



## Office of Foreign Assets Control

### 31 CFR Part 515

#### Cuban Assets Control Regulations

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Treasury’s Office of Foreign Assets Control (OFAC) is amending the Cuban Assets Control Regulations (the “Regulations”) to further implement elements of the policy announced by the Administration on May 16, 2022, to increase support for the Cuban people. Among other things, these amendments increase support for internet freedom for the Cuban people and independent Cuban private sector entrepreneurs by expanding authorizations for internet-based services and a range of financial transactions. These amendments also include several additional or updated cross references and one updated definition.

**DATES:** This rule is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, 202-622-2480; Assistant Director for Regulatory Affairs, 202-622-4855; or Assistant Director for Sanctions Compliance & Evaluation, 202-622-2490.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Availability**

This document and additional information concerning OFAC are available on OFAC’s website: [www.treas.gov/ofac](http://www.treas.gov/ofac).

##### **Background**

The Department of the Treasury issued the Cuban Assets Control Regulations, 31 CFR part 515 (the “Regulations”), on July 8, 1963 under the Trading With the Enemy Act (50 U.S.C.

4301–41). OFAC has amended the Regulations on numerous occasions. As with prior amendments, OFAC has ensured that these amendments are consistent with the Cuban Liberty and Democracy Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. §§ 6021-6091 and other applicable authorities. Most recently, on June 9, 2022, OFAC amended the Regulations to implement certain policy measures announced by the Administration on May 16, 2022 to increase support for the Cuban people. In this document, OFAC, in consultation with the Department of State, is taking additional actions to further implement the Administration’s Cuba policy measures announced on May 16, 2022, as set forth in more detail below.

*Internet-Based Services.* OFAC is amending § 515.578(a)(1) to provide additional examples of authorized services incident to the exchange of communications over the internet and to include and expand certain services to support the exchange of such communications. For example, OFAC’s amendment to § 515.578(a)(1) clarifies that cloud-based services may be exported to Cuba to support the exchange of communications over the internet. OFAC is amending § 515.578(a)(2) to expand the authorization for services (including training) to install, repair, or replace certain items, including by removing the requirement that referenced items fall within specific export control classification parameters. OFAC is retaining the requirement in § 515.578(a)(2) that for services (including training) related to any items subject to the Export Administration Regulations, 15 CFR parts 730 through 774, such items must be licensed or otherwise authorized by the Department of Commerce for exportation or reexportation to Cuba. OFAC is also amending § 515.578(d) and (e) to authorize the export or reexport of Cuban-origin software and mobile applications, respectively, from the United States to third countries.

*Definition of Independent Private Sector Entrepreneurs.* OFAC is amending § 515.340 by replacing the term “self-employed individual” with the term “independent private sector entrepreneur” and limiting the term to exclude a Cuban national who is a prohibited official of the Government of Cuba, as defined in § 515.337, or a member of the Cuban Communist Party, as defined in § 515.338. The term continues to include self-employed individuals

(*cuentapropistas*), such as owners or employees of a private business or a sole proprietorship, but the amended definition now also includes cooperatives and other private businesses wholly owned by or consisting solely of such individuals. OFAC is also amending § 515.340 to specify that private businesses or sole proprietorships of up to 100 employees are covered by the term “independent private sector entrepreneur.” OFAC is also replacing the term “independent Cuban entrepreneurs” with “independent private sector entrepreneurs” in § 515.582, replacing the term “self-employed individuals” with “independent private sector entrepreneurs” and adding farms of up to 100 employees as an example of private businesses in § 515.570, and making conforming changes to § 515.421.

*U.S. Bank Accounts for Independent Private Sector Entrepreneurs.* OFAC is amending § 515.584(h) to authorize independent private sector entrepreneurs in Cuba, as defined in § 515.340, to maintain and use a U.S. bank account to conduct authorized or exempt transactions.

*“U-Turn” Transactions.* OFAC is amending § 515.584(d) to reinstate an authorization for “U-turn” transactions to help the Cuban people, including independent private sector entrepreneurs, by facilitating remittances and payments for authorized transactions in the Cuban private sector. This amendment allows any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction to process funds transfers in which Cuba or a Cuban national has an interest if the funds transfers originate and terminate outside the United States, provided that neither the originator nor the beneficiary is a person subject to U.S. jurisdiction.

Transactions through the U.S. financial system that do not meet these criteria, including all transactions where the originator or beneficiary is a person subject to U.S. jurisdiction, remain prohibited unless otherwise authorized or exempt under the Regulations. OFAC is also amending § 515.584(e) to authorize the unblocking and return of any transfer that would have

been authorized pursuant to the reinstated authorization. OFAC is making a conforming change by adding a reference to § 515.584(d) in the note to § 515.209.

*Telecommunications-Related Transactions Reporting Requirements.* OFAC is amending § 515.542(g) to replace the current fax or mail reporting requirement with a requirement to email reports to *OFACReport@treasury.gov*. OFAC is also adding a sentence to § 515.542(g) to clarify that the reporting requirement in paragraph (g) applies to entities engaging in transactions to provide telecommunication services pursuant to paragraph (b), (c), or (d), and not banking institutions, as defined in § 515.314, processing payments on behalf of such providers.

*Educational Activities.* OFAC is amending § 515.565(a) to correct a typographical error in the June 9, 2022 amendment to the Regulations and restore language in the general license in § 515.565(a) authorizing transactions beyond the travel-related transactions set forth in § 515.560(c).

### **Public Participation**

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 of September 30, 1993, “Regulatory Planning and Review” (58 FR 51735, October 4, 1993), and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

### **Paperwork Reduction Act**

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”) and § 515.572. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control numbers 1505-0164, 1505-0167, and 1505-0168. An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid control number.

### **List of Subjects in 31 CFR Part 515**

Administrative practice and procedure, Banks, banking, Blocking of assets, Cuba, Credit, Foreign trade, Internet, Penalties, Reporting and recordkeeping requirements, Sanctions, Services.

For the reasons set forth in the preamble, OFAC amends 31 CFR part 515 as follows:

### **PART 515—CUBAN ASSETS CONTROL REGULATIONS**

1. The authority citation for part 515 continues to read as follows:

**Authority:** 22 U.S.C. 2370(a), 6001–6010, 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 4301–4341; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); 22 U.S.C. 6021–6091; Pub. L. 105-277, 112 Stat. 2681; Pub. L. 111-8, 123 Stat. 524; Pub. L. 111-117, 123 Stat. 3034; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

### **Subpart B—Prohibitions**

#### **§ 515.209 [Amended]**

2. Amend § 515.209 in note 1 to the section by adding “§ 515.584(d) relating to funds transfers or” before the text “§ 515.584(g)”.

### **Subpart C—General Definitions**

3. Amend § 515.340 by:

a. Revising the section heading;

b. In the introductory text, removing “*self-employed individual* means a Cuban national who is” and adding in its place “*independent private sector entrepreneur* means a Cuban national who is not a prohibited official of the Government of Cuba, as defined in § 515.337, or a prohibited member of the Cuban Communist Party, as defined in § 515.338, and is”;

- c. Revising and republishing paragraph (a);
- d. In paragraph (c), removing the word “or” after the semicolon;
- e. In paragraph (d), removing the period and adding in its place “; or”; and
- f. Adding paragraph (e).

The revisions and addition read as follows:

**§ 515.340 Independent private sector entrepreneur.**

\* \* \* \* \*

(a) An owner, including a self-employed individual (*cuentalpropista*), or employee of a small private business entity, private cooperative, or a sole proprietorship located in Cuba, in each case of up to 100 employees;

\* \* \* \* \*

(e) A private cooperative or small private business entity located in Cuba of up to 100 employees that is owned only by individuals described in paragraphs (a) through (d) of this section.

**Subpart D – Interpretations**

**§ 515.421 [Amended]**

4. Amend § 515.421 in paragraph (b)(2) by removing “Cuban” and adding in its place “private sector”.

**Subpart E—Licenses, Authorizations, and Statements of Licensing Policy**

5. Amend § 515.542 in paragraph (g) by:

- a. Removing “faxed to 202/622-6931 or mailed to the Office of Foreign Assets Control, *Attn:* Regulatory Affairs Division, 1500 Pennsylvania Avenue NW., Annex, Washington, DC 20220” and adding in its place “emailed to OFACReport@treasury.gov”; and
- b. Adding a sentence at the end of the paragraph.

The addition reads as follows:

**§ 515.542 Mail and telecommunications-related transactions.**

\* \* \* \* \*

(g) \* \* \* The reporting requirement in this paragraph (g) applies only to the non-banking institution entity subject to U.S. jurisdiction relying upon paragraph (b), (c), or (d) of this section to provide telecommunications services.

\* \* \* \* \*

**§ 515.565 [Amended]**

6. Amend § 515.565 in paragraph (a) introductory text by adding “transactions, including” after “engage in”.

**§ 515.570 [Amended]**

7. Amend § 515.570 in paragraph (g)(3) by:

- a. Adding “in Cuba, including farms of up to 100 employees” after “businesses”; and
- b. Removing “by self-employed individuals” and adding in its place “of Cuba by

independent private sector entrepreneurs”.

8. Amend § 515.578 by:

- a. Revising paragraphs (a)(1) and (2);
- b. In paragraph (a)(3):

- i. Removing “The” at the beginning of the sentence and add in its place “To the extent not authorized by § 515.533 or § 515.560, the”; and

- ii. Removing “(2)(i)-(iii)” and add in its place “(a)(2)”.

- c. Redesignating Note to § 515.578(b)(2) as Note 3 to § 515.578(b)(2);

- d. Revising paragraphs (d) and (e); and

- e. Redesignating the note at the end of the section as Note 5 to § 515.578.

The revisions read as follows:

**§ 515.578 Exportation, reexportation, and importation of certain internet-based services; importation of software.**

(a) \* \* \*

(1) *Certain internet-based services.* The exportation or reexportation, directly or indirectly, from the United States or by a person subject to U.S. jurisdiction to Cuba of the following services:

(i) Services incident to the exchange of communications over the internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, blogging, web hosting provided that it is not for the promotion of tourism, domain name registration services, social media platforms, collaboration platforms, video conferencing, e-gaming and e-learning platforms, automated translation, web maps, and user authentication services; and

(ii) Services to support the exchange of communications over the internet, such as software design, business consulting, information technology management services, and cloud-based services, to support services described in paragraph (a)(1)(i) of this section.

(2) *Services related to certain exportations and reexportations.* To the extent not authorized by § 515.533, the exportation or reexportation of services, including training, to install, repair, or replace items related to communications, or items used to develop software that improves the free flow of information or that will support private sector activities in Cuba consistent with the export or reexport licensing policy of the Department of Commerce, provided that any such item subject to the Export Administration Regulations, 15 CFR parts 730 through



774, is licensed or otherwise authorized by the Department of Commerce for exportation or reexportation to Cuba.

\* \* \* \* \*

(d) *Software*. The importation into the United States, and the exportation or reexportation from the United States to third countries, of Cuban-origin software is authorized.

(e) *Mobile applications*. (1) The importation into the United States, and the exportation or reexportation from the United States to third countries, of Cuban-origin mobile applications is authorized.

Note 4 to § 515.578(e)(1): This paragraph (e)(1) does not authorize U.S.-owned or -controlled firms in third countries to import goods of Cuban origin into the authorized trade zone. See § 515.559.

(2) The employment of Cuban nationals to develop mobile applications is authorized.

\* \* \* \* \*

### **§ 515.582 [Amended]**

9. Amend § 515.582 by:

a. In the section heading and introductory text, removing “Cuban” and adding in its place “private sector”; and

b. In the introductory text, removing “entrepreneurs as” and adding in its place “entrepreneurs, as defined in § 515.340. The list of goods and services eligible for importation under this section is”.

10. Amend § 515.584 by:

a. In paragraph (d), removing “reject” and adding in its place “process”;

b. In paragraph (e), in the first sentence, adding “paragraph (d) of this section,” after “processed pursuant to” and adding a comma after “§ 515.562(b)”;

c. Adding a heading to paragraph (h) and redesignating the text of paragraph (h) as paragraph (h)(1); and

d. Adding paragraph (h)(2).

The additions read as follows:

**§ 515.584 Certain financial transactions involving Cuba.**

\* \* \* \* \*

(h) *Opening and maintaining bank accounts for certain Cuban nationals.* \* \* \*

(2) Any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction is authorized to open and maintain accounts solely in the name of a Cuban national who is an independent private sector entrepreneur, as defined in § 515.340, for the purposes of conducting transactions authorized pursuant to, or exempt from the prohibitions of, this part.

---

**Bradley T. Smith**

*Director, Office of Foreign Assets Control.*

BILLING CODE 4810-AL

[FR Doc. 2024-11618 Filed: 5/28/2024 8:45 am; Publication Date: 5/29/2024]