

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations: Family Remittances; Travel Remittances; Carrier Service Providers; Currency Carried by Travelers

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: Pursuant to the President's announcement of March 20, 1998, the Treasury Department is amending the Cuban Assets Control Regulations to authorize a person subject to U.S. jurisdiction to make remittances to a close relative in Cuba of up to \$300 in any consecutive 3-month period. The remitter must be aged 18 years or older and the remittances must be for the support of the close relative or members of his or her household. In situations in which more than one close relative of the remitter resides in the same household in Cuba, no more than \$300 in any consecutive 3-month period may be sent by the remitter to that household. Rules relating to non-Cuban currency carried by Cubans returning from the United States to Cuba are amended to reflect this authorization. In addition, technical changes are made to rules relating to provision of emigration-related remittances and the licensing of cargo transported to Cuba by carrier service providers.

EFFECTIVE DATE: May 13, 1998.

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Background

On March 20, 1998, President Clinton announced that the United States is taking a number of steps to expand the flow of humanitarian assistance to Cuba and to help strengthen independent civil society and religious freedom in that country. These include allowing a person subject to U.S. jurisdiction to make remittances of specified amounts to close relatives in Cuba. Accordingly, the Office of Foreign Assets Control of the Department of the Treasury ("OFAC") is amending the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), pursuant to authority delegated to the Secretary of the Treasury by the President, in order to implement this measure and to make certain technical changes to the Regulations.

Section 515.563(a) of the Regulations is amended to authorize a person subject to U.S. jurisdiction to make family remittances to a national of Cuba resident in Cuba who is a close relative of the remitter or the remitter's spouse. The same remittances are authorized with respect to Cuban nationals resident in the authorized trade territory who are not unblocked nationals pursuant to § 515.505(b) of the Regulations. (As defined in § 515.322, the term "authorized trade territory" means all countries other than the United States and countries subject to sanctions pursuant to 31 CFR chapter V.) The remitter must be aged 18 years or older, and the remittances must be for the support of the close relative (including any member of his or her household). A U.S. remitter may make payments of up to \$300 in any consecutive 3-month period to any one close relative, and, in

situations in which more than one close relative of the remitter resides in the same household, no more than \$300 in any consecutive 3-month period may be sent by the remitter to that household. Section 515.563(d) of the Regulations defines a "close relative" as a person's spouse, child, grandchild, parent, grandparent, great grandparent, uncle, aunt, brother, sister, nephew, niece, first cousin, mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, or spouse, widow or widower of any of the above.

Remittances may be transferred through remittance forwarders specifically licensed by OFAC or by U.S. depository institutions generally licensed by OFAC pursuant to § 515.566(a)(3). In addition, the family remittance may be carried directly on the person of the U.S. remitter or remitter's spouse who is engaging in authorized travel to Cuba, provided the traveler is aged 18 years or older, carries no more than \$300 per trip for this purpose irrespective of the number of payees, and makes total remittances of no more than \$300 per close relative (including all members of that close relative's household) in any consecutive 3-month period.

The text of former § 515.563(b), now § 515.563(c), is revised to make clear that the emigration-related remittance authorized by that paragraph is separate from and in addition to the travel-related remittance authorized by § 515.564(c). A similar revision is made to § 515.564(c). In addition, § 515.566(a)(2) is amended to indicate that certain baggage carried by carrier service providers requires licensing by the U.S. Department of Commerce. Finally, § 515.569(d) is modified to provide that Cuban nationals returning to Cuba may carry with them currency they have received as family remittances pursuant to § 515.563.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601-612) does not apply.

Paperwork Reduction Act

The Regulations are being issued without prior notice and public comment procedure pursuant to the APA. The collections of information related to the Regulations are contained in 31 CFR part 501 (the "Reporting and

Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505-0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Air carriers, Banks, banking, Blocking of assets, Cuba, Currency, Estates, Exports, Foreign investment in the United States, Foreign trade, Imports, Informational materials, Penalties, Publications, Reporting and recordkeeping requirements, Securities, Shipping, Specially designated nationals, Terrorism, Travel restrictions, Trusts and trustees, Vessels.

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

PART 515—CUBAN ASSETS CONTROL REGULATIONS

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

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001-6010; 31 U.S.C. 321(b); 50 U.S.C. App. 1-44; Pub. L. 101-410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 9193, 7 FR 5205, 3 CFR, 1938-1943 Comp., p. 1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943-48 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR 1959-1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

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

2. Section 515.563 is revised to read as follows:

§ 515.563 Family remittances to nationals of Cuba.

(a) A person subject to the jurisdiction of the United States may make remittances to a national of Cuba resident in Cuba or in the authorized trade territory who is a close relative of the remitter or of the remitter's spouse, provided the U.S. remitter is 18 years of age or older and payments are made from unblocked sources for the support of the close relative (including any member of his or her household). In any consecutive 3-month period, the maximum amount a remitter may send to a close relative of the remitter or the remitter's spouse pursuant to this section is the lesser of:

(1) \$300 to the close relative in Cuba or the authorized trade territory; or

(2) \$300 to the household of the close relative in Cuba or the authorized trade territory, regardless of the number of close relatives comprising the household.

Note to paragraph (a). The maximum amounts set forth in paragraph (a) of this section do not apply to family remittances to a Cuban national who has been specifically licensed as an unblocked national pursuant to § 515.505(b), as family remittances to unblocked persons do not require separate authorization.

(b) A remitter or remitter's spouse who is 18 years of age or older and who is engaged in authorized travel to Cuba may carry on his or her person no more than \$300 in total family remittances, regardless of the number of eligible payees in Cuba, provided the remitter's family remittances will not exceed the maximum amount set forth in paragraph (a) of this section for any payee within the past 3 months.

(c) In addition to travel-related remittances authorized pursuant to § 515.564(c), remittances to any close relative of the remitter or of the remitter's spouse who is a national of Cuba or who is resident in Cuba are authorized for the purpose of enabling the payee to emigrate from Cuba to the United States, in an amount not exceeding \$500, to be made only once to any payee, provided that the payee is a resident of and within Cuba at the time the payment is made.

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

3. Section 515.564 is amended by revising the first sentence of paragraph (c) to read as follows:

§ 515.564 Certain transactions incident to travel to, from and within the United States by certain Cuban nationals.

* * * * *

(c) Travel-related remittances by persons subject to U.S. jurisdiction to Cuba or a Cuban national, directly or indirectly, for transactions on behalf of a Cuban national, are authorized pursuant to paragraph (a) of this section only when made for the purpose of enabling the payee to emigrate from Cuba to the United States, including for the purchase of airline tickets and payment of visa fees or other travel-related fees. * * *

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4. Section 515.566 is amended by revising the last sentence of paragraph (a)(2) to read as follows:

§ 515.566 Authorization for transactions incident to the provision of travel service, carrier service, and family remittance forwarding service.

(a)(1) * * *

(2) * * * Carriage to or from Cuba of any merchandise, cargo or gifts, other than those permitted to individual travelers as accompanied baggage, must also be authorized by licenses issued by the U.S. Department of Commerce.

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5. Section 515.569 is amended by revising paragraph (d) to read as follows:

§ 515.569 Currency carried by travelers to Cuba.

* * * * *

(d) A Cuban national returning directly from the United States to Cuba may carry non-Cuban currency only in the amount of U.S. currency or third-country currency brought into the United States by the traveler and registered with the U.S. Customs Service upon entry, plus up to \$300 in funds received as family remittances by the Cuban national during his or her stay in the United States.

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Dated: May 4, 1998.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: May 11, 1998.

James E. Johnson,

*Assistant Secretary (Enforcement),
Department of the Treasury.*

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations: Fully-Hosted or Fully-Sponsored Travel and Restrictions on Travel Transactions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: In order to ensure effective enforcement of the prohibitions on travel-related transactions in Cuba, any person subject to U.S. jurisdiction determined to have traveled to Cuba without the authority of a general or specific license is subject to a rebuttable presumption that the traveler has