

Cuba Sanctions Relief: Baby Steps Today, But What About Tomorrow?

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For more than 50 years, an embargo and related sanctions regime has restricted U.S. businesses and individuals from virtually all economic activity involving Cuba or its nationals. This regime was implemented through a comprehensive, complex array of federal statutes, Departments of Treasury and Commerce regulations, Executive Orders, and interpretive guidance and sanctions administered by the Treasury Department's Office of Foreign Assets Control (OFAC) and the Commerce Department's Bureau of Industry and Security (BIS). On December 17, 2014, President Obama announced diplomatic and economic changes "to chart a new course in U.S. relations with Cuba and to further engage and empower the Cuban people." One month later, the Treasury and Commerce Departments implemented these policy-based initiatives through companion revisions to, respectively, the Treasury Department's Cuban Assets Control Regulations and the Commerce Department's Export Administration Regulations. Those regulatory changes were designed to facilitate travel to Cuba for 12 enumerated purposes, to facilitate the processing of authorized transactions, and to allow several other activities relating to, among other things, telecommunications, financial services, trade, and shipping. These changes do not end the Cuban embargo. However, they do represent specific, tangible "baby steps" for some activities, and even broader opportunities for a limited number of other activities, all with important practical implications for authorized commercial activity involving Cuba and Cuban nationals. A truly embargo-free Cuba would open a potentially substantial new market to U.S. businesses and investors. Therefore, beyond the relief most recently afforded, where does U.S. business with Cuba go from here? Most believe the United States is a long way from lifting the Cuba embargo altogether. In this regard, the 1996 "Helms-Burton Act" conditions the termination of the economic embargo on a determination that Cuba has a "transition government," which is defined as a government that, among other things, does not include Fidel or Raul Castro and which has made public commitments to organizing free and fair elections for a new government. Raul Castro has publicly stated he will leave office in 2018

when his current five-year term ends. Whether his successor or another Cuban governmental authority will make the requisite public commitments remains to be seen. In the meantime, President Obama or his successor(s) can continue to chip away at the embargo through policy and regulatory changes like those announced at the beginning of this year. What the future brings is anyone's guess, but given the current pace of global political and economic change, U.S. businesses and investors would be well-advised to prepare and position themselves for all possible future opportunities.

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