

CHRONOLOGY OF CUBA TRAVEL LICENSING PROGRAM

1963 President Kennedy imposes embargo on all trade with Cuba using his authority under the Trading with the Enemy Act, 50 U.S.C. App. 1-44.

OFAC issues Cuban Assets Control Regulations, 31 C.F.R. Part 515, on July 8, 1963, which prohibit all travel-related transactions with Cuba.

OFAC uses delegated TWEA licensing authority to issue case-by-case licenses authorizing travel-related transactions by persons who had their passports validated by State for Cuba travel

1977 President Carter removes all restrictions on travel-related transactions with Cuba. New section 515.560 added to the Regulations to set forth this general license.

Direct charter flights are allowed from Miami International Airport.

1982 President Reagan limits travel-related transactions with Cuba to reduce Cuba's hard currency earnings from U.S. travelers:

- General license in section 515.560 amended to restrict travel-related transactions to four categories of activities: official U.S. or foreign government travel, visits to close relatives, newsgathering, and professional research or attendance at certain professional meetings.
- Statement of policy added to section 515.560 on issuance of "specific licenses" on a case-by-case basis for travel-related transactions for "humanitarian reasons" and for public performances, exhibitions, and similar activities.

OFAC retains delegated TWEA licensing authority to issue other travel-related licenses for other activities in Cuba on a case-by-case basis.

Travel-related restrictions challenged in court. In Regan v. Wald, 468 U.S. 222, the Supreme Court affirms OFAC's authority to restrict travel-related transactions.

1986 President Reagan announces forthcoming tightening of the Cuba travel provisions due to abuses of existing general licenses stemming from the inability to monitor compliance.

1988 New section 515.566 (now 515.572) added requiring the specific licensing of persons providing Cuba related travel services (travel agents, tour operators, ticket agents, etc.), carrier services (aircraft charter companies), and remittance forwarding services.

1989 Regulations amended August 25, 1989, to cap per diem expenditures of licensed travelers (limited then to \$100/day).

1992 Cuban Democracy Act (“CDA”), Pub. L. 102-484, 22 U.S.C. 6001-10, enacted on October 23, 1992:

- Introduces idea of “support for the Cuban people,” opens telecommunications with Cuba, and encourages assistance to non-governmental organizations and others in Cuba working to establish civil society.
- Amends TWEA to provide for civil penalties up to \$50,000 after opportunity for an agency hearing, but civil penalty authority cannot be exercised in cases involving activities related to news gathering, research, education, religion, human rights organizations, and the importation and exportation of informational materials.
- Instructs OFAC to establish and maintain an office in Miami.

1992 The Cuban government turns to “dollarization.” OFAC sees a significant increase in travel to Cuba.

1993 Regulations amended to implement the CDA.

President Bush expands categories of activities stated in the Regulations for which specific licenses will be issued on a case-by-case basis authorizing Cuba travel-related transactions. New categories include educational activities, religious activities, activities of recognized human rights organizations, and activities for the importation or exportation of informational materials. (Pre-existing categories include travel for “humanitarian reasons” and public performances, exhibitions, and similar activities.)

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1994 President Clinton tightens travel restrictions, responding in part to Cuban policies that resulted in thousands of Cuban rafters crossing the Florida Straits in August:

- General licenses for Cuba travel-related transactions restricted to two categories of activities: official U.S. or foreign government travel and newsgathering by full-time journalists.
- Family travel and travel for research or certain professional meetings moved to case-by-case specific licensing, joining travel for educational activities, religious activities, activities of recognized human rights organizations, activities for the importation or exportation of informational materials, travel for “humanitarian reasons,” and public performances, exhibitions, and similar activities.

Movement of family, research, and professional meeting travel to specific licensing results in very large increase in applications to OFAC. Staff is detailed from Treasury bureaus for six months to assist OFAC in handling applications.

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- 1995 Pursuant to President Clinton's policy of "promoting democratic change in Cuba," Regulations amended to reinstate a limited general license authorizing travel-related transactions for one family travel trip per any 12-month period and to fully reinstate the general license for professional research and certain professional meetings. Additional family travel and certain activities that provide support for the Cuban people are added as new case-by-case specific licensing provisions.

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OFAC Miami Office (created pursuant to the CDA) opens and is staffed with a detailee to answer calls about family travel and process family travel licenses.

- 1996 President Clinton stops all direct flights between the United States and Cuba after the Cuban government shoot-down of two U.S. civilian aircraft in February. All generally or specifically licensed travelers have to travel through a third country.

OFAC Miami office acquires permanent staffing by transfer of one employee from D.C.

Travel transactions related to free-lance journalism added to list of activities for which case-by-case specific licenses will be considered, joining travel for additional family visits, educational activities, religious activities, activities of recognized human rights organizations, activities for the importation or exportation of informational materials, travel for "humanitarian reasons," activities that provide "support for the Cuban people," and public performances, exhibitions, and similar activities.

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The Cuban Liberty and Democratic Solidarity (Libertad) Act of 1996, Pub. L. 104-114, 22 U.S.C. 6021-91, enacted on March 12, 1996. The Libertad Act amended TWEA to remove all restrictions on the use of civil penalty authority. This amendment results in the use of civil penalties in cases involving travel-related transactions.

- 1997 Program for processing application for and monitoring activities of travel service providers, carrier service providers, and remittance forwarders transferred to the Miami Office.
- 1998 The Pope visits Cuba in January. President Clinton allows an exception permitting direct charter flights carrying religious pilgrims to be specifically licensed. In July, President Clinton restores all direct flights in recognition of the Pope's successful visit and the Cuban government's opening to religious groups.

To assist with affective enforcement of the Cuba embargo, Regulations amended to include presumption of travel-related transactions in Cuba when there is evidence that an individual has traveled to Cuba. Requirements set forth explaining how a traveler could rebut this presumption.

1999 President Clinton announces a policy for increased people-to-people contacts in support of the Cuban people. Regulations amended to implement this policy:

- Section 515.560(a) reorganized to set forth list of all categories of activities for which general and specific licenses are available, and all licensable categories are broken out into separate sections in the Regulations.
- General licenses for regularly employed supporting broadcast and technical personnel as well as certain amateur athletic competitions added to the existing general licenses for official U.S. or foreign government travel, one family visit per twelve months, newsgathering by full-time journalists, and professional research and certain professional meetings.
- Statements of policy added for new multiple trip “umbrella”-like specific licenses issued to educational and religious organizations. Separate statements of policy for case-by-case specific licensing added for activities of private foundations and research institutes interested in international relations and for travel related to marketing, sales, accompanied delivery, and servicing of licensed exports.
- Existing statements of specific licensing policy for additional family visits, educational activities, religious activities, free-lance journalism, activities of recognized human rights organizations, activities for the importation or exportation of informational materials, travel for “humanitarian reasons,” activities that provide “support for the Cuban people,” and public performances, exhibitions, and similar activities described in greater detail.

OFAC licenses Baltimore Orioles to engage in travel-related transactions incident to baseball games in Cuba under the existing policy for public performances and exhibitions. This is the first time a professional sport team receives such a license, resulting in significant press coverage.

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2000 Trade Sanctions Reform and Export Enhancement Act of 2000, Pub. L. 106-387 (“TSRA”), enacted October 26, 2000, restricts the OFAC’s delegated TWEA licensing authority with respect to travel-related transactions to licensing only those transactions incident to the categories of activities expressly enumerated in paragraphs (1) through (12) of section 515.560(a). OFAC discontinues case-by-case licensing of travel-related transactions incident to activities not listed in the twelve categories in section 515.560(a).