

Practice Update

Cuba Policy Under Biden: Change on the Horizon?

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After four years of Trump Administration efforts to increase sanctions on Cuba and reverse Obama-era efforts to normalize bilateral ties, the Biden White House last Thursday announced its own plans to review Cuba policy and signaled that changes may soon be forthcoming.

“Our Cuba policy is governed by two principles. First, support for democracy and human rights - that will be at the core of our efforts. Second is Americans, especially Cuban Americans, are the best ambassadors for freedom in Cuba. So we’ll review the Trump administration policies,” said White House press secretary Jen Psaki during her January 28, 2021 daily news briefing.

While the full scope and timing of potential Cuba policy changes remain unknown, there are indications that the administration could move quickly to address issues affecting the Cuban American community, such as a *de facto* Trump-era ban on formal remittance flows to the Cuban people. Other steps may include removing some restrictions on U.S. travel to Cuba, as well as revisiting the Trump Administration’s final-hour January 11, 2021 decision to re-designate Cuba a State Sponsor of Terrorism.

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The political landscape surrounding Cuba policy has shifted dramatically in recent years. Since 2017, the Trump Administration and its allies in South Florida sought to engage conservative Cuban American voters through aggressive measures to crackdown on the Cuban government and strong anti-Castro messaging. Public polling in 2020, as well as Miami-Dade County vote tallies in the November presidential elections, indicate that the strategy was at least somewhat successful. Mr. Trump increased his share of Cuban American votes from 54 percent in 2016 to 56 percent four years later—amidst considerably higher turnout—and helped flip two key South Florida congressional seats in Republicans’ favor. These trends may impact Cuba policy outcomes under Mr. Biden if they heighten the perceived political costs of a return to engagement-oriented policies.

On the other hand, many of President Joe Biden’s senior White House foreign policy advisors and cabinet secretaries at the Departments of State, Homeland Security, Defense, and elsewhere, have tended to favor engagement-oriented approaches, premised on the belief that such policies better serve U.S. interests and promote positive changes in Cuba. First Lady Dr. Jill Biden’s October 2016 travel to Cuba—during which she met with diverse members of Cuban civil society—means that a member of the first family also has first-hand impressions of Cuba policy.

Historically, new presidential administrations have moved swiftly—typically within the first six months—to put their stamp on Cuba policy through executive actions. In April 2009, the Obama Administration issued its first actions by removing restrictions on family remittances and Cuban American travel to Cuba, and by expanding authorizations for U.S. telecommunications projects. In June 2017, the Trump Administration published National Security Presidential Memorandum 5 (“NSPM-5”), “*Strengthening the Policy of the United*

States Toward Cuba,” which laid the foundation for its future Cuba policy actions.

While it seems likely that President Biden will take his own first Cuba policy steps sometime in the next few months by replacing NSPM-5 with a statement of his own administration’s priorities, how far he will go in reversing specific Trump-era restrictions is difficult to predict. However, U.S. companies with Cuba-related interests should get a better sense of the likely future contours of U.S.–Cuba relations soon and initial indications are that Cuba sanctions will become less restrictive under Biden than his predecessor.

Akerman will continue to provide updates on significant Cuba policy developments—as well as any changes to federal regulations—in the coming months.

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