



# **CIRCULAR 2006**

**TRAVEL, CARRIER and REMITTANCE FORWARDING  
SERVICE PROVIDER PROGRAM**

**OFFICE OF FOREIGN ASSETS CONTROL**

**March 2006**

# CIRCULAR 2006

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# Circular 2006

## I. Overview

This Circular describes the regulatory program administered by the Treasury Department's Office of Foreign Assets Control ("OFAC") that permits certain otherwise prohibited transactions involving the provision of travel services, carrier services and the forwarding of remittances in which Cuba has an interest. This program is administered pursuant to the Cuban Assets Control Regulations, 31 CFR Part 515, and the Reporting, Procedures and Penalties Regulations, 31 CFR Part 501 (jointly, the "Regulations"). Each Travel Service Provider ("TSP"), Carrier Service Provider ("CSP"), and Remittance Forwarder ("RF") (collectively "SP(s)" or "you") is responsible for satisfying the requirements set out in the Regulations, the SP's individual authorization and amendments thereto, and this Circular, including its Appendices, which is incorporated as a part of each SP authorization.

The Regulations prohibit all unlicensed transactions by persons subject to the jurisdiction of the United States<sup>1</sup> involving property in which Cuba or a Cuban national has any interest whatsoever, direct or indirect, unless exempt or otherwise authorized by OFAC. Such prohibited transactions include, but are not limited to, the provision of services related to Cuban passports; Cuban visas; travel in Cuba, such as arranging or paying for food, lodging, airline tickets to Cuba (direct or indirect) and ground transportation; and the transfer of funds to Cuba or to a Cuban national.<sup>2</sup>

The Circular includes as appendices the SP Application Guidelines (Appendix I), the SP Operational Guidelines (Appendix II), the SP Screening Guidelines (Appendix III), the SP Reporting and Recordkeeping Guidelines (Appendix IV), and the SP Enforcement Guidelines (Appendix V). The Circular, including these documents, provides the basic information applicable to all SPs. This information, along with the Regulations and specific authorizations issued by OFAC, is referred to as the "SP Program," and particular requirements of the SP Program are referred to as "SP Program requirements."

Procedural and policy changes may be issued as amendments to the Circular currently in effect or as special notices from OFAC. OFAC maintains an up-to-date list of authorized

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<sup>1</sup> The term "person subject to the jurisdiction of the United States" as defined in § 515.529 means (a) any individual, wherever located, who is a citizen or resident of the United States; (b) any person within the United States as defined in § 515.330; (c) any corporation organized under the laws of the United States or of any State, territory possession, or district of the United States; and (d) any corporation, partnership, or association, wherever organized or doing business, that is owned or controlled by persons specified in paragraph (a) or (c) of § 515.529.

<sup>2</sup> A person solely carrying U.S.-origin cargo by air to Cuba, consistent with the appropriate authorization(s) from the U.S. Department of Commerce, need not be an SP.

SPs, which is available on its Fax-on-Demand service ((202) 622-0077) and website: [www.treas.gov/ofac](http://www.treas.gov/ofac). Other actions, including additions to and deletions from the list of authorized SPs, may be published on OFAC's website. SPs are required to remain up-to-date with the SP list, as failure to do so may cause them to violate the SP Program by conducting transactions with an unauthorized company or person. See SP Screening Guidelines (Appendix III), for further details. OFAC's website has a subscription service that allows a subscriber to receive notices from OFAC of changes under any OFAC program, including notification of a published update to the SP list. Published changes supercede all previous amendments and prior circulars.

For the handling of enforcement issues not directly covered by the SP Enforcement Guidelines (Appendix V), please see generally the OFAC Enforcement Guidelines, which are available on OFAC's website. Civil and criminal fines and penalties and the loss of operating authority may be imposed for activity inconsistent with the SP Program. Criminal penalties for violations of the Regulations range up to 10 years in prison and \$1 million in corporate and \$250,000 in individual fines. OFAC may impose civil penalties up to \$65,000 per violation.

## **II. Service Provider Program**

All persons subject to the jurisdiction of the United States who wish to provide Cuba-related travel services, carrier services, or remittance forwarding services must be authorized by OFAC pursuant to § 515.572 of the Regulations. Authorization from OFAC is not transferable. Only an entity or person that has received directly from OFAC an authorization is entitled to perform services as an SP. In becoming an SP, you undertake to offer to the public certain services in a manner that is consistent with the SP Program. This includes but is not limited to using forms and procedures you agree to at the time of application.

Section 515.572 of the Regulations lists certain requirements for obtaining OFAC authorization (§ 515.572(b)), certain grounds that may justify denial of an application (§ 515.572(e)(2)(ii)(A-E)), and certain grounds that may justify the suspension or revocation of an authorization (§ 515.572(e)(3)(i-vii)). This Circular lists further essential requirements that are a part of every SP authorization and, if not met, may result in a penalty proceeding or the suspension or revocation of SP authorization. The SP Enforcement Guidelines (Appendix V) provide guidance as to how OFAC may respond to any particular improper activity.

### **A. Application Process**

A person subject to the jurisdiction of the United States may apply to OFAC to become an SP by satisfying the criteria laid out in the SP Application Guidelines (Appendix I). OFAC considers such applications on a case-by-case basis. Questions concerning the SP Program application process should be directed to the OFAC-Miami Office at (786) 845-2828.

## **B. General Obligations of Service Providers**

### **1. No Discriminatory Practice**

Evidence indicating that you participate in discriminatory practices of the Cuban Government against certain residents and citizens of the United States may be the basis for OFAC action pursuant to the SP Enforcement Guidelines.

### **2. OFAC Oversight/Conduct Consistent with Application Requirements**

OFAC regulates your SP operations once you are authorized. OFAC may contact your office by phone, fax, letter, or other communication to request information and/or documents from you related to your conduct. Consistent with the SP Enforcement Guidelines (Appendix V), OFAC may open an investigation of your conduct to determine if improper activity has occurred. OFAC will look to see if your conduct is consistent with the SP Program, and discrepancies may be the basis for OFAC action pursuant to the SP Enforcement Guidelines.

### **3. OFAC Notice/Approval of Change in Information or Operations**

You must immediately report to OFAC any change in the information initially submitted as part of your SP application in response to the questions in the SP Application Guidelines (Appendix I), Part 1 (b) and (c) (“Your Information”) at the time of the change. The only exception is for the operational areas discussed below, which require advance notice to and authorization by OFAC. If you seek to close an existing office, you must inform OFAC in writing within five business days of the closure in order to have the office removed from your authorization and from the publicly available list of SPs. Similarly, if you seek to terminate your authorization, you must inform OFAC in writing within five business days of the termination. Further requirements in connection with the termination of an SP business are discussed in the SP Recordkeeping and Reporting Guidelines (Appendix IV).

Please note that as a part of your annual reporting requirement, you must certify each year that Your Information is current, accurate, and complete.

Changes in any of the following operational areas require notice to OFAC and OFAC written authorization before you may engage in regulated transactions using these changes:

- the ownership or management of the SP,
- the principal place of trade,
- the name or “doing business as” (“d/b/a”) by which you offer services to the public,
- additional office locations.

If there is to be a change in any of these four operational areas, please advise OFAC by letter, in advance, identifying yourself as an SP, stating your request to make the change, and providing an explanation of the change. Mere notice to OFAC of an intent to change any of these four operational areas without a written request, or notice that a change has already occurred, may be the basis for OFAC action pursuant to the SP Enforcement Guidelines

(Appendix V). If you have any question whether what you seek to change requires advance authorization, please contact OFAC first.

You also must ensure that OFAC has all of your current telephone and fax numbers. It is essential that OFAC be able to contact you at any authorized location by phone and fax during normal business hours.

#### 4. Making Use of Authorization

A condition of OFAC allowing you to continue to hold your SP authorization is that you make current use of the authorization by engaging in transactions covered by the Circular. Failure to conduct any transaction within any six-month period may form the basis for suspension or revocation of your authorization.

#### 5. Clear Guidance to Clients about Business Identity

It is essential that a client know with whom it is doing business. For this reason, your contact with the public – through the use of publicly-available telephone numbers, letterhead stationery, business cards, and/or other evidence of business activity – must use the name of your SP business. Failure to take these and other reasonable steps to avoid confusion for clients may be the basis for OFAC action pursuant to the SP Enforcement Guidelines (Appendix V).

Similarly, you must have a sign readily visible at each authorized office that identifies you by the name under which you were given SP authorization, and you must post a copy of your most recent OFAC SP authorization in a readily visible place in such offices. Holding yourself out as currently being authorized, such as by displaying an OFAC authorization when the authorization is suspended or revoked, may be the basis for further OFAC enforcement action.

#### 6. Additional Background Investigations

OFAC may deem it appropriate to conduct full federal, state, and local law enforcement background investigations of each owner, significant shareholder, director, and manager directly involved in decisions related to Cuba transactions. OFAC also may determine that additional employees or other persons are exercising authority as an owner, significant shareholder, director, or manager directly involved in decisions related to Cuba transactions and thus must also be submitted for background investigations. The information developed during this process may form the basis for OFAC to determine that it is appropriate to suspend or revoke your authorization.

#### 7. Mandatory Change of Practices

Consistent with the foreign policy objectives of the United States, OFAC may make changes to your authorization by requiring new procedures or prohibiting certain transactions that were previously authorized. Upon notification of such changes, whether through publication

of a new rule in the *Federal Register* or through direct correspondence with you, you must comply immediately. Failure to do so may be the basis for OFAC action pursuant to the SP Enforcement Guidelines (Appendix V).

## 8. Conflict of Interest

You are responsible to objectively evaluate the eligibility of a client to obtain the services that you are licensed to provide. This responsibility may be difficult to discharge if you have another interest in the proposed travel activities. For this reason, OFAC will not issue you both an SP license and a specific license for travel-related transactions, other than for your own travel-related transactions as described in Section II(F) of the Circular. Further, as an SP, you may not sponsor or promote travel-related transactions for which you yourself do not hold a specific license, or for which a different person has been issued an OFAC specific license. You may not engage in transactions that intermingle your operations with those of a travel licensee by providing services that ought to be those of the travel licensee. For example, where an organization has been granted an OFAC specific license to travel with “affiliated persons” to participate in authorized activities in Cuba, you cannot be involved in that organization’s membership drive or affiliation process, hold monies that a person owes to join or to become affiliated with that organization, or provide administrative, financial, or managerial support to that organization.

### **C. Limitations on Services Provided to Clients**

#### 1. Providing only Specifically Authorized Services

You may only provide those services for which you are authorized, as described in the SP Operational Guidelines (Appendix II). For example, if you are authorized only as a TSP, you may engage only in TSP transactions. Providing services that only CSPs may offer without a CSP authorization, for example, may be a cause for OFAC action pursuant to the SP Enforcement Guidelines (Appendix V).

#### 2. Putting Each Client on Notice

If you are a TSP, you must put each person to whom you provide travel services on notice of the Cuba embargo prohibitions, both verbally and in writing. Providing a copy of the current OFAC official brochure as available on the OFAC website at [www.treas.gov/ofac](http://www.treas.gov/ofac), for example, will assist both a potential client merely inquiring about the Regulations and an authorized traveler who is imminently departing for Cuba in being on notice of the Regulations.

#### 3. Ensuring that Each Client Qualifies as Licensed

If you are a TSP, before providing Cuba travel-related services to a person, you must determine whether the potential client qualifies under the terms of one of the OFAC general

license categories or has a specific license. If the person does not so qualify you may not provide any Cuba travel-related service to that person. The SP Screening Guidelines (Appendix III) in part discuss in greater detail your responsibility to screen each client.

#### 4. “Fully hosted” Travel Prohibited

Please note that OFAC has determined that a person who accepts goods or services in Cuba without paying for them is engaging in a prohibited dealing in property in which Cuba or a national of Cuba has an interest. Therefore, the Regulations were amended to remove from the CACR any language regarding fully-hosted travel and any authorization of fully-hosted travel is thereby eliminated.

#### 5. Remittances within Limitations

An RF must operate consistent with the SP Operations Guidelines (Appendix II).

### **D. Limitations on Conducting Business with other Persons/Companies**

#### 1. Using only an Authorized Service Provider

If you wish to use other individuals or entities subject to U.S. jurisdiction (for example, a travel agency) to assist in the licensed service you provide (for example, booking seats or issuing charter flight vouchers for your clients), you must ensure that those individuals or entities are authorized SPs operating from OFAC-authorized locations. If you work with an unauthorized individual or entity, you may be in violation of the Regulations if the unauthorized individual or entity provides services that require OFAC authorization.

An individual or entity not authorized by OFAC as an SP may make a referral to you of a client in order for you to provide services pursuant to the SP Program. You may pay a referral fee to the referring party. See SP Screening Guidelines (Appendix III) for further details.

#### 2. Transferring Funds in which Cuba has an Interest by Proper Means

You receive funds in which Cuba has an interest whenever you receive funds from a client engaging in a Cuba-related transaction, including, but not limited to:

- the amount that you will send forward to another SP as a reservation for or payment for a seat on a flight to/from/within Cuba;
- the amount that you send to the Cuban Interests Section or to the Government of Cuba through a third-country financial institution to pay for visas, passport validations, or passport renewals; or
- a remittance amount that you will forward to Cuba.

If you elect to establish an account in a financial institution outside the United States for use in forwarding funds in which Cuba has an interest, you must identify that account as part of



the application process. Nothing in your SP authorization allows you to carry funds in which Cuba has an interest either to a third-country or to Cuba for purposes of conducting regulated transactions.

You may forward funds in which Cuba has an interest by transferring those funds to another SP (TSP to TSP, TSP to CSP, CSP to CSP, or RF to RF only) for further transfer to Cuba or by wire transfer described above. The recordkeeping and reporting requirements apply fully to your participation in any such transaction.

You are responsible for ensuring that the conduct of individuals and entities with whom you deal in Cuba is consistent with the requirements of the SP program as concerns the payout of funds to the intended Cuban recipients. For example, remittances must be paid out in Cuba using one of five currencies (U.S. Dollar, British Pound, Canadian Dollar, Swiss Franc, or Euro). If you choose to contract with third-country individuals or entities to effect their customers' transactions, you have a duty to know the process used by the Cuban funds distributor and to cease using that individual or entity if there is reason to believe its transactions are inconsistent with the SP Program. See SP Operational Guidelines (Appendix II).

OFAC may inform you not to use a third-country individual or entity if OFAC finds the third-country individual or entity to be producing results inconsistent with U.S. policy.

## **E. Transactions in Cuba by Service Provider Employees**

Nothing in the SP authorization allows any individual to engage in travel-related transactions to, from, or within Cuba for the benefit of an SP without a separate OFAC specific license. OFAC may issue a specific license to allow your employees or representatives to engage in travel-related and other transactions in Cuba under the following two licensing areas:

### **1. Employee Travel License**

OFAC may issue a specific license authorizing your named employees to engage in travel-related and other transactions in Cuba to conduct necessary SP business (e.g., arranging for airline tickets, hotel accommodations, ground transportation, etc.). Such licenses generally contain a frequency limitation and allow only one authorized traveler at a time. No individual may engage in Cuba travel-related transactions pursuant to such a license unless his or her name is listed on the license. Attendance at meetings with officials other than those responsible for the conduct of necessary SP business or at general interest conferences in Cuba is not covered by this license. Questions about such authorizations should be directed to the OFAC-Miami office.

### **2. Safety and Security License**

OFAC may issue a specific license authorizing your named employees, officials, consultants, or agents to engage in travel-related and other transactions related to the safety and security of CSP-operated charter flights to, from, and within Cuba. Only persons listed on the safety

and security license may engage in such Cuba travel-related transactions. Safety and security transactions are limited to those strictly necessary under requirements of U.S. Government regulatory authorities (such as the Federal Aviation Administration) and include, but are not limited to: coordination of aircraft safety; enabling operational security; coordination of accident handling; emergency response activities; and training related to these four areas.

For both the employee travel authorization and the safety and security license, no authorized traveler may engage in unlicensed personal transactions when engaging in travel-related transactions under this license. For example, spending money to stay extra days or the receipt of free lodging and other services or goods in connection with visiting relatives in Cuba or pursuing other personal interests is not authorized by either license. Travel-related transactions in connection with activity unrelated to the essential business of the license must be separately licensed.

**Attachments**

- Appendix I Service Provider Application Guidelines
- Appendix II Service Provider Operational Guidelines
- Appendix III Service Provider Screening Guidelines
- Appendix IV Service Provider Recordkeeping and Reporting Guidelines
- Appendix V Service Provider Enforcement Guidelines

# #

# **APPENDIX I OF CIRCULAR 2006**

## **SERVICE PROVIDER APPLICATION GUIDELINES**

**TRAVEL, CARRIER and REMITTANCE FORWARDING  
SERVICE PROVIDER PROGRAM**

**OFFICE OF FOREIGN ASSETS CONTROL**

# SERVICE PROVIDER APPLICATION GUIDELINES

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# **Service Provider Application Guidelines**

## **I. Application Requirements for All Service Provider Applicants**

The Office of Foreign Assets Control (“OFAC”) requires that when you apply to be a Travel Service Provider (“TSP”), Carrier Service Provider (“CSP”), and/or a Remittance Forwarder (“RF”) (either singularly or collectively “SP”), you identify yourself in writing, name the type of authorization you seek, and state how you would comply with the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the “Regulations”). The application requirements that follow generally confirm with the requirements in § 515.572 of the Regulations.

### **A. Application Requirements**

#### **1. Complete and Accurate Data**

You must file a complete application as described in these SP Application Guidelines for OFAC to fully consider your application.

OFAC bases its determination to grant an authorization on the information provided in the application and other representations made by you or on your behalf, as well as other relevant information. If you willfully make or cause to be made in any application filed with OFAC any statement that was, at the time and in light of the circumstances under which it was made, false or misleading or omit in any application any material fact that was required, this is a sufficient ground to justify suspension or revocation of your authorization at any later time. It may also be the grounds for declaring your authorization void from the date of issuance, and may result in criminal or civil penalties.

#### **2. Background Investigation**

OFAC will conduct a full federal, state, and local law enforcement background investigation of each owner, significant shareholder, director, and manager directly involved in decisions related to Cuba transactions prior to granting authorization. In the initial application process, OFAC will review whether you identify the appropriate persons for background investigations. The information developed during the background investigations may form the basis to deny the application.

If a person fails the background investigation, OFAC will inform you. You may elect to remove that person from his or her position of authority. OFAC will then consider the application based on the remaining person(s) identified. In view of the law enforcement function involved that OFAC performs, the details of the background investigations generally are not available for review.

### 3. Record of Certain Conduct

Conviction at any time after filing an application for a license is a sufficient ground to deny the application if the conviction is for any felony or misdemeanor that:

- involved the importation, exportation, or transfer of property in violation of any law or regulation administered by OFAC,
- arose directly out of the conduct of the business covered by the license, or
- involved larceny, extortion, forgery, counterfeiting, fraudulent concealment, embezzlement, fraudulent conversion, misappropriation of funds, or a violation of export or import control laws or banking laws.

OFAC in its discretion may decline to grant a license based on other law violations.

### 4. Control and Responsibility

In applying to OFAC to become an SP, you agree to assume control over and be responsible for any action or transaction in which you engage, personally or as a corporate entity, or which is engaged in on your behalf or for your benefit. OFAC will hold you accountable for the conduct of any agent and any such conduct. OFAC presumes that any action taken by your agent who is subject to your control constitutes an action for which you are responsible. Please note the discussion of the establishment of an additional office, below.

Please note that OFAC will conduct a full federal, state, and local law enforcement background investigation of each owner, significant shareholder, director, and manager of an applicant prior to granting authorization.

**All applicants must provide complete information for B, C, and D, below:**

#### **B. Written Affirmation of Non-Discrimination.**

The required affirmation may be made using this language:

I, [the applicant], hereby affirm and demonstrate through my actions that I do not participate in any discriminatory practices engaged in by the Cuban government against certain residents and citizens of the United States. For example, I do not charge discriminatory rates for air travel or require payment for services, such as hotel accommodations and meals, not desired, planned to be utilized, or actually utilized based on such characteristics as race, color, religion, sex, citizenship, place of birth, or national origin.

#### **C. Your Corporate or Business Information. (## 1-9)**

1. Current address, telephone number, taxpayer identification number, and name of the official responsible for the applicant's services.

2. All current and former names (including trade names) and addresses (including branch offices) of your business.
3. Address of principal place of business and all branch offices.
4. Complete information concerning city, county, state or federal licenses held since 1988 relevant to the services covered by the license application, including information on denial, suspension, or cancellation of a license.
5. Copies of any bylaws/articles of incorporation, partnership agreements, management agreements, or other documents pertaining to the organization, ownership, control, or management of the applicant.
6. Financial statements and/or annual reports, if any, that you have already prepared for your business.
7. Information concerning any foreign contracts, agreements, licenses, or authorizations entered into or granted since 1988 relating to the provision of travel service, carrier service, or remittance forwarding either domestically or internationally.
8. Information concerning anticipated foreign contracts, agreements, licenses, and authorizations related to provision of services covered by your license application.
9. A list of all bank accounts (including account name, number, and bank's address) maintained for use by the business entities covered by your license application.

**D. Personal Information. (## 10-16)**

The following information must be provided for each owner, employee, and manager who is directly involved in decisions related to Cuba transactions ("Nominee"):

10. Complete name, including, if any, middle name and patronymic and matronymic name.
11. Place and date of birth.
12. Social Security Number.
13. Complete home address and telephone number.
14. Citizenship and, if not a U.S. citizen, type of resident status in the United States, if any, including the date on which resident status was granted and any identifying number issued by the U.S. Government.
15. If the Nominee has ever been convicted of a violation of Federal, state, or local law, other than minor motor vehicle violations, a description of all details and circumstances concerning the conviction.

16. Ownership percentage share of the applicant.

Please note: Your answers to all questions must be phrased as complete sentences repeating the relevant points rather than one word answers. For example, “No officer, director, or stockholder of [the company’s name] has ever been convicted of a violation of Federal, state, or local law.” (Please do not respond simply: “None” or “N/A”).

**In addition to responding to sections B, C, and D, above, you must also respond to the additional requirements set forth in the specific TSP, CSP, and/or RF guidelines, which follow.**

## **II. Travel Service Provider**

An applicant to be a TSP must provide:

### **A. Completed “Requirements for All Service Provider Applicants”**

See section I, above.

### **B. TSP Forms and Procedures**

You must certify the following:

*“In making application to receive authorization as a TSP, I have read and understood and will comply with and implement the procedural and substantive rules described in the Circular, including the Appendices.”*

## **III. Carrier Service Provider**

An applicant to be a CSP must provide:

### **A. Completed “Requirements for All Service Provider Applicants”**

See section I, above.

### **B. CSP-Related Details of Activity, Knowledge, and Ability**

1. Describe the level of activity you seek to undertake as a CSP, including per week figures for the number of flights (the “Flights”) and passenger volume (including business plans or draft contracts).
2. Document your working knowledge of Departments of Transportation and Homeland Security and OFAC rules related to the operation of the Flights. Include evidence of training, classroom work, or work experience (with dates and references) in directly related areas.



3. Certify to your current ability to be responsible for all of the financial requirements inherent in the operation of the Flights. Include a detailed estimate of each relevant expense in the operation of the Flights. Include a written affirmation of your ability to cover such expenses at this time (you may include additional evidence of this ability with your affirmation).

4. Document that you have sufficient data processing capacity to satisfy those needs inherent in the operation and oversight of the Flights.

### **C. CSP Forms and Procedures**

You must certify the following:

*“In making application to receive authorization as a CSP, I have read and understood and will comply with and implement the procedural and substantive rules described in the Circular, including the Appendices.”*

### **D. Air Ambulances**

The guidelines outlined in Circular 2005 do not entirely apply to a person seeking to operate as a CSP solely for the purpose of air ambulance emergency evacuations. Such persons should contact the OFAC Miami office at (786) 845-2828.

## **IV. Remittance Forwarder**

An applicant to be a RF must provide:

### **A. Completed “Requirements for All Service Provider Applicants”**

See section I, above.

### **B. The Scope of Your RF Operation**

Your application must state whether you seek to conduct RF-related transactions from your offices or through (an) agent(s).

1. For a person seeking to work through (an) agent(s), describe how the transactions conducted by your agent(s): (i) are clearly identified for the client as yours and not the agent’s; (ii) are subject to your review, cancellation, and control for the purposes of the SP Program; and (iii) are ultimately your responsibility – you are liable for the transactions conducted through your agent(s).

2. For a depository institution seeking authorization to act as a Remittance Forwarder, you must identify under what Federal bank regulator you are subject to supervision and examination. Identify your principal point of contact at the Federal bank regulator and provide a phone number for that contact. Depository institutions should contact OFAC-Miami by phone as part of the application process.

### **C. RF Form and Procedures**

You must certify the following:

*“In making application to receive authorization as an RF, I have read and understood and will comply with and implement the procedural and substantive rules described in the Circular, including the Appendices.”*

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**APPENDIX II OF CIRCULAR 2006**

**SERVICE PROVIDER  
OPERATIONAL GUIDELINES**

**TRAVEL, CARRIER and REMITTANCE FORWARDING  
SERVICE PROVIDER PROGRAM**

**OFFICE OF FOREIGN ASSETS CONTROL**

# SERVICE PROVIDER OPERATIONAL GUIDELINES

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# **Service Provider Operational Guidelines**

## **I. Travel Service Provider Operations**

### **A. Reservations on Direct Charter Flights**

You may, at the request of an authorized traveler, make a reservation for and issue a voucher on a direct CSP-operated charter flight between the United States and Cuba. In such a case, you must provide the following information about each traveler on an ongoing basis to the CSP prior to the CSP accepting the reservation or selling a seat on a CSP flight for the passenger: full name (including mother's maiden name), address, date of birth, passport number and country of issuance, airport of departure from the United States, and category of travel (identify applicable general or specific license – if specific license, give license number).

### **B. Flights Through Third Countries**

You may assist an authorized traveler to make a reservation for and issue a ticket on a third-country airline flight between a third country and Cuba, including a flight on a blocked Cuban carrier.

### **C. “Fully-Hosted” Travel Eliminated**

The Regulations have been amended to eliminate the concept of fully-hosted travel contained in former § 515.420. The acceptance of lodging or any other service or good in Cuba, even if provided as a gift, is a violation of the Regulations. No SP may provide any regulated service to a person who is not specifically or generally licensed by OFAC.

### **D. Required Documentation**

In assisting an applicant to apply to OFAC for a specific license to visit a member of the applicant's immediate family who is a national of Cuba, you must use the Family Visit Application Form (OMB 1505-0202), available on the OFAC web site.

You must furnish a CSP with the original of a completed Department of Transportation Operator-Participant Contract (the “Operator-Participant Contract”) whenever seeking to reserve a seat on a direct charter flight for an authorized traveler.

### **E. Legalization of Documents**

You may assist a client who seeks to make a necessary payment to Cuba in connection with the legalization of any of the following documents, provided that you keep records of and reports each such transaction: Child Custody; Birth Certificate; Marriage Certificate; Adoption; Wills; and Powers of Attorney.

Subject to recordkeeping and reporting requirements, you may make the payments necessary to Cuba in connection with the extension of a Cuban visa to remain in the United States on behalf of a Cuban visitor whose travel-related transactions are covered by the general license in § 515.571 of the Regulations.

When the issuance or renewal of a Cuban passport is not being done as a travel-related transaction but simply for purposes of identification, then no OFAC specific license is required in advance of providing this service.

## **II. Carrier Service Provider Operations**

### **A. Arranging Flights**

You may only accept a reservation or sell a seat once you have received from a TSP the original of a fully completed and executed Department of Transportation Operator-Participant Contract (or a photocopy or fax copy of the Operator-Participant Contract if you are satisfied that the original will be received prior to flight departure time). You do not need to keep any other record prior to making a reservation, provided that you record the identity of the referring TSP and you have no reason to believe that the traveler does not qualify under an OFAC general license category or possess an OFAC specific license.

You must provide detailed information to OFAC by electronic mail 48 to 72 hours prior to departure of each flight. This report must contain (1) all the information provided by the TSP specific to each authorized traveler (including full name (including mother's maiden name), address, date of birth, passport number and country of issuance, airport of departure from the United States, and category of travel (identify applicable general or specific license, and if specific license, give license number)); (2) U.S. departure and return dates for the aircraft; and, (3) the name of the TSP(s) who arranged for the travel. CSPs must file the data by means of a file transfer using a modem and Internet connection. Technical assistance is available by calling OFAC's Informational Technology area at (202) 622-3890.

You may check in at the airport only those travelers for whom you have a complete and original Operator-Participant Contract. Further, you must manage your employees and contractors so that check-in and boarding go forward in a manner that is customary and reasonable for such international flights, consistent with applicable Federal, state, or local law or regulations. You must inform the airline contracted to operate the flight of the special procedures required for charter flights to Cuba.

#### **1. Approved Airports**

Direct flights between Cuba and the United States must operate on a non-stop basis between Cuba and one of the following U.S. airports: Miami International Airport ("MIA"), Los Angeles International Airport ("LAX"), or John F. Kennedy International Airport ("JFK"), during Department of Homeland Security, United States Customs and Border Protection ("CBP") normal business hours of 8:00 am and 10:00 pm. If you seek to depart or return outside of these

hours, then clearance must be received in advance both from the OFAC-Miami Office and from the official with the authority to provide clearance on behalf of the CBP at the following contact numbers:

<u>Airport</u>	<u>POC</u>	<u>Telephone</u>
MIA:	Assistant Port Director	(786) 265-5650
JFK:	Area Director	(718) 553-1542
LAX:	Port Director	(310) 215-2618

## 2. Notice of Flight Operations

You must provide OFAC with a copy of your schedule of flights as submitted to the Department of Transportation (the “charter prospectus”) as soon as possible prior to the month of operation. The schedule must be kept up-to-date until the scheduled flight occurs by amending the schedule as necessary.

For a flight that does not require a charter prospectus filing with the Department of Transportation, you must notify CBP via phone and fax of the intended departure 24 hours prior to such departure for purposes of outbound inspection:

<u>Airport</u>	<u>Department</u>	<u>Telephone</u>	<u>Fax</u>
MIA	Joint Command Center	(305) 874-4308	(305) 874-4315
JFK	Outbound Enforcement	(718) 553-1509	(718) 553-0093
LAX	Landing Rights	(310) 215-2444	(310) 215-1314

## B. Customs Form 4790

You must have available copies of Customs Form 4790 for use by travelers carrying more than \$10,000 in authorized currency or monetary instruments, consistent with applicable CBP laws and regulations.

## C. Department of Commerce Requirements

### 1. Exportation of Accompanied Baggage

The U.S. Department of Commerce (“DOC”), Bureau of Industry and Security (“BIS”), has published amendments to the Export Administration Regulations limiting the amount of accompanied baggage certain travelers may take to Cuba to 44 pounds. This limitation does not apply to persons traveling pursuant to a license issued under 31 C.F.R. §§ 515.545 (exportation, importation, or transmission of informational materials), 515.562 (official business of the U.S. Government, foreign governments, and certain international organizations), 515.563 (journalistic activities), 515.566 (religious activities), 515.574 (support for the Cuban people), or 515.575 (humanitarian projects).

## 2. Exportation of Aircraft

Aircraft used for flights to Cuba must be licensed for temporary export by the BIS. In accordance with Parts 740.15(a)(1) and 740.15(a)(2)(i) of the DOC's Export Administration Regulations, 15 C.F.R. Parts 730-774, an aircraft may qualify for Commerce License Exception AVS and not require a specific export license. For more information, contact BIS at (202) 482-4811.

Additionally, BIS is responsible for licensing exports of goods from the United States to Cuba. While OFAC is responsible for licensing travel-related transactions for sales representatives from companies, samples taken to Cuba by the sales representatives still require BIS licensing. Licensed shipments may be permitted to depart the United States for Cuba by air from an authorized U.S. airport under established CBP rules. For more information, contact BIS at (202) 482-4811 about export licenses for goods and OFAC at (202) 622-2480 about licensing of travel-related transactions or transfers of funds.

### **D. Air Ambulances**

A person seeking to conduct air ambulance emergency medical evacuations from Cuba to the United States ("Medivac") must obtain OFAC authorization as a CSP prior to conducting any Medivac. In view of the services required in Medivac, a person seeking such authorization must currently be engaged in the operation of the air ambulance emergency medical evacuation business to be eligible. See the Application Guidelines (Appendix I).

### **E. Importation of Cuban Merchandise**

CSPs should be aware that U.S. citizens and permanent resident aliens returning to the United States may not import Cuban-origin goods, with the exception of informational materials as that term is defined in the Regulations, or unless pursuant to an OFAC specific license. Other individuals (foreign persons) entering the United States may import as baggage Cuban-origin goods other than alcohol or tobacco provided that the goods are not in commercial quantities or intended for resale.

## **III. Remittance Forwarder Operations**

The Regulations prohibit the unauthorized transfer of funds to Cuba or to a national of Cuba. You may transfer funds to Cuba or to a national of Cuba under OFAC authorization in the following circumstances:

### **A. Remittances Authorized by General or Specific License**

#### **1. Family Household Remittances**

A person 18 years old or older is authorized under general license to send periodic family household remittances to Cuba subject to limitations on amount, frequency, and the recipient's



identity. These remittances may not be sent to listed prohibited officials of the Cuban Government and to listed prohibited members of the Cuban Communist Party. See SP Screening Guidelines (Appendix III). These remittances also may be sent from certain inherited blocked funds of the payee located in U.S. bank accounts.

## 2. Emigration Remittances

Persons subject to U.S. jurisdiction may send up to \$1,000 per payee on a one-time basis as an "emigration-related" remittance to any Cuban nationals to enable the payees to emigrate from Cuba to the United States. Of this \$1,000, up to \$500 may be remitted to a Cuban national prior to the payee's receipt of a valid U.S. visa or other U.S. immigration document. The remaining \$500 may be remitted to the Cuban national only after the payee receives a valid U.S. visa or other U.S. immigration document and the remitter obtains a record of the document prior to sending the funds to Cuba. These remittances also may be sent from certain inherited blocked funds of the payee located in U.S. bank accounts.

## 3. Other Remittances

OFAC may authorize other remittances to Cuba or to nationals of Cuba in appropriate circumstances by specific license on a case-by-case basis, including remittances to non-governmental organizations, pro-democracy groups, independent civil society groups, and religious organizations, as well as to individual members of such organizations.

# **B. Remittance Forwarder Authorized Services**

## 1. Forwarding Remittances

You may receive monies in which Cuba has an interest in the United States from your own retail operations. You may engage in such transactions directly only with a client who is authorized by general license or possesses a specific license to remit an amount to Cuba or a Cuban national. Prior to receiving such a remittance, you must ensure that the client is authorized to remit funds and the proposed remittance satisfies any applicable dollar value and frequency limitations in the Regulations or the remitter's specific license. See the SP Screening Guidelines (Appendix III).

## 2. Transferring Authorized Funds Between RFs

In addition to receiving remittances from your own clients, you may receive or transfer monies in the United States in which Cuba has an interest from or to another RF. In engaging in such transactions you must ensure that all persons in the United States involved in the transfer of the remittance are RFs. Prior to receiving any such transfer, you must record the identity of the

transferring RF and have no reason to believe that either the remitter or remittance is not authorized under an OFAC general or specific license.

### 3. International Transfer of Funds

You may transfer authorized funds in which Cuba or a Cuban national has an interest provided the following terms and conditions are satisfied:

- You must transfer those funds to an identified account in a third-country bank;
- You must ensure that any remittance is delivered to the intended recipient in Cuba in any of the following five currencies: US dollars, Canadian dollars, Swiss francs, British pounds, or euros;
- You must ensure that any remittance is delivered to the intended recipient in Cuba in a timely fashion;
- You must ensure that any remittance is delivered to the intended recipient in Cuba with no fee charged to the Cuban recipient; and
- You must ensure that the transfer is done consistent with the method of transfer described to OFAC in your RF application.

## C. Types of Remittance Forwarders

### 1. Remittance Forwarders

An RF, as described in § 515.572(a)(3) of the Regulations, may forward authorized remittances to Cuba or a Cuban national on behalf of authorized remitters. An RF may choose further to request to be a National Remittance Forwarder or it may be a U.S. Depository Institution, as described below.

### 2. National Remittance Forwarders

As a matter of policy, OFAC has determined that an RF that has the resources and interest in providing services from multiple agents in distant locations may qualify as a “National Remittance Forwarder” (“NRF”). An entity qualifying as a NRF may operate from any location in the United States.

An NRF must have actual control over and direct responsibility for the regulated transactions and conduct of any forwarding agent acting on its behalf or for its benefit, including the power to cancel any unauthorized transaction. Further, the NRF must have appropriate record keeping and reporting procedures, including central storage of the comprehensive records kept for all transactions/conduct by all NRF agents. When OFAC authorizes an NRF, this covers not just the NRF’s own employees, but also all agents acting on its behalf. Those entities that have

qualified to date as NRFs have demonstrated a strong structure of central control inherent in the businesses that they were already operating.

For the benefit of the public, an NRF agent must clearly identify itself through appropriate signage, business forms, phone salutations, as an authorized agent of the NRF. This avoids any possible confusion to clients as to the entity with which it is conducting the transactions.

### 3. U.S. Depository Institutions

U.S. depository institutions, as defined in § 515.333 of the Regulations (“Depository Institutions”), must be specifically licensed as RFs to assist individual clients that seek to remit funds intended for Cuba or a Cuban national. Depository Institutions need not be RFs in order to assist RFs in transferring funds internationally that are intended for Cuba or a Cuban national.

# #

**APPENDIX III OF CIRCULAR 2006**

**SERVICE PROVIDER  
SCREENING GUIDELINES**

**TRAVEL, CARRIER and REMITTANCE FORWARDING  
SERVICE PROVIDER PROGRAM**

**OFFICE OF FOREIGN ASSETS CONTROL**

# SERVICE PROVIDER SCREENING GUIDELINES

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# **Service Provider Screening Guidelines**

## **I. Service Providers Must Screen Their Clients**

As a Service Provider, you must screen each potential client to ensure that the client's proposed transactions are authorized by OFAC or otherwise permissible. The details of how to screen varies by type of authorization.

For each client, you must screen the potential client and the client's proposed transaction by satisfying yourself that you know the following through discussions with the potential client and a review of the potential client's documentation:

- the identity of the client;
- the authorization that the client claimed and supporting documents;
- the proposed transactions the client asked to engage in; and
- your conclusion that to arrange the travel-related transactions is consistent with your authorization.

Note that if a client states he or she is traveling pursuant to an OFAC specific license, but demonstrates an intent merely to visit tourist destinations or engage in other activities not authorized by that license, your assisting that person may be the basis for OFAC action against you pursuant to the SP Enforcement Guidelines. For example, you may not assist a client who claims to be traveling pursuant to a religious organization's license but who gives you reason to believe that he or she in fact will be traveling to visit family in Cuba.

### **A. TSP Screening Methods**

#### **1. Authorized Family Visitors Under Specific License**

*Visit to Cuban National Immediate Family:* Section 515.561(a) of the Regulations requires that persons obtain a specific license from OFAC in order to engage in travel-related transactions for the purpose of visiting nationals of Cuba who are members of their immediate family in Cuba ("Family Visit"). For the purpose of this license, the term "member of a person's immediate family" means any spouse, child, grandchild, parent, grandparent, or sibling of that person or that person's spouse, as well as any spouse, widow, or widower of any of the foregoing. Family Visit applicants must use the required application form (OMB 1505-0202), which is available on OFAC's website. A copy of this form is included at the end of this Appendix.

Family Visit specific licenses normally are issued for a period not to exceed 14 days, provided it has been at least three years since the most recent of the following three dates: (a) the date of emigration, if the applicant emigrated from Cuba; (b) the date the applicant left Cuba after the applicant's most recent Family Visit pursuant to the former general license in effective prior to June 30, 2004; (c) the date of issuance of the applicant's most recent specific license to visit family in Cuba under either the current or previous requirements for a family visit. Additional Family Visit specific licenses will not be issued within the same three year period.

*Visit to Non-Cuban National Immediate Family:* Under § 515.561(b) of the Regulations, OFAC may issue specific licenses for persons to visit a non-Cuban national member of the person's immediate family who is in Cuba pursuant to an OFAC license (for example, a college student studying in Cuba under an educational institution license) under exigent circumstances provided the particular exigency has been reported to the U.S. Interests Section in Havana and issuance of the license would support the mission of the U.S. Interests Section.

Whether you are assisting a client to obtain a specific license to visit family or providing travel services to a client already holding such a license, you must verify that, based on all of your records and information otherwise before you, there is no evidence that the client is ineligible for the license. At a minimum, you must check your records for any prior travel history for this client to see if previous travel to visit family, if any, is consistent with the license and the proposed application. You also should interview your client to obtain affirmation that the visit is only for the authorized purpose and no misuse of the license is contemplated or likely to occur. Should any reasonable doubt emerge as a result of your screening of the client, you may not provide services until sufficient explanation is received or OFAC is contacted for and provides guidance.

## 2. Other Authorized Travelers

When a person seeks to travel to Cuba for reasons other than visiting a member of his or her immediate family, you must refer to the terms and conditions of the *Comprehensive Guidelines for License Applications to Engage in Travel-related Transactions involving Cuba* (“*Comprehensive Application Guidelines*”), available on the OFAC website. All of your employees who might work with clients must be acquainted with the *Comprehensive Application Guidelines*.

*Screening for generally licensed categories:* A general license may be applicable to a client who falls into one of the following categories:

- Journalists and support broadcasting or technical personnel (regularly employed in that capacity by a news reporting organization and traveling for to engage in journalistic activities).
- Officials of the United States Government, foreign governments, and certain international organizations of which the United States is a member who are traveling on official business.
- Full-time professionals whose travel transactions are directly related to conducting research in their professional areas in Cuba, provided that their research: (1) is of a non-commercial, academic nature, (2) comprises a full work schedule in Cuba, and (3) has a substantial likelihood of public dissemination.
- Full-time professionals whose travel transactions are directly related to attendance at professional meetings or conferences in Cuba organized by an international professional

organization, institution, or association that regularly sponsors such meetings or conferences in other countries and is not headquartered in the United States.

You must ensure that a client wishing to travel under any general license category listed in the *Comprehensive Application Guidelines* can demonstrate that he or she qualifies. You must ask for documentary corroboration such as a letter on letterhead stationery from the client's organization identifying the client and confirming that the client is traveling on official business for the organization. When a client's travel may be self-appointed, for example, when a college professor proposes to engage in research, there should be identification confirming the individual's status as a college professor. Only after you determine that the client satisfies the requirements of the general license may you proceed to arrange travel. OFAC recommends that Service Providers have each individual seeking to engage in travel-related transactions pursuant to a general license confirm his or her eligibility by signing an affidavit. A copy of a Suggested Affidavit Format is furnished in Appendix IV of this Circular.

*Screening for specific license:* OFAC from time to time issues specific licenses to individuals authorizing travel-related transactions involving Cuba. Some specific licenses name the individuals who are authorized to engage in travel-related transactions under the license. You must ensure, before processing any Cuba travel-related transaction for a client relying on an OFAC specific license, that you have a copy of the license and that the license specifically names the client as an authorized traveler.

Many specific licenses provide an authorization to an educational institution such as a college or university or a religious organization permitting certain individuals under the auspices of that institution or organization to engage in travel-related transactions incident to engaging in certain activities in Cuba. The licensed institution or organization must give a letter to the traveler identifying him or her by name, providing the institution's or organization's license number, and confirming that the individual is traveling to engage in authorized activities.

When the licensee is an educational institution or religious organization and the license does not include a list of authorized individuals, you must obtain a copy of that letter from the institution or organization. You must not proceed to arrange travel for any client where there is indication that the individual is not affiliated with the licensed institution or organization or may be traveling for a purpose other than what is authorized in the license. Also, an SP should refuse services to any client where there is indication of tampering or fraudulent activity with respect to the letter or license that has been furnished to the SP.

## **B. CSP Screening Methods**

### **1. Taking Reservations**

You may only accept a reservation once you have received from a TSP the original of a fully completed and executed Department of Transportation Operator-Participant Contract (or a photocopy or fax copy of the Operator-Participant Contract if you are satisfied that the original will be received prior to flight departure time. You do not need to keep any other record prior to



making a reservation, provided the CSP records the identity of the referring TSP and has no reason to believe that the traveler does not qualify under a general license category or possess a specific license from OFAC.

## 2. Passengers Eligible for Direct Flights from the United States to Cuba

- Individuals who are traveling to Cuba to engage in activities that qualify under a general license or for which a specific license has been issued by OFAC;
- Cuban citizens returning to Cuba after visiting the United States under a valid visa or visa waiver issued by the State Department;
- Individuals returning to Cuba after traveling in the United States on official government business or under a specific license issued by OFAC; and
- Individuals traveling on diplomatic passports (including accompanying minor children traveling on any passport).

Third-country nationals seeking to depart from the United States for Cuba are subject to U.S. jurisdiction at the time of departure and must qualify as authorized travelers and otherwise abide by the restrictions on engaging in travel-related transactions as well as the rules on the carriage of currency to Cuba and other applicable departure requirements.

## 3. Passengers Eligible for Direct Flights from Cuba to the United States:

- Individuals who are returning to the United States from Cuba after having engaged in activities in Cuba that met the criteria for a general license or for which a specific license was issued;
- Cuban citizens entering the United States under a valid visa or visa waiver issued by the State Department;
- Individuals who are traveling to the United States on official government business or under a specific license issued by OFAC; and
- Individuals traveling on diplomatic passports (including accompanying minor children traveling on any passport).

You may allow eligible travelers to travel from Cuba on direct flights without having traveled to Cuba on direct flights at the outset of their trip.

## **C. RF Screening Methods**

### 1. Generally Licensed Remittances

The Regulations provide general licenses authorizing certain remittances to nationals of Cuba subject to restrictions on the recipients, dollar amount, and frequency. These general licenses and their restrictions are set forth in the Regulations and in the Cuba Remittance Affidavit (OMB 1505-0167). A copy of the affidavit is included in Appendix IV of this Circular. You must have the client complete the Cuban Remittance Affidavit. Be sure that the client signs and dates the affidavit. Only then may you proceed to transfer the remittance. You must give the customer a copy of the completed affidavit for his or her records. The Service Provide must also keep a copy of each affidavit for its records.

## 2. Specifically Licensed Remittances

OFAC may issue a specific license authorizing the transfer of remittances not covered by any general license. Before processing a client's request to transfer funds to Cuba pursuant to a specific license, you must obtain a copy of the specific license that has been issued by OFAC and confirm that the license authorizes the client to send the proposed remittance.

## **II. Service Providers Must Screen other Service Providers**

### A. Documentation of Other Service Providers' Authorization

If you wish to have an individual or entity subject to U.S. jurisdiction assist in the licensed services you provide, or if another individual or entity subject to U.S. jurisdiction seeks to engage in a regulations transaction with you, you must first confirm that the individual or entity is an authorized SP by checking the List of Authorized Travel, Carrier, and Remittance Forwarding Service Providers publicly available on OFAC's website. If you have any questions concerning the authorization of another individual or entity as an SP, the SP should seek guidance from OFAC.

### B. Business Practices Relating to Other Service Providers

You must engage in business practices that reasonably help prevent people from mistakenly dealing with unauthorized persons or from unauthorized locations. For example, you must not send information about availability of seats on a charter flight to Cuba to addresses, fax numbers, or e-mail addresses other than those of authorized SPs and authorized locations. Failure to observe such business practices may form a basis for an enforcement action pursuant to the SP Enforcement Guidelines (Appendix V).

### C. Location-Specific Authorization

When OFAC authorizes you, it identifies the office locations where you may operate. The requirement that you screen other SPs is also location-specific. Hence, you must be certain that other SPs with whom you may be doing business are operating only from OFAC-authorized locations.

# #

**APPENDIX IV OF CIRCULAR 2006**

**SERVICE PROVIDER  
RECORDKEEPING AND REPORTING  
GUIDELINES**

**TRAVEL, CARRIER and REMITTANCE FORWARDING  
SERVICE PROVIDER PROGRAM**

**OFFICE OF FOREIGN ASSETS CONTROL**

# SERVICE PROVIDER RECORDKEEPING AND REPORTING GUIDELINES

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# **Service Provider Recordkeeping and Reporting Guidelines**

## **I. Service Providers Must Keep Records and Report**

### **A. Recordkeeping**

#### **1. For all Service Providers**

It is important for a Service Provider to run its business and maintain records in a way that allows OFAC to assess its compliance with the requirements of the SP Program. The SP should have a clear record of transactions, the relevant parties, and its reasons for acting. The SP must keep records of its regulated transactions and its conduct concerning Cuba for five years.

For financial transactions involving a client, the SP's records must be detailed enough to allow verification that the relevant transaction complies with the SP Program requirements. The SP's records should, for example, demonstrate the link between its receipt of funds from a customer and the transfer of the funds either to Cuba or to another person. Specifically, on a client-by-client basis for each person to whom the SP provides any regulated service, the SP should keep a full and accurate record of the following:

- The identifying personal data that a TSP is required to give to a CSP at the time of making a reservation (full name (including mother's maiden name), address, date of birth, passport number and country of issuance, airport of departure from the United States and category of travel, identifying the applicable general or specific license).
- The details showing how the client is qualified to engage in remittance or travel-related transactions. The SP's records should include relevant supporting documents, a description of the transactions that the client seeks to do, and the SP's conclusion that the transactions qualify.
- The details of each financial transaction in which the SP engages with that client (for example, receipt of payment for services).
- The details of each financial transaction in which the SP engages for the benefit of that client (for example, payments made to a Cuban entity for a visa or to a non-Cuban person either within the United States or in a third country with the intent that some portion of that payment go to Cuba for a voucher). The SP's records shall detail the link between a transfer the SP makes and the client(s) to whom the transfer relates.

The SP shall begin this recordkeeping immediately when authorization to operate is granted.

As an SP, your records should detail all funds that you handle in your regulated services, including but not limited to the following:

- Funds you receive from clients for regulated services that you provide

- Funds you receive from other SPs in payment for your regulated services
- Funds you receive from other SPs to forward either to another SP to pay for services or to a Cuban governmental entity
- Funds you transfer to a Cuban governmental entity for services (transferred only through a third country account)
- Funds you transfer to another SP in payment for its services
- Funds you transfer to another SP to forward either to another SP to pay for services or to go to a Cuban governmental entity

## 2. For Remittance Forwarders

The RF shall ensure that the client completes, signs, and dates a copy of the Cuban Remittance Affidavit (OMB 1505-0167) (copy attached to Appendix IV). The client should receive a copy for the client's records. The RF shall inform the client that the client must keep a record of the transaction for five years.

## **B. Reporting**

### 1. For All Service Providers

The SP shall provide access to OFAC for examination of the SP's records relevant to regulated services upon request. The SP shall furnish periodic reports covering the SP's activity, or lack thereof, during the preceding calendar year. Unless otherwise noted in the authorization, reports must be filed no later than January 20 of each year. Unless otherwise specified by OFAC, reports must be mailed to the OFAC-Miami Office.

For purposes of reporting, the SP must report a transaction that involves assisting a client, even when the SP transfers a portion of funds received from that client to another SP.

If an SP decides to cease providing all regulated services and relinquish any OFAC authorization(s), the SP is required to make an annual report to OFAC concerning regulated activity (or lack thereof) for that portion of the final calendar year in which the SP held authorization. For example, an SP that terminates its SP business at the end of January 2005 is required to provide a complete report for all activities through January 2005. That report is due no later than January 20, 2006 but may be made, at the discretion of the person terminating its SP business, as early as the next business month,

## 2. Additional Requirements

*For TSPs:*

The TSP shall provide the required passenger information (see section I (A)(1), above) to CSPs in a timely manner.

*For CSPs:*

The CSP will provide the required passenger information (see the SP Operational Guidelines (Appendix II)) to OFAC timely.

Attachments

Suggested format for Travel Affidavit

Suggested format for annual report (Travel Service Provider)

Suggested format for annual report (Carrier Service Provider)

Suggested format for annual report (Remittance Forwarder)

Cuban Remittance Affidavit (OMB 1505-0167)

Family Visit Application Form – English (OMB 1505-0202)

Family Visit Application Form – Spanish (OMB 1505-0202)

##

# TRAVEL AFFIDAVIT

I understand that, under current United States travel restrictions with respect to Cuba, travel-related transactions are prohibited except for the following categories and that by signing my name at the bottom of this affidavit, I am declaring that I fall under the category I have checked below:

- 1. **Official government** travelers --U.S. and foreign government officials including representatives of international organizations of which the United States is a member, who are traveling on official business.
- 2. Persons regularly employed as **journalists** by a news reporting organization and persons regularly employed as **supporting broadcast or technical personnel** who travel to Cuba to engage in journalistic activities.
- 3. Full-time professionals whose travel transactions are directly related to non-commercial, academic research in their full-time professional areas and whose research will comprise a full work schedule in Cuba and have a substantial likelihood of public dissemination.
- 4. Full-time professionals whose travel transactions are directly related to attendance at professional meetings or conferences in Cuba organized by an international professional organization not headquartered in the United States that regularly sponsors meetings or conferences in other countries. The purpose of the meeting or conference is not to promote tourism or other commercial activity involving Cuba or the production of biotechnological products.
- 5. Persons who have received a specific license from OFAC **prior** to traveling. My OFAC License No. is:

\_\_\_\_\_

Name \_\_\_\_\_  
(Nombre)

Phone Number ( ) \_\_\_\_\_  
(Número telefónico)

I certified that the above information is true and correct. (Afirmo que la información dada es verídica y correcta)

SIGNATURE \_\_\_\_\_  
(Firma)

Witnessed by OFAC authorized Travel Service Provider (TSP) (Firma de testigo del Proveedor de Servicios de Viaje autorizado por OFAC )

\_\_\_\_\_  
Name [print] (Nombre [letra de imprenta])

\_\_\_\_\_  
Signature (Firma)

\_\_\_\_\_  
TSP's name (Nombre del Proveedor de Servicios)  
FAC SUGGESTED FORMAT 3/06

Yo entiendo que bajo las actuales restricciones de viaje de los Estados Unidos referente a Cuba, cualquier transacción de viaje esta prohibida excepto por las siguientes categorías y que firmando esta planilla estoy declarando que viajo bajo una de estas categorías:

- 1. **Oficiales del gobierno** estadounidense y extranjeros, incluyendo representantes de organizaciones internacionales de las cuales Estados Unidos es también un miembro, quienes viajan por asuntos oficiales.
- 2. Personas regularmente empleadas como **periodistas** por agencias noticiosas y como **personal de apoyo técnico para radiodifusoras** quienes viajan para participar en actividades periodísticas.
- 3. Profesionales que trabajan tiempo completo y cuyas transacciones de viaje estan directamente relacionadas con investigación académica no comercial en las areas de su profesión de tiempo completo y cuya investigación llenará un programa de trabajo completo en Cuba y tiene la posibilidad sustancial de ser diseminada al público.
- 4. Profesionales que trabajan tiempo completo cuyas transacciones de viaje estan directamente relacionadas con asistir a reuniones y conferencias profesionales en Cuba organizadas por instituciones u organizaciones que regularmente organizan éstas en otros países y cuyas oficinas no tienen como base los Estados Unidos. El propósito de la reunión o conferencia no es el promover el turismo u otra actividad comercial en Cuba o la producción de productos biotecnológicos.
- 5. Personas que han recibido una licencia específica de OFAC **antes** de viajar. El número de mi Licencia de OFAC es:

\_\_\_\_\_

Date of Birth \_\_\_\_\_  
(Fecha de Nacimiento)

ADDRESS \_\_\_\_\_  
(Dirección) \_\_\_\_\_



**TRAVEL SERVICE PROVIDERS REPORT**  
**REPORTE DE PROVEEDORES DE SERVICIOS DE VIAJE**

**Reporting Period: from** \_\_\_\_\_ **to** \_\_\_\_\_  
*Período del reporte: de* \_\_\_\_\_ *a* \_\_\_\_\_

Pursuant to 31 C.F.R. 515.572 the following periodic report is submitted by:  
*En conformidad con 31 C.F.R. Parte 515.572, el siguiente reporte es presentado por:*

\_\_\_\_\_  
**(the “Service Provider”)**  
*( el “Proveedor de Servicios”)*

\_\_\_\_\_  
**( Provisional Authorization #)**  
*(Número de la Autorización Provisional)*

1. The **total number of customers** for whom the Service Provider arranged travel to, from, or within Cuba is: \_\_\_\_\_  
*El número total de clientes a quienes el Proveedor de Servicios arregló viajes a, desde, o en Cuba es:*
2. The **number of customers** in #1 above whose Cuba-related travel was within each of the following categories: \_\_\_\_\_  
*El número de clientes del #1 cuyos viajes a Cuba fueron bajo las siguientes categorías:*
  - a. Under an OFAC General License: \_\_\_\_\_  
*Bajo una Licencia General de OFAC:*
    - i. Journalistic activities in Cuba: \_\_\_\_\_  
*Actividades periodísticas en Cuba:*
    - ii. Official Government travelers and members of intergovernmental organizations: \_\_\_\_\_  
*Oficiales del gobierno y miembros de organizaciones intergubernamentales:*
    - iii. Professional research and professional meetings in Cuba: \_\_\_\_\_  
*Investigación profesional y conferencias profesionales en Cuba:*
  - b. Under an OFAC Specific License: \_\_\_\_\_  
*Bajo una Licencia Específica de OFAC:*
    - i. Individuals who traveled under a Religious License \_\_\_\_\_  
*Personas quienes viajaron bajo una licencia religiosa*
    - ii. Individuals who traveled under an Educational License \_\_\_\_\_  
*Personas quienes viajaron bajo una Licencia Educativa*
    - iii. Individuals who traveled under all other Specific Licenses \_\_\_\_\_  
*Personas quienes viajaron bajo toda otra Licencia Específica*
  - c. Cuban citizens and residents of Cuba who visited the United States under a valid visa: \_\_\_\_\_  
*Ciudadanos cubanos y residentes de Cuba quienes visitaron los Estados Unidos bajo una visa válida:*

3. The **total net dollar amount** transferred to Cuba or Cuban Nationals in connection with the Service Provider's travel-related business is: \$ \_\_\_\_\_  
*La cantidad neta en dólares transferida a Cuba o a individuos de nacionalidad cubana en relación con negocios de viaje de el Proveedor de Servicios es:*
4. The purpose(s) for which the **total net dollar amount** in #3 above was transferred to Cuba or Cuban Nationals is (are) as follows:  
*El propósito por el cual la cantidad total neta en dólares del # 3 fue transferida a Cuba o a individuos de nacionalidad cubana es el siguiente:*
- a. Legalization of documents: \$ \_\_\_\_\_  
*Legalización de documentos:*
  - b. Requests for visas to visit Cuba: \$ \_\_\_\_\_  
*Solicitudes de visas para visitar Cuba:*
  - c. Requests for Cuban passports for Cuban Americans: \$ \_\_\_\_\_  
*Solicitudes de pasaportes cubanos para Cubano-Americanos:*
  - d. Payment for hotels and meals in Cuba: \$ \_\_\_\_\_  
*Pago por hoteles y alimentos en Cuba:*
  - e. Payment for airline tickets: \$ \_\_\_\_\_  
*Pago por boletos de avión:*
  - f. Other: (please specify category and dollar amount): \$ \_\_\_\_\_  
*Otros: (favor de especificar categoría y cantidad en dólares):*
- Total for # 4** \$ \_\_\_\_\_  
*Total del # 4* (must equal No.3 above)  
*(debe igualar al #3 arriba)*
5. Amounts received **from** other service providers:  
*Cantidades recibidas de otros proveedores de servicios:*
- Name of Service Provider: \_\_\_\_\_  
*Nombre del Proveedor de Servicios:*
- Dollar amount received from this service provider: \$ \_\_\_\_\_  
*Cantidad en dólares recibida de este proveedor:*
6. The method of transferring the total net dollar amount in #3 above to Cuba was:  
*El método de transferencia de la cantidad neta en dólares del #3 a Cuba fue:*
- a. Transfers to other service providers:  
*Transferencia a otros proveedores de servicios:*
- Name of Service Provider: \_\_\_\_\_  
*Nombre del Proveedor de Servicios:*
- Net dollar amount sent to this service provider: \$ \_\_\_\_\_  
*Cantidad neta en dólares enviada a este proveedor:*

b. Bank Transfers to Cuba or Cuban National:

*Transferencias bancarias a Cuba o a individuos de nacionalidad cubana:*

Name of bank: \_\_\_\_\_  
*Nombre del banco:*

Account number: \_\_\_\_\_  
*Número de cuenta:*

Name of receiving bank: \_\_\_\_\_  
*Nombre del Banco recibidor:*

Recipient's account name: \_\_\_\_\_  
*Nombre de cuenta del destinatario:*

Recipient's account number: \_\_\_\_\_  
*Número de cuenta del destinatario:*

Net dollar amount sent via bank transfer using this bank: \$ \_\_\_\_\_  
*Neto en dólares enviado por medio de transferencia bancaria usando este banco:*

**Total net dollar amount** (total of 6a + 6b) sent via all Service Providers  
and all bank transfers to Cuba or Cuban Nationals: \$ \_\_\_\_\_  
*Cantidad neta total de dólares (el total de 6a + 6b) enviada por medio de todos los  
Proveedores de Servicios y todas las transferencias bancarias a Cuba o a individuos  
de nacionalidad cubana:* (Must equal #3 above)  
(debe igualar al #3 arriba)

In preparing to file this annual report, I have reviewed the information I submitted to OFAC to satisfy what is now described as part C ("Your Corporate or Business Information") and part D ("Personal Information") of Appendix I of Circular 2006 ("My Information"). This review covered:

- \* My Information as submitted as part of the application process, and
- \* Any update or correction of My Information at a later time.

I hereby certify that My Information, as it is on file with OFAC, is current, complete, and accurate.  
*Afirmo que mi información como aparece en los archivos de OFAC está al corriente, completa y exacta.*

\_\_\_\_\_  
Signature of owner  
*Firma del dueño*

\_\_\_\_\_  
Date  
*Fecha*

**CARRIER SERVICE PROVIDERS REPORT**  
**REPORTE DE PROVEEDORES DE SERVICIOS DE TRANSPORTE**

**Reporting Period: from** \_\_\_\_\_ **to** \_\_\_\_\_  
*Período del reporte: de* \_\_\_\_\_ *a* \_\_\_\_\_

Pursuant to 31 C.F.R. 515.572 the following periodic report is submitted by:  
*En conformidad con 31 C.F.R. Parte 515.572, el siguiente reporte es presentado por:*

\_\_\_\_\_  
**(the Service Provider)**  
*( el Proveedor de Servicios)*

\_\_\_\_\_  
**( Provisional Authorization #)**  
*(Número de la Autorización Provisional)*

1. The **total number of customers** which the Service Provider transported to, from, or within Cuba is: \_\_\_\_\_  
*El número total de clientes a quienes el Proveedor de Servicios transportó a, desde, o en Cuba es:*
2. The **number of customers** in #1 above whose Cuba-related travel was within each of the following categories: \_\_\_\_\_  
*El número de clientes del #1 cuyos viajes a Cuba fueron bajo las siguientes categorías:*
  - a. Under an OFAC General License: \_\_\_\_\_  
*Bajo una Licencia General de OFAC:*
    - i. Journalistic activities in Cuba: \_\_\_\_\_  
*Actividades periodísticas en Cuba:*
    - ii. Official Government travelers and members of intergovernmental organizations: \_\_\_\_\_  
*Oficiales del gobierno y miembros de organizaciones intergubernamentales:*
    - iii. Professional research and professional meetings in Cuba: \_\_\_\_\_  
*Investigación profesional y conferencias profesionales en Cuba:*
  - b. Under an OFAC Specific License: \_\_\_\_\_  
*Bajo una Licencia Específica de OFAC:*
    - i. Individuals who traveled under a Religious License \_\_\_\_\_  
*Personas quienes viajaron bajo una licencia religiosa*
    - ii. Individuals who traveled under an Educational License \_\_\_\_\_  
*Personas quienes viajaron bajo una Licencia Educativa*
    - iii. Individuals who traveled under all other Specific Licenses \_\_\_\_\_  
*Personas quienes viajaron bajo toda otra Licencia Específica*
  - c. Cuban citizens and residents of Cuba who visited the United States under a valid visa: \_\_\_\_\_  
*Ciudadanos cubanos y residentes de Cuba quienes visitaron los Estados Unidos bajo una visa válida:*

3. The **total net dollar amount** transferred to Cuba or Cuban Nationals in connection with the transportation provided is: \_\_\_\_\_ \$  
*La cantidad neta en dólares transferida a Cuba o a individuos de nacionalidad cubana en relación con el transporte proveído es:*
4. The purpose(s) for which the total **net dollar amount** in #3 above was transferred to Cuba or Cuban Nationals is (are) as follows:  
*El propósito por el cual la cantidad neta total en dólares del #3 fue transferida a Cuba o a individuos de nacionalidad cubana es el siguiente:*
- a. Landing Fees: \_\_\_\_\_ \$  
*Cuota de aterrizaje:*
- b. Other: (please specify category and dollar amount): \_\_\_\_\_ \$  
*Otros: (favor de especificar categoría y cantidad en dólares):*
- c. Total: \_\_\_\_\_ \$  
*Total:* (must equal #3 above)  
*(debe igualar al #3 arriba)*
5. Amounts received **from** other service providers:  
*Cantidades recibidas de otros proveedores de servicios:*
- Name of Service Provider: \_\_\_\_\_  
*Nombre del Proveedor de Servicios:*
- Dollar amount received from this service provider: \_\_\_\_\_ \$  
*Cantidad en dólares recibida de este proveedor:*
- For Airline Tickets: \_\_\_\_\_ \$  
*Por boletos de avión:*
- For Visas, Passports, etc. \_\_\_\_\_ \$  
*Por visas, pasaportes, etc.*
- Other: (please specify category and dollar amount): \_\_\_\_\_ \$  
*Otros: (favor de especificar categoría y cantidad en dólares):*
6. The method of transferring the total net dollar amount in #3 above to Cuba was:  
*El método de transferencia de la cantidad neta en dólares del #3 a Cuba fue:*
- a. Transfers to other service providers:  
*Transferencia a otros proveedores de servicios:*
1. Name of Service Provider: \_\_\_\_\_  
*Nombre del Proveedor de Servicios:*
- Net dollar amount sent to this service provider: \_\_\_\_\_ \$  
*Cantidad neta en dólares enviada a este proveedor:*

b. Bank Transfers to Cuba or Cuban National:

*Transferencias bancarias a Cuba o a individuos de nacionalidad cubana:*

Name of bank: \_\_\_\_\_

*Nombre del banco:*

Account number: \_\_\_\_\_

*Número de cuenta:*

Name of receiving bank: \_\_\_\_\_

*Nombre del Banco recibidor:*

Recipient=s account name: \_\_\_\_\_

*Nombre de cuenta del destinatario:*

Recipient=s account number: \_\_\_\_\_

*Número de cuenta del destinatario:*

Net dollar amount sent via bank transfer using this bank:

\$ \_\_\_\_\_

*Neto en dólares enviado por medio de transferencia bancaria usando este banco:*

**Total net dollar amount** (total of 6a + 6b) sent via all Service Providers  
and all bank transfers to Cuba or Cuban Nationals:

\$ \_\_\_\_\_

*Cantidad neta total de dólares (el total de 6a + 6b) enviada por medio de todos los  
Proveedores de Servicios y todas las transferencias bancarias a Cuba o a individuos  
de nacionalidad cubana:*

(Must equal #3 above)  
*(debe igualar al #3 arriba)*

In preparing to file this annual report, I have reviewed the information I submitted to OFAC to satisfy what is now described as part C (“Your Corporate or Business Information”) and part D (“Personal Information”) of Appendix I of Circular 2006 (“My Information”). This review covered:

- \* My Information as submitted as part of the application process, and
- \* Any update or correction of My Information at a later time.

I hereby certify that My Information, as it is on file with OFAC, is current, complete, and accurate.

*Afirmo que mi información como aparece en los archivos de OFAC está al corriente, completa y exacta.*

\_\_\_\_\_  
Signature of owner

*Firma del dueño*

\_\_\_\_\_  
Date

*Fecha*

**FORWARDERS OF REMITTANCES REPORT**  
**REPORTE DE PROVEEDORES DE SERVICIOS DE REMESAS**

**Reporting Period: from** \_\_\_\_\_ **to** \_\_\_\_\_  
*Período del reporte: de* \_\_\_\_\_ *a* \_\_\_\_\_

Pursuant to 31 C.F.R. 515.572 the following periodic report is submitted by:  
*En conformidad con 31 C.F.R. Parte 515.572, el siguiente reporte es presentado por:*

\_\_\_\_\_  
**(the Service Provider)**  
*(el Proveedor de Servicios)*

\_\_\_\_\_  
**(Provisional Authorization #)**  
*(Número de la Autorización Provisional)*

1. The **total number of customers** who sent remittances to Cuba through the Service Provider is: \_\_\_\_\_  
*El número total de clientes quienes enviaron remesas a Cuba por medio de el Proveedor de Servicios es:*
2. The **total number of:**
  - a. Households in Cuba that received family remittances through the Service Provider is: \_\_\_\_\_  
*Hogares en Cuba que recibieron remesas familiar o individual por medio del Proveedor de Servicios es:*
  - b. Individuals in Cuba who received emigration-related remittances through the Service Provider is: \_\_\_\_\_  
*Individuos en Cuba que recibieron remesas de emigracion por medio de el Proveedor de Servicios es:*
  - c. Individuals and organizations in Cuba that received specifically licensed remittances through the Service Provider is: \_\_\_\_\_  
*Individuos y organizaciones en Cuba que recibieron remesas bajo Licencia Específica por medio de el Proveedor de Servicios son:*
3. The **gross receipts** from the Service Provider=s customers who sent remittances to Cuba is: \$ \_\_\_\_\_  
*El recibo bruto de el Proveedor de Servicios deribado de clientes quienes enviaron remesas a Cuba es:*
4. The **gross receipts** received by the Service Provider from other Service Providers to forward to Cuba is: \$ \_\_\_\_\_  
*El recibo bruto recibido por el Proveedor de Servicios de otros Proveedores de Servicios para ser enviado a Cuba es:*
5. The **total dollar amount** the Service Provider retained as fees for services provided in # 3 and # 4 above: \$ \_\_\_\_\_  
*El total neto de la cantidad en dólares que el Proveedor de Servicios retuvo como honorarios por servicios proveídos en el # 3 y # 4 arriba:*
6. The **net total dollar amount** the Service Provider transferred to Cuba or a Cuban National is: \$ \_\_\_\_\_  
*El total neto de la cantidad en dólares que el Proveedor de Servicios transfirió a Cuba o individuos de nacionalidad cubana es:* (should equal(3+4)-5)  
*(debe igualar (3+4)-5)*

7. Purpose(s) for which the net dollar amount in #6 above was transferred to Cuba or a Cuban National is as follows:

*El propósito por el cual la cantidad neta total de dólares en el #8 arriba fue transferida a Cuba es el siguiente:*

a. Emigration-related remittances: \_\_\_\_\_  
*Remesas relacionadas con emigración:*

b. Family remittances: \_\_\_\_\_  
*Remesas familiares:*

c. Specifically licensed remittances: \_\_\_\_\_  
*Remesas bajo Licencia Específica:*

d. Total Sent: \$ \_\_\_\_\_  
*Total enviado:* (Must equal #6 above)  
(debe igualar al #6 arriba)

8. Amounts received **from** other service providers:

*Cantidades recibidas de otros proveedores de servicios:*

Name of Service Provider: \_\_\_\_\_  
*Nombre del Proveedor de Servicios:*

Dollar amount received from this service provider: \$ \_\_\_\_\_  
*Cantidad en dólares recibida de este proveedor:*

9. The method of transferring the net dollar amount in # 6 above to Cuba was:

*El método de transferencia de la cantidad neta en dólares del #6 a Cuba fue:*

a. Transfers to other service providers:  
*Transferencias a otros proveedores de servicios:*

Name of Service Provider: \_\_\_\_\_  
*Nombre del Proveedor de Servicios:*

Dollar amount sent to this service provider: \$ \_\_\_\_\_  
*Cantidad en dólares enviada a este proveedor:*

b. Bank Transfers to Cuba or Cuban Nationals:  
*Transferencias bancarias a Cuba o a individuos de nacionalidad cubana :*

Name of bank: \_\_\_\_\_  
*Nombre del banco:*

Account number: \_\_\_\_\_  
*Número de cuenta:*

Name of receiving bank: \_\_\_\_\_  
*Nombre del banco recibidor:*



Recipient=s account name: \_\_\_\_\_  
*Nombre de cuenta del destinatario:*

Recipient=s account number: \_\_\_\_\_  
*Número de cuenta del destinatario:*

Net dollar amount sent via bank transfer using this bank: \$ \_\_\_\_\_  
*Neto en dólares enviado por medio de transferencia bancaria usando este banco:*

**Total net dollar amount** sent via all Service Providers and all bank transfers to Cuba or Cuban Nationals: \$ \_\_\_\_\_  
*Cantidad neta total de dólares enviada por medio de todos los Proveedores de Servicios y todas las transferencias bancarias a Cuba o a individuos de nacionalidad cubana:*

(should equal 9a + 9b; also must equal the amount in #6)  
*(debe igualar #9a + 9b; además igualar la cantidad del #6)*

In preparing to file this annual report, I have reviewed the information I submitted to OFAC to satisfy what is now described as part C (“Your Corporate or Business Information”) and part D (“Personal Information”) of Appendix I of Circular 2006 (“My Information”). This review covered:

- \* My Information as submitted as part of the application process, and
- \* Any update or correction of My Information at a later time.

I hereby certify that My Information, as it is on file with OFAC, is current, complete, and accurate.  
*Afirmo que mi información como aparece en los archivos de OFAC está al corriente, completa y exacta.*

\_\_\_\_\_  
Signature of owner  
*Firma del dueño*

\_\_\_\_\_  
Date  
*Fecha*

# CUBAN REMITTANCE AFFIDAVIT

Form approved  
OMB #1505-0167  
expires 11/30/98



This affidavit is to be completed by the remitter, pursuant to the Cuban Assets Control Regulations, 31CFR Part 515, under the Trading with the Enemy Act, 50 U.S.C. App. 1-44, and the Cuban Liberty and Democratic Solidarity Act, 22 U.S.C. 6001-6010. It is to be submitted to the remittance service provider and kept on file for five years, subject to audit by the U.S. Department of the Treasury.

Esta declaración jurada tiene que ser llenada por el remitente, en conformidad con el AControl y Regulaciones de Bienes Cubanos,@ 31 CFR Parte 515, bajo la Ley sobre Comercio con el Enemigo,@ 50 U.S.C. App. 1-44, y bajo la ALey Relativa a Cuba Sobre la Libertad y la Solidaridad Democrática,@ 22 U.S.C. 6001-6010. Dicha declaración jurada debe ser presentada a la agencia remitente y mantenerse en los archivos por cinco años y esta sujeta a auditoría por el Departamento del Tesoro de los EE.UU.

I, \_\_\_\_\_, (Print name) DECLARE AND STATE THAT  
THE FOLLOWING IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE:

## EMIGRATION REMITTANCE

1. I understand that I may send two \$500 emigration remittances per payee to enable the payee to emigrate to the United States. Only one of these remittances may be sent before the payee has received a valid visa from the U.S. State Department. I certify that my total emigration remittances to this payee will not be greater than \$1000.

Name of Payee: \_\_\_\_\_

Payee=s Date of Birth: \_\_\_\_\_

2. I am sending more than \$500, OR I have already sent a pre-visa emigration remittance to this payee. I certify that the payee has received an immigration visa from the U.S. State Department as follows:

Number of Payee=s Visa: \_\_\_\_\_

Date of Payee=s Visa: \_\_\_\_\_

## PERSONAL REMITTANCE

I understand that I may send up to \$300 per payee=s household in a 3-month period provided that no member of that household is a senior-level Cuban government or Communist party official. The total combined amount of Personal and Family Remittances I send may not exceed \$300 per payee=s household in a 3-month period. I certify that I am 18 or older, that no member of the payee=s household is a senior-level Cuban government or Communist party official, and that this payment will not exceed the combined Personal and Family Remittance limit of \$300 per payee=s household in a 3-month period.

## FAMILY REMITTANCE

I understand that I may send up to \$300 per payee=s household in a 3-month period to any household inhabited by my close relative(s) or those of my spouse for their support. The total combined amount of Personal and Family Remittances I send may not exceed \$300 per payee=s household in a 3-month period. I certify that I am 18 or older and that this payment will not exceed the combined Personal and Family Remittance limit of \$300 per payee=s household in a 3-month period.

Name of Payee: \_\_\_\_\_

Payee=s Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

YO, \_\_\_\_\_, (Su nombre en letra de molde) DECLARO, Y AFIRMO QUE,  
A MI CONOCIMIENTO, LO SIGUIENTE ES VERIDICO Y CORRECTO:

## REMESA DE EMIGRACION

1. Entiendo que yo puedo enviar dos remesas de emigración de US\$500 por beneficiario para ayudarlo a emigrar a los Estados Unidos. Solo una de estas remesas puede ser enviada antes de que el beneficiario haya recibido una visa válida del Departamento del Estado de los Estados Unidos. Yo afirmo que el total de la remesa de emigración a este beneficiario no será mayor de US\$1000.

Nombre del beneficiario: \_\_\_\_\_

Fecha de Nacimiento del beneficiario: \_\_\_\_\_

2. Estoy enviando mas de US\$500, o ya he enviado una remesa de emigración pre-visa a este beneficiario. Yo afirmo que el beneficiario ha recibido del Departamento del Estado de los Estados Unidos la visa de inmigración siguiente:

Número de Visa del beneficiario: \_\_\_\_\_

Fecha de Visa del beneficiario: \_\_\_\_\_

## REMESA PERSONAL

Entiendo que puedo enviar hasta US\$300 por hogar de beneficiario en un período de tres meses siempre y cuando ningún miembro del hogar del beneficiario sea oficial mayor del gobierno de Cuba o un oficial mayor del partido comunista. La cantidad total de Remesas Familiar y Personal combinadas que envío no debe exceder los US\$300 por hogar de beneficiario en un período de tres meses. Yo afirmo que soy mayor de 18 años y que ningún miembro del hogar del beneficiario es oficial mayor del gobierno de Cuba o un oficial mayor del partido comunista y que este pago no excederá la cantidad total de Remesas Familiar y Personal combinadas de US\$300 por hogar de beneficiario en un período de tres meses.

## REMESA FAMILIAR

Entiendo que yo puedo enviar hasta US\$300 por hogar de beneficiario en un período de tres meses para manutención a cualquier hogar en el cual habitan mis familiares cercanos o los de mi esposo(a). La cantidad total de Remesas Familiar y Personal combinadas que envío no debe exceder los US\$300 por hogar de beneficiario en un período de tres meses. Yo afirmo que soy mayor de 18 años y que este pago no excederá la cantidad total de Remesas Familiar y Personal combinadas de US\$300 por hogar de beneficiario en un período de tres meses.

Nombre del Beneficiario: \_\_\_\_\_

Dirección del Beneficiario: \_\_\_\_\_

## SIGNATURE OF REMITTER (FIRMA DEL REMITENTE)

Street Address (Dirección): \_\_\_\_\_

City, State and Zip Code (Ciudad, Estado, Zona Postal): \_\_\_\_\_

Telephone Number (Número de Teléfono): \_\_\_\_\_

Mother=s Maiden Name (Apellido de soltera de su madre): \_\_\_\_\_

Date of birth of Remitter (Fecha de Nacimiento del Remitente): \_\_\_\_\_

**Witnessed by employee of remitting agency (Firma de Testigo del Empleado de la Agencia Remitente):**

Signature (Firma)

Date (Fecha)

Name of Remitting Agency (Nombre de la Agencia Remitente)

**REQUEST FOR A SPECIFIC LICENSE TO VISIT AN IMMEDIATE FAMILY MEMBER  
in Cuba who is a National of Cuba once in a three year period --31 C.F.R. § 515.561(a)**

*Complete each line with the requested information. Do NOT leave blank or write "N/A"*

**APPLICANT INFORMATION**

1. Last Name (Patronymic) \_\_\_\_\_ Last Name (Matronymic) \_\_\_\_\_
2. First Name \_\_\_\_\_ Middle Name \_\_\_\_\_
3. Last Name by Marriage \_\_\_\_\_ Date of Birth \_\_\_\_\_ (MM/DD/YYYY)
4. Street Address \_\_\_\_\_ Apt # \_\_\_\_\_
5. City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone # \_\_\_\_\_
6. U.S. Passport # \_\_\_\_\_ or \_\_\_\_\_ I Have no U.S. Passport.
7. U.S. Alien Registration # \_\_\_\_\_ or \_\_\_\_\_ I Have no U.S. Alien Registration #.
8. Non-US Passport # \_\_\_\_\_ Country of Issuance \_\_\_\_\_
9. Last Family Visit under the \_\_\_\_\_ (MM/DD/YYYY) or \_\_\_\_\_ Never used General License for former General License family visit
10. Last Family visit under \_\_\_\_\_ (MM/DD/YYYY) or \_\_\_\_\_ Never used Specific License for family visit Specific License visit
11. Date of Emigration from Cuba \_\_\_\_\_ (MM/DD/YYYY) or \_\_\_\_\_ Never emigrated from Cuba

**THE PERSON YOU WISH TO VISIT IN CUBA**

12. Last Name (Patronymic) \_\_\_\_\_ Last Name (Matronymic) \_\_\_\_\_
13. First Name \_\_\_\_\_ Middle Name \_\_\_\_\_
14. Relationship to Applicant \_\_\_\_\_ Cuban Identification (Cedula ) # \_\_\_\_\_
15. Address \_\_\_\_\_ City \_\_\_\_\_

**SERVICE PROVIDER INFORMATION**

16. Check here ONLY if the Traveler has not used a Service Provider \_\_\_\_\_ Or complete the following:  
Name of Service Provider \_\_\_\_\_  
Name of Service Provider Employee \_\_\_\_\_  
Street Address \_\_\_\_\_ Suite # \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_ Phone # \_\_\_\_\_

=====

**WARNING:** Transactions relating to travel, trade, and financial dealings with Cuba are restricted under the Cuban Assets Control Regulations, 31 C.F.R. Part 515, the Reporting and Procedures Regulations, 31 C.F.R. Part 501, and the Trading With the Enemy Act, 50 USC App. Section 5(b). 18 USC 1001 provides for up to 5 years imprisonment and a US\$10,000 fine for any person who knowingly and willfully makes any materially false, fictitious, or fraudulent statement or representation on this form or in any other information submitted to OFAC. You are reminded that it is illegal to make use of charge cards during your stay in Cuba. Please be advised that each authorized traveler may carry no more than \$300 of quarterly remittances to Cuba and may not return with any merchandise acquired in Cuba other than exempt informational materials.

**SIGN BELOW:** I have read the above statements, **completed all numbered lines**, and all the information provided above is true and accurate:

\_\_\_\_\_

SIGNATURE

\_\_\_\_\_

DATE (MM/DD/YYYY)

This application should be mailed to the following address:

Office of Foreign Assets Control  
U.S. Department of the Treasury  
P.O. Box 229008  
Miami FL 33122-9008.

**SOLICITUD DE LICENCIA ESPECIFICA PARA VISITAR UN FAMILIAR CERCANO  
en Cuba quien es un nacional de Cuba una vez en un periodo de tres años -- 31 C.F.R. §515.561(a)  
Complete cada línea y no deje ninguna en blanco ni tampoco escriba "No Aplica" ("N/A").**

**INFORMACION DEL SOLICITANTE**

1. Apellido (Paterno) \_\_\_\_\_ Apellido (Materno) \_\_\_\_\_
2. Nombre (Primer) \_\_\_\_\_ Nombre (Segundo) \_\_\_\_\_
3. Apellido de Casada \_\_\_\_\_ Fecha de Nacimiento \_\_\_\_\_ (Mes/Día/Año)
4. Dirección (Calle) \_\_\_\_\_ Apartamento # \_\_\_\_\_
5. Ciudad \_\_\_\_\_ Estado \_\_\_\_\_ Código Postal \_\_\_\_\_ Teléfono # \_\_\_\_\_
6. Número de pasaporte estadounidense \_\_\_\_\_ o \_\_\_\_\_ No tengo pasaporte estadounidense
7. Número de tarjeta de registro \_\_\_\_\_ o \_\_\_\_\_ No tengo tarjeta de registro de extranjero (tarjeta verde)
8. Número de pasaporte (no estadounidense) \_\_\_\_\_ País de expedición \_\_\_\_\_
9. Ultima visita familiar bajo \_\_\_\_\_ (Mes/Día/Año) o \_\_\_\_\_ Nunca usé la Licencia General para la antigua Licencia General visita familiar
10. Ultima visita familiar bajo \_\_\_\_\_ (Mes/Día/Año) o \_\_\_\_\_ Nunca usé la Licencia Especifica para visita familiar la Licencia Especifica
11. Fecha de emigración de Cuba \_\_\_\_\_ (Mes/Día/Año) o \_\_\_\_\_ Nunca emigré de Cuba

**LA PERSONA QUE DESEA VISITAR EN CUBA**

12. Apellido (Paterno) \_\_\_\_\_ Apellido (Materno) \_\_\_\_\_
13. Nombre (Primero) \_\_\_\_\_ Nombre (Segundo) \_\_\_\_\_
14. Parentesco con el Solicitante \_\_\_\_\_ Número de Carnet de Identidad (Cédula) \_\_\_\_\_
15. Dirección \_\_\_\_\_ Ciudad \_\_\_\_\_

**INFORMACION DEL PROVEEDOR DE SERVICIO**

16. Marque aquí solamente si el solicitante no ha usado un Proveedor de Servicio \_\_\_\_\_ o provea lo siguiente
- Nombre del Proveedor de Servicio \_\_\_\_\_
- Nombre del Empleado del Proveedor de Servicio \_\_\_\_\_
- Dirección (Calle) \_\_\_\_\_ Despacho # \_\_\_\_\_
- Ciudad \_\_\_\_\_ Estado \_\_\_\_\_ Código Postal \_\_\_\_\_ Teléfono # \_\_\_\_\_

=====

**ADVERTENCIA:** Transacciones relacionadas con viaje, comercio, y tratos financieros con Cuba están restringidas bajo la Regulación de Control de Bienes Cubanos, 31 C.F.R. Part 515, las Regulaciones de Reportes y Procedimientos, 31 C.F.R Part 501, y el Acto de Comercialización con el Enemigo, 50 USC App. Sección 5(b). 18 USC 1001 estipula 5 años de encarcelamiento y una multa de \$10,000 para cualquier persona quien deliberada e intencionalmente haga una declaración substancialmente falsa, ficticia o fraudalenta en éste formulario o en cualquier otra información presentada a OFAC. Se le recuerda que es ilegal hacer uso de tarjetas de crédito durante su estancia en Cuba. Favor de considerarse advertido de que cada persona autorizada para viajar puede llevar no mas de \$300 de remesas trimestrales a Cuba y no puede regresar con ninguna otra mercancía adquirida en Cuba que no sean materiales de información exentos.

**FIRME ABAJO:** He leído las declaraciones hechas, **completado todas las líneas** y toda la información proveída arriba es verídica y correcta:

\_\_\_\_\_

FIRMA

\_\_\_\_\_

FECHA (Mes/Día/Año)

Esta solicitud deberá ser enviada a la siguiente dirección:

Office of Foreign Assets Control  
U.S. Department of the Treasury  
P.O. Box 229008  
Miami FL 33122-9008

# **APPENDIX V OF CIRCULAR 2006**

## **SERVICE PROVIDER ENFORCEMENT GUIDELINES**

**TRAVEL, CARRIER and REMITTANCE FORWARDING  
SERVICE PROVIDER PROGRAM**

**OFFICE OF FOREIGN ASSETS CONTROL**

# SERVICE PROVIDER ENFORCEMENT GUIDELINES

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# **Service Provider Enforcement Guidelines**

## **I. Introduction**

The primary mission of the Office of Foreign Assets Control (“OFAC”) is the administration and enforcement of economic sanction programs, including the Cuban Assets Control Regulations, 31 C.F.R. Part 515 (the “Regulations”). The broad restrictions in the Regulations on dealing in property in which Cuba or a Cuban national has an interest are critical components of United States foreign policy towards Cuba. On the one hand the purpose of the Regulations is to limit hard currency earnings by the Cuban Government and deny benefits to the Cuban economy from unauthorized remittances, commercial transactions, and tourism. On the other hand the Regulations support the policy objective of promoting a peaceful transition to democracy and civil society in Cuba. Licensing policy and enforcement actions, including penalties, are essential components in achieving those objectives.

OFAC’s licensing process for the provision of travel, carrier, and remittance forwarding services aims at establishing a regulated Service Provider (“SP”) community that assures that travel-related transactions and remittance forwarding are fully consistent with policy objectives and regulatory controls. OFAC predicates the granting of SP authorizations upon an expectation that the SP will continually maintain the standard of service that is consistent with foreign policy goals within the context of an ongoing relationship between OFAC and the SPs. SPs must therefore demonstrate by their record of performance a suitability to operate their business in a manner consistent with the applicable OFAC regulations.

OFAC licensing and enforcement policy is premised on the existence of a cooperative relationship between OFAC and the SPs. Administrative actions, including licensing, provisional authorization, oversight and review, suspension and/or revocation of authorization, monetary penalties, and referral of certain cases to the Department of Justice for criminal prosecution are intended to further foreign policy goals. These SP Enforcement Guidelines (the “SP Enforcement Guidelines”), included as Appendix V to the Circular, set forth mechanisms to evaluate SPs’ conduct, to identify and correct deficiencies and to determine whether an SP is unfit to hold SP authorization, either for a period of time or for the future.

These SP Enforcement Guidelines are intended to provide OFAC with a procedural framework of general applicability to promote consistency in enforcement actions, while allowing for the appropriate exercise of OFAC discretion, consistent with the Regulations. These SP Enforcement Guidelines are also intended to promote the transparency of OFAC’s procedures and better inform the regulated community. OFAC has, through its licensing policies and regulation of SPs, sought to maximize strict compliance with U.S. sanctions. To further its commitment to enhanced compliance on the part of the public consistent with current policy, OFAC has published these SP Enforcement Guidelines as part of this Circular.

## **II. OFAC Focus: SP Program Requirements**

Each SP must achieve and maintain the SP Program requirements, as set forth in the Circular and in each SP's individual authorization. OFAC will look in part to the SP's compliance with these requirements as relevant to whether an SP should continue to hold SP authorization. OFAC deems any apparent discrepancy between the SP Program requirements and an SP's conduct to be the basis to: 1) require the SP to effectuate changes to better ensure that it satisfy the SP Program requirements, 2) determine whether the SP's authorization should continue after a period of suspension, or 3) determine whether the SP's authorization should be revoked.

OFAC has in place an ongoing program to oversee the operations of the SPs, as described herein. Where OFAC finds that an SP, through its conduct, has fallen short of satisfying the SP Program requirements, OFAC will seek to the extent possible to work with the SP to bring its conduct into conformity with the SP Program requirements.

OFAC's administrative response to apparent discrepancies will depend upon the problem that OFAC ascertains. Relevant factors for OFAC will include not only the conduct giving rise to the problem, but also the extent to which the SP conducts employee training, whether all persons who in fact exercise authority in the operation of the SP have been identified, whether there is proper use of forms and procedures, the SP's prior record of compliance, prior OFAC findings related to the SP, and other relevant information.

These SP Enforcement Guidelines list a series of administrative actions OFAC may take once OFAC has reason to believe, based on relevant information, that the SP Program requirements may not be satisfied. Some of the administrative actions are remedial in nature. Where OFAC believes that the discrepancy is due to intentional and knowing action or a great degree of negligence, more significant enforcement actions may be taken. Repeated instances of violations will result in more serious administrative responses.

OFAC may focus on whether the SP's conduct demonstrates unfitness to operate as an SP. This focus could lead to the suspension or revocation of an authorization depending on the circumstances. Such action may also be coupled with imposition of civil penalties, or, in cases involving egregious willful violations, referral to the Department of Justice for criminal prosecution.

## **III. Initiating a Fact Finding**

OFAC may as a part of the normal course of business request or require information from an SP.

There arise situations where OFAC has no suspicion of inconsistent conduct but where OFAC seeks information about certain conduct. An OFAC inquiry may arise for purposes of law enforcement or foreign policy. OFAC will give the SP advance notice when possible of OFAC's concerns and intended steps. OFAC will give the SP an opportunity to comment when possible. OFAC's intent is to work cooperatively in carrying out this function, using an informal procedure as much as possible. OFAC may use any/all of these steps: (1) visit an SP's office to



observe the SP's operations; (2) use faxes to solicit or to record events that occur in the conduct of OFAC's oversight function; (3) document the substantive content of phone conversations; or (4) to the extent necessary, use OFAC's administrative subpoena power to require the submission of information.

Concerns may come to OFAC that are based on foreign policy considerations that communicate information which, if true, would form the basis to believe that conduct inconsistent with foreign policy may have occurred or be about to occur. Further, allegations may come to OFAC from complaints, allegations, voluntary disclosures, and investigations or inquiries by law enforcement agencies that communicate information that, if true, would form the basis to believe that violative conduct may have occurred or be about to occur. OFAC may undertake all of those steps articulated below and may initiate an audit of the financial records of the SP in response to either such concerns or allegations.

## **IV. Steps During or Resulting From a Fact Finding**

### **A. SP'S Opportunity to Comment**

Whenever OFAC has a question or undertakes an inquiry or investigation, where possible, OFAC will accord the SP the opportunity to comment in writing or verbally on the facts at issue, on the proper analysis of the situation, and on the appropriate conclusions to draw concerning apparently inconsistent conduct, and OFAC will take those comments into consideration in its evaluation. These SP Enforcement Guidelines do not offer any specific procedural right beyond those ordinarily consistent with due process considerations. OFAC will make its own findings of fact based on all the information available to OFAC.

### **B. OFAC Requirements**

As part of or as a result of a fact finding, OFAC may require one or more of the following:

#### **1. Requirement to Furnish Information**

OFAC may administratively require a person to answer questions and provide copies of relevant records, pursuant to the Reporting, Procedures and Penalties Regulations, 31 C.F.R. Part 501 (the "RPPR").

#### **2. OFAC Audit**

OFAC may undertake either a performance audit (whether forms and procedures are correct and fairly presented) or financial audit (whether financial information is correct and fairly presented) of the SP. OFAC will develop information from an audit by reviewing documents and practices with the intent of evaluating and drawing conclusions about the conduct and transactions of the SP.

### 3. Requirement to Redefine Forms and Procedures

If OFAC finds that inconsistent conduct may reflect the absence of, ambiguity in, or questionable implementation of the SP's forms and procedures, OFAC may require the SP to rewrite the forms and procedures detailing how the SP will engage in its conduct.

### 4. Additional Background Investigation

OFAC may require that any person acting on behalf of or for the benefit of an SP pass a clean background investigation.

### 5. OFAC Training

OFAC may require the SP's owners and/or employees undergo an OFAC training program.

## **C. Failure to Satisfy**

Failure to satisfy timely any requirement listed in this Part IV may form the basis for finding inconsistent conduct with the SP requirements and may result in OFAC taking possible enforcement actions described in Part V, below.

## **V. OFAC Enforcement Actions**

As a result of a fact finding or a failure to satisfy an OFAC requirement, OFAC may take one or more of the following actions:

### **A. Cautionary Letter**

OFAC may issue a "Cautionary Letter" when an OFAC audit or investigation results in insufficient evidence to conclude that an apparent violation has occurred, but indicates activity which could lead to violation in other circumstances.

### **B. Warning Letter**

"Warning Letters" represent OFAC's conclusion that the conduct constitutes an apparent violation. In the exercise of its discretion, OFAC may determine in certain instances that a warning letter, citing the specific facts and relevant law, may achieve the same result as a monetary penalty or other administrative action insofar as future compliance with OFAC regulations is concerned. A Warning Letter will fully explain the apparent violation and require corrective action for future compliance. The letter may give the SP a time-certain within which to correct the SP's conduct. A Warning Letter is not a formal finding of violation.

## **C. Order to Cease and Desist**

A Cease and Desist order follows OFAC's conclusion that an apparent violation has occurred. OFAC may determine in certain instances that this order is appropriate, citing the specific facts and relevant law to fully explain the apparently violative conduct and directing the person to change the conduct to be in compliance with the SP Program. A Cease and Desist Order is not a formal finding of violation.

## **D. Monetary Penalty**

The proposal of a monetary penalty follows OFAC's conclusion there is reason to believe that violative conduct has occurred. The maximum civil monetary penalty for a violation is \$65,000. See generally the OFAC Enforcement Guidelines and the RPPR on the OFAC website.

## **E. Suspension or Revocation**

Pursuant to § 515.572 of the Regulations, OFAC may suspend or revoke an SP's authorization to engage in transactions for the following reasons:

1. The party has willfully made or caused to be made in any application for any specific license, or report required pursuant to a general or specific license, any statement that was, at the time and in light of the circumstances under which it was made, false or misleading with respect to any material fact or has omitted to state in any application or report any material fact that was required;
2. The party has failed to file timely reports or comply with the recordkeeping requirements of a general or specific license;
3. The party has violated any provision of law or regulations enforced by OFAC;
4. The party has counseled, commanded, induced, procured, or knowingly aided or abetted the violation by any other person of any provision of any law or regulations referred to above;
5. The party has committed any other act or omission that demonstrates unfitness to conduct the transactions authorized by the SP license;
6. The party, through the conduct of the SP business, has failed to satisfy the SP Program requirements; or
7. Following OFAC's efforts to assist the party to demonstrate fitness to conduct the authorized transactions, OFAC has determined that further efforts by OFAC and/or by the party are not likely to bring the party into compliance with the SP Program requirements.

## **F. Criminal Referral**

If OFAC believes that evidence suggests willful violations of prohibitions, OFAC may refer those cases to other federal law enforcement agencies for criminal investigation.

Cases that are referred for criminal prosecution also may be processed by OFAC as civil enforcement actions. This is generally done after the Justice Department's declination of criminal prosecution, the termination of criminal proceedings, or as part of a global settlement of criminal and civil violations by the Justice Department.

## **G. Evaluation of Administrative Record**

Subsequent to a fact finding, in determining the appropriate administrative enforcement action, OFAC will carefully balance the mitigating and aggravating factors, as listed below, when present in the administrative record, and weigh any other administrative and policy considerations that OFAC may deem appropriate.

In taking an administrative enforcement action, the degree to which a proposed action is mitigated, if any, is determined by the blend of mitigating factors and aggravating factors present. The history of mitigation with respect to cases having substantially identical fact patterns will generally govern the degree of mitigation to be applied in subsequent cases. However, departures from prior history will be considered where appropriate.

OFAC may attach more importance to a particular factor. The circumstances, including the plurality of factors present, will also influence the outcome. OFAC encourages evidentiary submissions indicating the presence or absence of any such factor.

### **1. Voluntary Disclosure**

Where an SP voluntarily discloses apparently inconsistent conduct, OFAC will consider the disclosure as a mitigating factor in the determination of the appropriate administrative action. A disclosure to OFAC is considered to be a voluntary disclosure when OFAC is notified of possible inconsistent conduct. Notification to OFAC may not be considered to be a voluntary disclosure if OFAC previously received information concerning the conduct from another source, including but not limited to another regulatory or law enforcement agency or another person's conduct. Responding to an OFAC administrative subpoena or other inquiry from OFAC does not constitute a voluntary disclosure. Similarly, the submission of a license application does not constitute a voluntary disclosure unless accompanied by a separate disclosure.

Typical mitigating and aggravating factors include the following:

### **2. Mitigating Factors**

- voluntary disclosure
- forms and procedures actively being used at time of apparent violation

- if forms and procedures not being used at time of apparent violation, active use of forms and procedures upon the SP's discovery of or OFAC or other notification of the apparent violation
- other remedial measures taken
- useful enforcement information provided during an OFAC audit, investigation, or administrative action
- part of comprehensive settlement with U.S. governmental agency
- other U.S. government enforcement action completed
- clerical error, inadvertence or mistake of fact
- evidence in the administrative record that conduct could have been licensed by OFAC under an existing licensing policy had an application been submitted
- humanitarian nature of transaction
- such other matters as justice or foreign policy may require

### 3. Aggravating Factors

- willfulness
- apparent disregard of prior notice from U.S. government concerning conduct at issue
- no remedial measure taken after notice or discovery; for example, failure to put into practice forms and procedures at the time of the apparent violation
- deliberate effort to hide or conceal conduct
- adverse economic sanctions impact
- a pattern and practice of violation: three or more instances of apparent violation involving the same or similar types of inconsistent conduct regardless of whether the conduct involves substantially similar facts
- a prior Warning Letter or other OFAC notice for a similar type of apparent violation
- a prior Cease and Desist Order for any deficiency or apparent violation
- a prior monetary penalty for any apparent violation
- a prior suspension for any apparent violation
- a prior revocation for any apparent violation

##