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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations; News Organizations; Travel Transactions; Intellectual Property

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: Pursuant to the President's announcement of October 6, 1995, the Treasury Department is amending the Cuban Assets Control Regulations to add 3 interpretive sections concerning the authorization of travel transactions related to research, free-lance journalism, and educational activities in Cuba. A general license is added to permit travel to Cuba once a year in cases of extreme humanitarian need. Statements of licensing policy are added concerning the availability of specific licenses for public performances, educational exchanges, activities of human rights organizations, and the reciprocal establishment of news organization offices. Payment of expenses for intellectual property protection in Cuba is also authorized. In addition, a number of clarifying technical amendments are included in this final rule.

EFFECTIVE DATE: October 17, 1995.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622-2480), or William B. Hoffman, Chief Counsel (tel.: 202/622-2410), Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220.

SUPPLEMENTARY INFORMATION:

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Background

On October 6, 1995, President Clinton announced a number of changes to the administration of the Cuban embargo intended to promote democratic change in Cuba. Accordingly, the Office of Foreign Assets Control is amending the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), to implement these measures.

Section 514.416 is amended to expand the interpretation of the term "research and similar activities" to include research conducted on behalf of an organization with an established interest in international relations. Individuals acting on behalf of such an organization may apply for a specific license to authorize travel-related transactions in Cuba. Section 515.417 is added to the Regulations to establish the basis on which specific licenses to authorize travel-related transactions will be granted to individuals engaging in free-lance journalism. Section 515.419 is added providing an interpretation of the term "educational activities." Specific licenses will be available for individuals who are attending certain meetings of international organizations in Cuba. Undergraduates' travel to Cuba for study toward a degree may be licensed if the activities are sponsored by a college or university.

Sections 515.527 and 515.528 are amended to authorize transactions including payments to the United States by Cuban nationals and payments to Cuba by U.S. companies and individuals related to the protection of intellectual property. A new general

license is established at § 515.560(a)(1)(iii) to permit travel to Cuba once a year to visit close relatives in circumstances of extreme humanitarian need. Clarifying amendments are made to § 515.560(g) to make clear that "fully hosted or sponsored" travelers may not use the charter services authorized pursuant to § 515.566. Section 515.565 is amended to provide that specific licenses may be issued for public performances or public exhibitions in Cuba. A new § 515.572 is added to the Regulations which states that specific licenses may be issued on a case-by-case basis to permit the establishment of offices for news organizations in the United States by Cubans and in Cuba by U.S. persons.

A new § 515.573 is added to the Regulations authorizing educational exchanges for Cuban and U.S. scholars, as well as study in a Cuban academic institution by graduate and undergraduate students. Section 515.574 is added to the Regulations to allow for specific licensing of activities of human rights organizations and other non-governmental organizations to support the Cuban people.

In addition, certain technical amendments are included in this rule. The term "authorized trade territory" is redefined in § 515.322. Sections 515.413 and 515.561 are being removed from the Regulations. Section 515.413, concerning certain engineering advice, related to a general license that is no longer included in the Regulations; accordingly, § 515.413 is being removed as unnecessary. Section 515.561 was originally incorporated into the Regulations to authorize travel in support of transactions authorized under an earlier version of § 515.559. The continued authorization of travel transactions is inconsistent with the present limited scope of § 515.559. Finally § 515.563 is amended to clarify that remittances related to emigration from Cuba continue to be authorized under general license.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of 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.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Air carriers, Banks, banking, Cuba, Currency, Estates, Exports, Fines and penalties, Foreign investment in the United States, Foreign trade, Imports, Informational materials, Publications, Reporting and recordkeeping requirements, Securities, Shipping, Travel restrictions, Trusts and trustees, Vessels.

For the reasons set forth in the preamble, 31 CFR part 515 is amended as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

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

Authority: 50 U.S.C. App. 1-44; 22 U.S.C. 6001-6010; 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR, 1959-1963 Comp., p. 157; E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943-1948 Comp., p. 748; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart C—General Definitions

2. Paragraph (a) of § 515.322 is revised to read as follows:

§ 515.322 Authorized trade territory; member of the authorized trade territory.

(a) The term *authorized trade territory* includes all countries, including any colony, territory, possession, or protectorate, except those countries subject to sanctions pursuant to this chapter. The term does not include the United States.

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Subpart D—Interpretations

§ 515.413 [Removed and reserved]

3. Section 515.413 is removed and reserved.

4. The introductory text of paragraph (a) and paragraph (a)(1) of § 515.416 are revised to read as follows:

§ 515.416 Professional research and similar activities.

(a) Section 515.560(b) sets forth the criteria on which specific licenses for transactions related to travel to, from, and within Cuba may be issued for persons engaging in professional research and similar activities of a noncommercial, academic nature. Persons traveling to Cuba to engage in professional research must engage in a full work schedule in Cuba, and there must be a substantial likelihood of public dissemination of the product of their research. No transactions related to

tourist or recreational travel within Cuba are authorized in connection with professional research, except those that are consistent with a full schedule of research activities.

(1) Persons are considered to be engaging in professional research for purposes of this section:

(i) If they are full-time professionals who travel to Cuba to do research in their professional areas and their research is specifically related to Cuba; or

(ii) If they are acting on behalf of an organization with an established interest in international relations to collect information related to Cuba.

* * * *

5. Section 515.417 is added to subpart D to read as follows:

§ 515.417 Free-lance journalists.

(a) Section 515.560(a)(2) authorizes travel transactions for journalists who are regularly employed in that capacity by a news reporting organization. For individuals who wish to travel to Cuba to do research for a free-lance article, specific licenses will be issued pursuant to § 515.560(b) on a case-by-case basis upon submission of an adequate written application including the following documentation:

(1) A detailed itinerary and a detailed description of the proposed research; and

(2) A resume or similar document showing a record of publications.

(b) To qualify for specific licensing pursuant to § 515.560(b), the itinerary for the proposed research in Cuba for a free-lance article must demonstrate that the research constitutes a full work schedule that could not be accomplished in a shorter period of time.

6. Section 515.419 is added to subpart D to read as follows:

§ 515.419 Travel related to educational activities.

(a) Section 515.560(b) provides, in part, that specific licenses will be issued to persons for travel to Cuba for clearly defined educational activities. Transactions related to travel and maintenance in Cuba for the following activities will be licensed upon submission of an adequate written application:

(1) Attendance at a meeting or conference held in Cuba by a person with an established interest in the subject of the meeting or conference, provided that:

(i) The meeting or conference is organized by an international institution or association that regularly sponsors

meetings or conferences in other countries; and

(ii) The purpose of the meeting or conference is not the promotion of tourism in Cuba or other commercial activities involving Cuba that are inconsistent with this part; and

(2) Activities related to study for an undergraduate or graduate degree sponsored by a college or university located in the United States.

(b) Transactions related to travel that is primarily tourist travel, including self-directed educational activities that are intended for personal enrichment, will not be licensed pursuant to § 515.560(b).

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

7. Section 515.527 is revised to read as follows:

§ 515.527 Certain transactions with respect to United States intellectual property.

(a) Transactions related to the registration and renewal in the United States Patent and Trademark Office or the United States Copyright Office of patents, trademarks, and copyrights in which the Government of Cuba or a Cuban national has an interest are authorized.

(b) This section authorizes the payment from blocked accounts or otherwise of fees currently due to the United States Government in connection with any transaction authorized in paragraph (a) of this section.

(c) This section further authorizes the payment from blocked accounts or otherwise of the reasonable and customary fees and charges currently due to attorneys or representatives within the United States in connection with the transactions authorized in paragraph (a) of this section.

8. The section heading and the introductory text of paragraph (a) of § 515.528 are revised to read as follows:

§ 515.528 Certain transactions with respect to blocked foreign intellectual property.

(a) The following transactions by any person who is not a designated national are hereby authorized:

* * * *

9. Paragraphs (a), (b) and (g) of § 515.560 are revised to read as follows:

§ 515.560 Certain transactions incident to travel to and within Cuba.

(a)(1) *General license.* The transactions in paragraph (c) of this section are authorized in connection with travel to Cuba by:

(i) Persons who are officials of the United States Government or of any foreign government, or of any intergovernmental organization of which the United States is a member, and who are traveling on official business;

(ii) Journalists regularly employed in that capacity by a news reporting organization; or

(iii) Persons, and persons traveling with them who share a common dwelling as a family with them, who are traveling to visit close relatives in Cuba in circumstances that demonstrate extreme humanitarian need, provided that the authorization contained in this paragraph may be used only once in any 12 month period. Any additional transactions must be specifically licensed pursuant to paragraph (b) of this section.

(2) Nothing in this section authorizes transactions in connection with tourist travel to Cuba, nor does it authorize transactions in relation to any business travel not otherwise authorized by specific license issued pursuant to this part.

(b) *Specific licenses.* Specific licenses authorizing the transactions in paragraph (c) of this section may be issued in cases involving extreme humanitarian need to persons or persons living in the same household, who seek to travel to visit close relatives in Cuba of such persons more than once in a calendar year. Specific licenses may also be issued to persons to travel to Cuba for humanitarian reasons based on a demonstrated compelling need to travel, for professional research and similar activities consistent with § 515.416, for free lance journalism consistent with § 515.417, for clearly defined educational activities consistent with § 515.419, for religious activities, for activities of recognized human rights organizations investigating human rights violations, or for purposes related to the exportation, importation, or transmission of information or informational materials as defined in § 515.332.

(1) For purposes of this section, the term *close relative* means spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother-in-law, father-in-law, daughter-in-law, son-in-law, sister-in-law, brother-in-law, or spouse, widow, or widower of any of the foregoing.

(2) Nothing in this section authorizes transactions in connection with tourist travel to Cuba. Travel to Cuba that is characterized as falling within the

criteria specified in paragraph (b) is prohibited unless specifically licensed.

* * * * *

(g)(1) For purposes of this section, all necessary transactions involving fully sponsored or hosted travel to, from, and within Cuba are authorized, provided that:

(i) No person subject to the jurisdiction of the United States shall make any payment or transfer any property or provide any service to Cuba or a Cuban national in connection with such travel; and

(ii) The travel is not aboard a direct flight between the United States and Cuba authorized pursuant to § 515.566 of this part.

(2) Travel shall be considered fully sponsored or hosted for purposes of this section notwithstanding a payment by the person subject to the jurisdiction of the United States for transportation to and from Cuba, provided that the carrier furnishing the transportation is not a Cuban national.

§ 515.561 [Removed and reserved]

10. Section 515.561 is removed and reserved.

11. Section 515.563 is revised to read as follows:

§ 515.563 Family remittances to nationals of Cuba.

(a) Specific licenses may be issued on a case-by-case basis authorizing remittances to a close relative of the remitter or of the remitter's spouse who is a national of Cuba and who is resident in Cuba or in the authorized trade territory. Such remittances will be authorized only in circumstances where extreme humanitarian need is demonstrated, including terminal illness or severe medical emergency.

(b) Remittances to any close relative of the remitter or of the remitter's spouse who is a national of Cuba or who is resident in Cuba are authorized for the purpose of enabling the payee to emigrate from Cuba to the United States, in an amount not exceeding \$500, to be made only once to any payee, provided that the payee is a resident of and within Cuba at the time the payment is made.

(c) The term *close relative* used with respect to any person means such person's spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or spouse, widow, or widower of any of the foregoing.

12. Paragraph (c) is added to § 515.565 to read as follows:

§ 515.565 Transactions in connection with public exhibitions or performances.

* * * * *

(c) Specific licenses may be issued in appropriate cases for transactions incident to participation by a person subject to the jurisdiction of the United States in a public exhibition or performance in Cuba.

13. Section 515.572 is added to subpart E to read as follows:

§ 515.572 Transactions by news organizations.

(a) Specific licenses may be issued authorizing all transactions necessary for the establishment and operation of news bureaus in Cuba whose primary purpose is the gathering and dissemination of news to the general public. Transactions that may be authorized include, but are not limited to, those incident to the following:

(1) Leasing office space and securing related goods and services;

(2) Hiring Cuban nationals to serve as support staff;

(3) Purchasing Cuban-origin goods for use in the operation of the office; and

(4) Paying fees related to the operation of the office in Cuba.

(b) Specific licenses may be issued authorizing transactions necessary for the establishment and operation of news bureaus in the United States by Cuban organizations whose primary purpose is the gathering and dissemination of news to the general public.

(c) Specific licenses may be issued authorizing transactions related to hiring Cuban nationals to provide reporting services or other services related to the gathering and dissemination of news.

(d) Note: The number assigned to a specific license issued pursuant to this section should be referenced in all import documents, and in all funds transfers and other banking transactions through banks organized or located in the United States, in connection with the licensed transaction to avoid the blocking of goods imported from Cuba and the interruption of the financial transactions with Cuba.

14. Section 515.573 is added to subpart E to read as follows:

§ 515.573 Transactions related to educational exchanges.

Specific licenses may be issued on a case-by-case basis authorizing the following:

(a) Transactions related to teaching at a Cuban academic institution by an individual regularly employed in a teaching capacity at a college or university located in the United States,

provided the activities are related to a college or university academic program;

(b) Transactions related to the sponsorship of a Cuban scholar to teach or engage in other scholarly activity at a college or university located in the United States;

(c) Transactions related to participation in a formal course of study at a Cuban academic institution by a graduate or undergraduate student; and

(d) Transactions related to the organization of activities described in paragraph (a), (b), or (c) of this section.

15. Section 515.574 is added to subpart E to read as follows:

§ 515.574 Support for the Cuban people.

(a) Specific licenses may be issued on a case-by-case basis for transactions intended to provide support for the Cuban people including, but not limited to, the following:

(1) Activities of recognized human rights organizations; and

(2) Activities of individuals and non-governmental organizations which promote independent activity intended to strengthen civil society in Cuba.

(b) Licenses will only be issued pursuant to this section upon a clearly articulated showing that the proposed transactions are consistent with the

purposes of this part and that no significant accumulation of funds or financial benefit will accrue to the Government of Cuba.

Dated: October 13, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: October 13, 1995.

John P. Simpson,

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).

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