research and professional meetings, public performances, and support for the Cuban people, among others, remain in place.

Please contact Akerman’s Cuba practice with any questions you may have or to request further details of recent Cuba policy developments.

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[1] Sub-category §515.565(b), which formerly covered aforementioned “people-to-people” trips, has been removed.