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# Cuba: U.S. Restrictions on Travel and Remittances

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# Summary

Restrictions on travel and remittances to Cuba have constituted a key and often contentious component in U.S. efforts to isolate Cuba's communist government since the early 1960s. Such restrictions are part of the Cuban Assets Control Regulations (CACR), the overall embargo regulations administered by the Treasury Department's Office of Foreign Assets Control (OFAC). Various Administrations, including the current one, have eased and tightened the restrictions over the years as U.S. policy toward Cuba has changed.

**Obama Administration Policy**

The Obama Administration lifted all restrictions on family travel and remittances in 2009. In 2011, the Administration eased restrictions on other types of travel, including travel related to religious, educational, and people-to-people exchanges, and allowed any U.S. person to send remittances to individuals in Cuba.

Since January 2015, as part of President Obama's major shift in U.S. policy toward Cuba (moving away from a sanctions-based policy toward one of engagement), the Administration has taken actions that have considerably eased restrictions on nonfamily travel and remittances. The Treasury Department initially authorized travel by general license for all 12 categories of travel set forth in the CACR; eliminated traveler per diem limits; increased the amount of nonfamily remittances; and permitted other types of remittances for humanitarian projects, support to the Cuban people, and the development of private businesses. The Treasury Department subsequently eased the restrictions in three additional rounds of regulatory changes (September 2015, January 2016, and March 2016). Some of the most notable changes included authorization for transportation by vessel to and from Cuba; travel for organizing professional meetings and public performances, clinics, workshops, athletic and other competitions, and exhibitions; removal of dollar limits for donative remittances to Cuban nationals and for amounts of remittances that authorized travelers may carry to Cuba; and people-to-people educational travel for individuals.

**Legislative Initiatives**

Several legislative initiatives have been introduced in the 114th Congress that would lift remaining restrictions on travel and remittances. Three bills, H.R. 274, H.R. 403, and H.R. 735, would lift the overall embargo, including restrictions on travel and remittances. Three other bills, H.R. 634, H.R. 664, and S. 299, would focus solely on prohibiting restrictions on travel. One bill, H.R. 635, would lift the travel restrictions and facilitate U.S. exports. In contrast, two bills, S. 1388 and H.R. 2466, would require the President to submit a plan for the resolution of property claims relating to property confiscated by the Cuban government before taking action to ease travel and trade restrictions. Efforts to lift and tighten travel restrictions played out in the FY2016 appropriations process, but ultimately no such provisions were included in the FY2016 omnibus appropriations measure (P.L. 114-113).

This report examines developments in U.S. policy restricting travel and remittances to Cuba, including significant changes that have occurred, current permissible travel and remittances, enforcement of the travel restrictions, and debate on lifting the travel restrictions. **Appendix A** provides a chronology of major actions taken by various Administrations on travel restrictions from 1962 through 2016. **Appendix B** provides a history of legislative action related to the restrictions on travel and remittances to Cuba from 1999 through 2014.

For further information from CRS, see CRS Report R43926, *Cuba: Issues for the 114th Congress*; CRS In Focus IF10045, *Cuba: President Obama's New Policy Approach*; and CRS Report R43888, *Cuba Sanctions: Legislative Restrictions Limiting the Normalization of Relations*.

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# Overview of the U.S. Restrictions

Since the United States imposed a comprehensive trade embargo against Cuba in the early 1960s, there have been numerous policy changes to restrictions on travel to Cuba. The embargo regulations do not ban travel itself, but place restrictions on any financial transactions related to travel to Cuba, which effectively result in a travel ban. Accordingly, from 1963 until 1977, travel to Cuba was effectively banned under the Cuban Assets Control Regulations (CACR) issued by the Treasury Department's Office of Foreign Assets Control (OFAC) to implement the embargo. In 1977, the Carter Administration made changes to the regulations that essentially lifted the travel ban. In 1982, the Reagan Administration made other changes to the CACR that once again restricted travel to Cuba, but allowed for travel-related transactions by certain categories of travelers. Under the Clinton Administration, there were several changes to the Treasury Department regulations, with some at first tightening the restrictions, and others later loosening the restrictions.

Under the George W. Bush Administration, the travel regulations were tightened significantly, with additional restrictions on family visits, educational travel, and travel for those involved in amateur and semi-professional international sports federation competitions. In addition, the categories of fully hosted travel and people-to-people educational exchanges unrelated to academic coursework were eliminated as permissible travel to Cuba. The Bush Administration also cracked down on those traveling to Cuba illegally, further restricted religious travel by changing licensing guidelines for such travel, and suspended the licenses of several travel service providers in Florida for license violations.

Under the Obama Administration, Congress took action in March 2009 (P.L. 111-8) to ease restrictions on travel by Cuban Americans to visit their family in Cuba and on travel related to the marketing and sale of agricultural and medical goods to Cuba. In April 2009, President Obama went even further by announcing that all restrictions on family travel and on remittances to family members in Cuba would be lifted, and on September 3, 2009, the Treasury Department issued regulations implementing these policy changes. In January 2011, President Obama took further action to ease restrictions on travel and remittances to Cuba by providing new general licenses[1] for travel involving educational and religious activities and restoring a specific license[2] authorizing travel for people-to-people exchanges. The Administration also restored a general license for any U.S. person to send remittances to Cuba (up to $500 per quarter), created a general license for remittances to religious organizations, and expanded the U.S. airports eligible to serve flights to and from Cuba. In most respects, with the exception of the expansion of eligible airports, these new measures were similar to policies undertaken by the Clinton Administration in 1999 but subsequently curtailed by the Bush Administration in 2003 and 2004.

Since January 2015, as part of President Obama's new policy approach of engagement with Cuba, the Administration has significantly eased restrictions on travel and remittances. Among the significant travel-related measures, the Administration authorized travel by general license for all 12 categories of travel to Cuba set forth in the CACR; permitted authorized travelers to use U.S. credit and debit cards; eliminated traveler per diem limits; authorized general license travel for professional media or artistic productions as part of the travel category for those involved in the export, import, or transmission of information or informational materials; and authorized people-

[1] A general license provides the authority to engage in a transaction without the need to apply to the Treasury Department for permission.

[2] A specific license is a written document issued by the Treasury Department to a person or entity authorizing a particular transition in response to a written license application.

to-people educational travel for individuals. With regard to remittances, the Administration initially increased the dollar limits for so-called nonfamily remittances and the amount of remittances that authorized travelers could carry to Cuba. It then removed the dollar limits altogether and provided a general license for remittances for humanitarian projects, support to the Cuban people, and the development of private businesses.

Supporters of change in U.S. policy toward Cuba, including some Members of Congress, had been calling for the President to ease travel restrictions by authorizing general licenses for all categories of permitted travel. The President's actions were part of the Administration's discretionary licensing authority to amend the embargo regulations; the regulations themselves provide the Administration with this authority. Lifting all the restrictions on travel, however, would require legislative action. This is because of the codification of the embargo in Section 102(h) of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (P.L. 104-114); that act conditions the lifting of the embargo, including the travel restrictions, on the fulfillment of certain democratic conditions in Cuba.

Moreover, a provision in the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA; §910(b) of P.L. 106-387, Title IX) prevents the Administration from licensing travel for tourist activities, and defines such activities as any activity not expressly authorized in the 12 broad categories of travel set forth in the CACR regulations. This legislative provision essentially circumscribes the authority of the executive branch to issue travel licenses for activities beyond the broad categories of travel allowed and would have to be amended, superseded by new legislation, or repealed in order to expand categories of travel to Cuba or lift travel restrictions altogether.

# Obama Administration Policy

## Easing of Restrictions in 2009

The tightening of family travel restrictions in 2004 became an issue during the 2008 presidential campaign, with candidate Barack Obama pledging to lift restrictions for family travel and remittances to Cuba. With the election of Obama, the 111th Congress moved to ease family travel restrictions in March 2009 by approving two provisions that eased sanctions on travel to Cuba in FY2009 omnibus appropriations legislation (P.L. 111-8). Unlike the Bush Administration, the Obama Administration did not threaten to veto such legislation easing Cuba sanctions. This marked the first congressional action easing Cuba sanctions in almost a decade.

In the first provision, as implemented by the Treasury Department, family travel was again allowed once every 12 months under a general license to visit a close relative for an unlimited length of stay, and the limit for daily expenditure allowed by family travelers became the same as for other authorized travelers to Cuba (the State Department maximum per diem rate for Havana). The definition of "close relative" was expanded to mean any individual related to the traveler by blood, marriage, or adoption who is no more than three generations removed from that person.

The second provision in the omnibus measure required a general license for travel related to the marketing and sale of agricultural and medical goods to Cuba. The Treasury Department's Office of Foreign Assets Control ultimately issued regulations implementing this omnibus provision on September 3, 2009. The regulations required a written report at least 14 days before departure identifying both the traveler and the producer or distributor and describing the purpose and scope of such travel. Another written report was required within 14 days of return from Cuba describing the activities conducted, the persons met, and the expenses incurred. The regulations also required that such travelers under this provision be regularly employed by a producer or distributor of the

agricultural commodities or medical products or an entity duly appointed to represent such a producer or distributor.

Going even further, the Obama Administration announced several significant measures to ease U.S. sanctions on Cuba in April 2009. Fulfilling a campaign pledge, President Obama announced that all restrictions on family travel and on remittances to family members in Cuba would be lifted. This significantly superseded the action taken by Congress in March that had essentially reverted family travel restrictions to as they had been before they were tightened in 2004. Under the new policy announced by the Administration in April, there were no limitations on the frequency or duration of family visits (which would still be covered under a general license), and the 44-pound limitation on accompanied baggage was removed. Family travelers were allowed to spend the same as allowed for other travelers, up to the State Department's maximum per diem rate for Havana. With regard to family remittances, the previous limitation of no more than $300 per quarter was removed with no restriction on the amount or frequency of the remittances. Authorized travelers were again authorized to carry up to $3,000 in remittances.[3] Regulations for the above policy changes were issued by the Treasury and Commerce Departments on September 3, 2009.

## Easing of Restrictions in 2011

On January 14, 2011, the Obama Administration announced a series of policy changes further easing restrictions on travel and remittances to Cuba that had been rumored in the second half of 2010. The changes were designed to make it easier to engage in educational, religious, and other types of people-to-people travel and allow all Americans to send remittances to Cuba. The changes were similar to policy that was in place from 1999 under the Clinton Administration through mid-2004 under the Bush Administration. President Obama directed the Secretaries of State, Treasury, and Homeland Security to amend regulations and policies "in order to continue efforts reach out to the Cuban people in support of their desire to freely determine their country's future."[4] The Administration maintained that the policy changes would increase people-to-people contact, help strengthen Cuban civil society, and make Cuban people less dependent on the Cuban state.[5] The changes occurred at the same time that the Cuban government began laying off thousands of state workers and increasing private enterprise through an expansion of the authorized categories for self-employment.

The measures (1) increased purposeful travel to Cuba related to religious, educational, and journalistic activities (general licenses were authorized for certain types of educational and religious travel; people-to-people travel exchanges were authorized via a specific license); (2) allowed any U.S. person to send remittances (up to $500 per quarter) to non-family members in Cuba and made it easier for religious institutions to send remittances for religious activities (general licenses are now authorized for both); and (3) allowed all U.S. international airports to apply to provide services to licensed charter flights to and from Cuba. In most respects, these new measures appeared to be similar to policies that were undertaken by the Clinton Administration in 1999 but subsequently curtailed by the Bush Administration in 2003 and 2004.

An exception was the expansion of airports to service licensed flights to and from Cuba. The Clinton Administration had expanded airports eligible to service license charter flights beyond that of Miami International Airport to international airports in Los Angeles and New York (JFK)

[3] White House, "Fact Sheet: Reaching Out to the Cuban People," April 13, 2009.

[4] White House, Office of the Press Secretary, "Reaching Out to the Cuban People," January 14, 2011, at http://www.whitehouse.gov/the-press-office/2011/01/14/reaching-out-cuban-people.

[5] Mary Beth Sheridan, "Obama Loosens Travel Restrictions to Cuba," *Washington Post*, January 15, 2011.

in 1999, but the January 2011 policy change allowed all U.S. international airports to apply to provide services for chartered flights to and from Cuba under certain conditions. (For information on current U.S. airports authorized to serve Cuba, see "Current Permissible Travel to Cuba" below.)

By early July 2011, OFAC confirmed that it had approved the first licenses for U.S. people-to-people organizations to bring U.S. visitors to Cuba, and the first such trips began in August 2011.[6] On July 25, 2011, however, prior to the trips beginning, OFAC issued an advisory maintaining that misstatements in the media had suggested that U.S. policy allowed for virtually unrestricted group travel to Cuba, and reaffirmed that travel conducted by people-to-people travel groups licensed for travel to Cuba must "certify that all participants will have a full-time schedule of educational exchange activities that will result in meaningful interaction between the travelers and individuals in Cuba." The advisory stated that authorized activities by people-to-people groups are not "tourist activities," and pointed out that the Trade Sanctions Reform and Export Enhancement Act of 2000 prohibits OFAC from licensing transactions for tourist activities.[7]

In the first session of the 112th Congress, there were several attempts aimed at rolling back the Obama Administration's actions easing restrictions on travel and remittances, including a provision originating in the House Appropriation Committee's version of the FY2012 Financial Services and General Government appropriations measure, H.R. 2434. The White House had threatened to veto the bill if it contained the provision and stood firm when congressional leaders were considering including the provision in a "megabus" FY2012 appropriations bill, H.R. 2055. Ultimately congressional leaders agreed not to include the provision in the appropriations measure (P.L. 112-74). (See **Appendix B**, below.)

## Developments in 2012 and 2013

In 2012, some Members of Congress expressed concerns about people-to-people travel that appeared to be focusing on tourist activities rather than on purposeful travel. In response, the Treasury Department issued an announcement in March 2012 warning about misleading advertising regarding some people-to-people trips that could lead to OFAC investigating the organization conducting the trips. The announcement maintained that licenses could be revoked and that organizations may be issued a civil penalty up to $65,000 per violation.[8] OFAC followed up this announcement in May 2012 by revising its people-to-people license guidelines. The revised guidelines reflect similar language to the March announcement and also require an organization applying for a people-to-people license to describe how the travel "would enhance contact with the Cuban people, and/or support civil society in Cuba, and/or promote the Cuban people's independence from Cuban authorities."[9]

In June 7, 2012, congressional testimony, Assistant Secretary of State for Western Hemisphere Affairs Roberta Jacobson set forth a clear-cut description of U.S. policy toward Cuba in which

[6] Peter Orsi, "U.S. Licensing Travel Operators to Start Up Legal Cuba Trips, Treasury Department Says," Associated Press, July 1, 2011; Mimi Whitefield, "People-to-People Tours to Cuba Take Off Thursday," *Miami Herald*, August 10, 2011; and Jeff Franks, "Purposeful Cuba Trips Resume," *Chicago Tribune*, August 18, 2011. Also see the following online resource: *Organizations Sponsoring People-to-People Travel to Cuba*, Latin America Working Group Education Fund, at http://www.lawg.org/storage/documents/people2people.pdf.

[7] U.S. Department of the Treasury, OFAC, "Cuba Travel Advisory," July 25, 2011.

[8] U.S. Department of the Treasury, OFAC, "Advertising Educational Exchange Travel to Cuba for People-to-People Contact," March 9, 2012, at http://www.treasury.gov/resource-center/sanctions/Programs/Pages/cuba_ppl_notice.aspx.

[9] U.S. Department of the Treasury, OFAC, "Comprehensive Guidelines for License Applications to Engage in Travel-Related Transactions Involving Cuba," Revised May 10, 2012, at http://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_tr_app.pdf.

she expressed strong U.S. support for democracy and human rights activists in Cuba and defended the Obama's Administration policy on travel and remittances. The Assistant Secretary asserted that "the Obama Administration's priority is to empower Cubans to freely determine their own future." She maintained that "the most effective tool we have for doing that is building connections between the Cuban and American people, in order to give Cubans the support and tools they need to move forward independent of their government." The Assistant Secretary maintained that "the Administration's travel, remittance and people-to-people policies are helping Cubans by providing alternative sources of information, taking advantage of emerging opportunities for self-employment and private property, and strengthening civil society."[10]

In September 2012, various press reports cited a slowdown in the Treasury Department's approval or reapproval of licenses for people-to-people travel since the agency had issued new guidelines in May (described above). Companies conducting such programs complained that the delay in the licenses was forcing them to cancel trips and even to lay off staff.[11] By early October 2012, however, companies conducting the people-to-people travel maintained that they were once again receiving license approvals.

In April 2013, some Members of Congress strongly criticized singers Beyoncé Knowles-Carter and her husband Shawn Carter, better known as Jay-Z, for traveling to Cuba. Members were concerned that the trip, as described in the press, was primarily for tourism, which would be contrary to U.S. law and regulations. The Treasury Department stated that the two singers were participating in an authorized people-to-people exchange trip organized by a group licensed by OFAC to conduct such trips (pursuant to 31 C.F.R. 515.565(b)(2) of the Cuban Assets Control Regulations). (In August 2014, the Treasury Department's Office of the Inspector General issued a report concluding that no U.S. sanctions were violated and that OFAC's decision not to pursue a formal investigation was reasonable.[12])

## Easing of Restrictions in 2015 and 2016

Just after the adjournment of the 113th Congress in December 2014, President Obama announced a major shift in U.S. policy toward Cuba, moving away from a sanctions-based policy toward one of engagement and a normalization of relations. The policy shift included changes in U.S. restrictions on travel and remittances to Cuba, which were implemented by the Treasury Department's OFAC as amendments to the CACR that went into effect on January 16, 2015.[13]

**Changes to the Travel Restrictions.** With regard to travel, the changes included authorization for general licenses for the 12 existing categories of travel to Cuba set forth in the CACR: (1) family visits; (2) official business of the U.S. government, foreign governments, and certain intergovernmental organizations; (3) journalistic activity; (4) professional research and professional meetings; (5) educational activities; (6) religious activities; (7) public performances, clinics, workshops, athletic and other competitions, and exhibitions; (8) support for the Cuban

[10] Testimony of Roberta S. Jacobson, Assistant Secretary of State for Western Hemisphere Affairs, Senate Foreign Relations Committee, Subcommittee on Western Hemisphere, Peace Corps, and Global Narcotics, at a hearing entitled "The Path to Freedom: Countering Repression and Strengthening Civil Society," June 7, 2012, at http://www.state.gov/p/wha/rls/rm/2012/191935.htm.

[11] Damien Cave, "Licensing Rules Slow Tours to Cuba," *New York Times*, September 16, 2012; Paul Haven, "U.S. Travel Outfits Say Rules for Legal Travel to Cuba Getting Tighter," Associated Press, September 13, 2012.

[12] U.S. Department of the Treasury, Office of Inspector General, "Terrorist Financing/Money Laundering: Review of Travel to Cuba by Shawn Carter and Beyoncé Knowles-Carter," Memorandum Report OIG-CA-14-014, August 20, 2014.

[13] U.S. Department of the Treasury, "Treasury and Commerce Announce Regulatory Amendments to the Cuba Sanctions," January 15, 2016.

people; (9) humanitarian projects; (10) activities of private foundations or research or educational institutes; (11) exportation, importation, or transmission of information or information materials; and (12) certain export transactions that may be considered for authorization under existing regulations and guidelines. (For details on what travel is currently allowed, see "Current Permissible Travel to Cuba," below.)

Before the policy change, travelers under several of these categories had to apply for a specific license from the Treasury Department before traveling. Under the new regulations, both travel agents and airlines are able to provide services for travel to Cuba without the need to obtain a specific license. U.S. credit and debit cards are also permitted for use by authorized travelers to Cuba, although travelers are advised to check with their financial institution before traveling to determine whether the institution has established the necessary mechanisms for its credit or debit cards to be used in Cuba. Authorized travelers no longer have a per diem limit for expenditures, as in the past, and can bring back up to $400 worth of goods from Cuba, with no more than $100 worth of tobacco products and alcohol combined.

OFAC issued three additional rounds of regulatory changes to the CACR in September 2015, January 2016, and March 2016 that further eased the travel restrictions. Among the changes are the following:

- **September 2015.** OFAC amended the regulations to allow close relatives to visit or accompany authorized travelers to Cuba for additional activities. The January 2015 changes had permitted close relatives to visit a person located in Cuba on official government business or there for certain educational activities. The September 2015 changes authorized close relatives to visit or accompany authorized travelers for additional educational activities, journalistic activity, professional research, religious activities, activities related to humanitarian projects, and activities of private foundations or certain research or educational institutes. The changes also allowed all authorized travelers to open and maintain bank accounts in Cuba to access funds for authorized transactions. Transportation by vessel of authorized travelers between the United States and Cuba was also authorized by general license, and certain related lodging aboard vessels used for such travel was authorized (related to ferry and cruise ship travel). At the same time, the Commerce Department amended the Export Administration Regulations (EAR), issuing license exceptions authorizing temporary sojourns for cargo and passenger vessels to Cuba.[14]
- **January 2016.** OFAC amended the CACR to authorize travel-related transactions related to professional media or artistic productions of information or informational materials for exportation, importation, or transmission. These activities included the filming or production of media programs, the recording of music, and the creation of artworks in Cuba. OFAC also amended the regulations to allow travel for the organization of professional meetings and public performances, clinics, workshops, athletic and other competitions, and exhibitions. Previously, the general license was only for attending or participating in such events. OFAC also removed requirements that U.S. profits from public performances, clinics, workshops, athletic and other competitions, and exhibitions be donated to an independent nongovernmental organization

[14] U.S. Department of the Treasury, "Treasury and Commerce Announce Further Amendments to the Cuba Sanctions Regulations," September 18, 2015.

(NGO) in Cuba or a U.S.-based charity. Travel for humanitarian projects was also expanded to include disaster preparedness and response.[15]

- **March 2016.** OFAC amended the CACR to allow individuals to travel to Cuba for individual people-to-people educational travel. Previously, such educational travel required trips to take place under the auspices of an organization that conducted such travel and required travelers to be accompanied by a representative of the sponsoring organization. According to the Treasury Department, the change is intended to make such travel to Cuban more accessible and less expensive for U.S. citizens and will increase opportunities for direct engagement between Cubans and Americans.[16]

Despite the significant easing of travel restrictions, travel to Cuba solely for tourist activities remains prohibited. As noted above, Section 910(b) of the Trade Sanctions Reform and Export Enhancement Act of 2000 prohibits travel-related transaction for tourist activities, which are defined as any activity not expressly authorized in the 12 categories of travel in the CACR (31 C.F.R. 515.560).

**Regular Air Service.** After several rounds of talks in 2015, U.S. and Cuban officials reached a bilateral arrangement on December 16, 2015, that will permit regularly scheduled air flights as opposed to the current charter flights that operate between the two countries.[17] Transportation Secretary Anthony Foxx traveled to Cuba on February 16, 2016, to sign the arrangement, providing an opportunity for U.S. carriers to operate up to a total of 110 daily roundtrip flights between the United States and Cuba, including up to 20 daily roundtrip flights to and from Havana.[18] Press reports indicate that 13 U.S. companies are vying for the flights to Havana and 9 other Cuban cities. The Department of Transportation reportedly expects to make a decision by this summer. The 13 companies competing for the flights are Alaska, American (requesting 10 daily flights between Miami and Havana), Delta, Dynamic International Airways, Eastern, Federal Express (for cargo), Frontier, JetBlue, MN Airlines (Sun Country), Silver, Southwest, Spirit, and United.[19]

As of December 2015, 22 U.S. airports were authorized by U.S. Customs and Border Protection (CBP) to serve flights to and from Cuba, although most of the charter flights have operated from Florida.[20] On March 21, 2016, CBP amended the Air Commerce Regulations to eliminate the

[15] U.S. Department of the Treasury, "Treasury and Commerce Announce Further Amendments to the Cuba Sanctions Regulations," January 26, 2016.

[16] U.S. Department of the Treasury, "Treasury and Commerce Announce Significant Amendments to the Cuba Sanctions Regulations Ahead of President Obama's Historic Trip to Cuba," March 15, 2016.

[17] U.S. Department of State, "U.S.-Cuba Technical Talks Yield Civil Aviation Arrangement," media note, December 17, 2015.

[18] U.S. Department of Transportation, "United States, Cuba Sign Arrangement Restoring Scheduled Air Service, DOT Launches Process to Award the New Flights," February 16, 2016, at https://www.transportation.gov/briefing-room/united-states-cuba-sign-arrangement-restoring-scheduled-air-service.

[19] Nick Miroff, "U.S., Cuba Agree to Let Airlines Begin Flights," *Washington Post*, December 17, 2015; Mimi Whitefield, "Airlines Battle to Offer Scheduled Flights to Havana," *Miami Herald*, March 3, 2016; U.S. Department of Transportation, "Scheduled Air Service to Cuba Right Around the Corner," *Fast Lane* (official blog), February 16, 2016; and "Airfares, Convenience Emerge as Fault Line in Cuba Flight Applications," Reuters News, March 15, 2016.

[20] In addition to JFK, Miami, and Los Angeles, which have been authorized since 1999, the other authorized airports were Atlanta, Austin (Texas), Baltimore-Washington (BWI), Boston Logan, Chicago O'Hare, Dallas-Fort Worth, Fort Lauderdale-Hollywood, Houston, Key West, Minneapolis-St. Paul, New Orleans, Oakland (California), Orlando, Palm Beach, Pittsburgh, San Juan (Puerto Rico), Southwest Florida International Airport (Fort Myers), Tampa, and Washington Dulles. U.S. Department of Homeland Security, Customs and Border Protection, "Approved U.S. Ports of Entry for Flights to and from Cuba," December 2015.

regulations (19 CFR 122, subpart O) that required airports to apply to CBP in order to accept flights flying to and from Cuba. Such flights are now subject to the same entry and clearance requirements as other international flights.

**Ferry and Cruise Ship Service.** In May 2015, the Treasury Department reportedly issued specific licenses to several companies to operate ferry services between the United States and Cuba. (As noted above, OFAC amended the CACR in September 2015 to authorize by general license vessel service to Cuba.) The proposed services still require Cuban approval, and Cuban facilities need to be developed to handle the services.[21] A number of companies are reportedly vying for Cuba's approval. Press reports have cited up to eight companies competing for ferry service to Cuba, including five Florida-based companies—United Caribbean, Havana Ferry Partners LLC, Airline Brokers Company, Baja Ferries, and International Port Corporation—as well as American Cruise Ferries, Inc., (Puerto Rico), Balearia (Spain), and FRS (Germany).[22]

With regard to cruise ships, Carnival announced on March 21, 2016, that it would offer cruises to Cuba beginning in May 2016. The company had received a Treasury Department license in July 2015 to operate cruises to Cuba and was waiting for Cuban approval to begin such services. It plans to use a smaller ship, accommodating about 700 passengers, under its cruise brand Fathom, which would target people-to-people educational travel.[23] Under the embargo regulations, passengers on cruise ships to Cuba must fall under one of the permissible categories of travel, which does not include tourist travel. Because of this regulation, cruise ship companies that are contemplating cruises to Cuba likely will use smaller ships, since the demand likely will be more limited until tourist travel to Cuba is allowed. According to the Department of Commerce, both Norwegian Cruise Lines and Royal Caribbean are also seeking Cuban approval allowing for their ships to stop in Cuba.[24] Other cruise companies that reportedly are awaiting Cuban approval include Haimark Line and Pearl Seas Cruises, which already have been advertising such cruises.[25]

**Changes to the Regulations on Remittances.** With the Obama Administration's change in Cuba policy, OFAC has significantly eased restrictions on remittances to Cuba. In January 2015, OFAC increased the amount of money that could be sent by any U.S. person to nonfamily members in Cuba (referred to as remittances to a Cuban national) to $2,000 per quarter (up from the previous limit of $500 per quarter). Authorized travelers were permitted to carry up to $10,000 in remittances to Cuba, up from the previous limit of $3,000. In September 2015, however, OFAC amended the regulations that lifted the dollar limits altogether on nonfamily remittances (now referring to them as "donative remittances to Cuban nationals") and on amounts that licensed travelers may carry to Cuba.

[21] Victoria Burnett, "U.S. Licenses Ferry Service to Operate Cuba Route," *New York Times*, May 6, 2015; José de Cordoba, "U.S. Permits Ferry Service to Havana," *Wall Street Journal*, May 6, 2015.

[22] "German Ferry Operator Joins Florida-Cuba Race," *Cuba Standard Monthly*, February 2016; José de Córdoba and Costa Paris, "U.S. Permits Ferry Service to Cuba," May 6, 2015; Doreen Hemlock and Arlene Satchell, "U.S. Issues 2 More Licenses for Ferry Service to Cuba," *South Florida Sun-Sentinel*, May 7, 2015; "Spain's Balearia Gets U.S. License to Run Cuba-Florida Ferry," Reuters News, July 17, 2015.

[23] Laura Stevens, "Carnival Gets U.S. Approval to Start Cruises to Cuba," Dow Jones Newswires, July 7, 2015; Shivani Vora, "Carnival Will Begin Cruises to Cuba in May," *New York Times*, March 23, 2016.

[24] U.S. Department of Commerce, "Fact Sheet: Economic Development in the Wake of President Obama's Regulatory Changes on Exports and Travel to Cuba," Commerce News, March 21, 2016.

[25] Mimi Whitefield, "Cruise Lines Still Awaiting OK from Cuba to Begin Trips with U.S. Departures," *Miami Herald*, January 12, 2016; and Felicia Schwart and Carol E. Lee, "AT&T, Starwood, Marriott Poised to Complete Cuba Deals," *Wall Street Journal Online*, March 11, 2016. Also see Haimark Line's website at http://www.haimarkline.com/cuba-people-to-people/ and Pearl Seas Cruises website at http://www.pearlseascruises.com/cruises/cuba-cultural-voyage/.

In addition, the CACR were amended in January 2015 to authorize by general license remittances to individuals and independent NGOs in Cuba without limit for humanitarian projects; activities of recognized human rights organizations, independent organizations designed to promote a rapid peaceful transition to democracy, and individuals and NGOs that promote independent activity to strengthen civil society; and the development of private businesses, including small farms. (See "Current Policy on Remittances," below.)

# Current Permissible Travel to Cuba

At present, 12 categories of travel set forth in the CACR are authorized under a general license, which means that there is no need to obtain special permission from OFAC. The travel regulations can be found at 31 C.F.R. 515.560, which references other sections of the CACR for travel-related transaction licensing criteria. In addition, for each of the 12 categories of travel set forth in the CACR, specific licenses may be issued by OFAC for persons engaging in activities related to the specific category that do not qualify for the general license set forth for each category. Applications for specific licenses are reviewed and granted by OFAC on a case-by-case basis. Applicants for specific licenses have to wait for OFAC to issue the license prior to engaging in travel-related transactions. Those individuals traveling to Cuba under either a general or specific license are responsible for keeping records of their Cuba-related transactions for at least five years.

Prior to the Obama Administration's policy changes in January 2015, the 12 permissible categories of travel to Cuba set forth in the CACR were authorized by a mix of general and specific licenses, with some authorized only by specific license. Prior to those changes, OFAC had maintained a publication setting forth guidelines for license applications to engage in travel-related transactions as well as a list of authorized air and travel service providers, but it no longer maintains those publications. Instead, OFAC has documents on its website (*Frequently Asked Questions Related to Cuba* and *Guidance Regarding Travel between the United States and Cuba*) that, along with the travel regulations themselves set forth in the CACR, provide guidance for potential travelers to Cuba.[26] Additional rounds of regulatory changes by OFAC in September 2015, January 2016, and March 2016 further eased the travel restrictions (see "Easing of Restrictions in 2015 and 2016," above).

The 12 categories of travel authorized by general license, and for which specific licenses may be issued, are:

- **Family Visits.** Persons subject to the jurisdiction of the United States and persons traveling with them who share a common dwelling as a family visiting a close relative who is a national of Cuba or a person ordinarily resident in Cuba, or visiting a close relative in Cuba or accompanying a close relative traveling to Cuba pursuant to authorizations for such travel as official government business, journalistic activity, professional research, certain educational activities, religious activities, humanitarian projects, or activities of private foundations or research or educational institutes (31 C.F.R. 515.561(a)). A close relative is defined as any individual related to the traveler by blood, marriage, or adoption who is no more than three generations removed from the traveler or from a common ancestor with the traveler (31 C.F.R. 515.339).

[26] U.S. Department of the Treasury, OFAC, *Frequently Asked Questions Related to Cuba*, updated March 16, 2016, at http://www.treasury.gov/resource-center/sanctions/Programs/Documents/cuba_faqs_new.pdf, and *Guidance Regarding Travel Between the United States and Cuba*, updated January 26, 2016, at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/guidance_cuba_travel.pdf.

- **Official Government Business.** Employees, contractors, or grantees of the U.S. government, any foreign government, or any intergovernmental organization of which the United States is a member or holds observer status, who are on official business (31 C.F.R. 515.562).
- **Journalistic Activities.** A person involved in journalistic activities and is at least one of the following: regularly employed as a journalist by a news reporting organization; regularly employed as supporting broadcast or technical personnel; a freelance journalist with a record or previous journalistic experience working on a freelance journalistic project; or broadcast or technical personnel with a record of previous broadcast or technical experience who are supporting a freelance journalist working on a freelance project (31 C.F.R. 515.563).
- **Professional Research and Professional Meetings.** Professional research, provided that the purpose of the research directly relates to the traveler's profession, professional background, or area of expertise, including area of graduate-level full-time study; the traveler does not engage in recreational travel, tourist travel, travel in pursuit of a hobby, or research for personal satisfaction only; and the traveler's schedule does not include free time or recreation in excess of that consistent with a full-time schedule of professional research (31 C.F.R. 515.564).

  Professional meetings and conferences, to attend or organize, provided that the purpose is not the promotion of tourism in Cuba. For attending such a meeting or conference, the purpose directly relates to the traveler's profession, professional background, or area of expertise, including area of graduate-level full-time study. For organizing such a meeting or conference on behalf of an entity, either the traveler's profession must be related to the organization of such meeting or conference, or the traveler must be an employee or contractor of an entity that is organizing the meeting or conference. The traveler cannot engage in recreational travel, tourist travel, or travel in pursuit of a hobby. The traveler's schedule cannot include free time or recreation in excess of that consistent with a full-time schedule of attendance at, or organization of, professional meetings or conferences (31 C.F.R. 515.564).

- **Educational Activities, Including People-to-People Travel.** Persons subject to U.S. jurisdiction, including U.S. academic institutions and their faculty, staff, and students involved in (1) participation in a structured educational program in Cuba as part of a course offered for credit by a U.S. graduate or undergraduate degree-granting institution that is sponsoring the program; (2) noncommercial academic research in Cuba specifically related to Cuba for the purpose of obtaining an undergraduate or graduate degree; (3) participation in a formal course of study at a Cuban academic institution, provided the formal course of study in Cuba will be accepted for credit toward the student's graduate or undergraduate degree; (4) teaching at a Cuban academic institution related to an academic program at the Cuban institution, provided that the individual is regularly employed by a U.S. or other non-Cuban academic institution; (5) sponsorship of a Cuban scholar to teach or engage in other scholarly activity at the sponsoring U.S. academic institution; (6) educational exchanges sponsored by Cuban or U.S. secondary schools involving a formal course of study or a structured educational program offered by a secondary school or other academic institution and led by a teacher or other secondary school official; (7) sponsorship or co-sponsorship of noncommercial academic seminars, conferences, symposia, and workshops

related to Cuba or global issues involving Cuba and attendance at such events by faculty, staff, and students of a participating U.S. academic institution; (8) establishment of academic exchanges and joint non-commercial academic research projects with universities or academic institutions in Cuba; (9) provision of standardized testing services to Cuban nationals, wherever located; (10) provision of internet-based courses to Cuban nationals, wherever located, provided that the course content is at the undergraduate level or below; (11) provision of educational grants, scholarships, or awards to a Cuban national; (12) employees or contractors of sponsoring organizations for the educational activities described above; (13) facilitation by an organization or its staff of licensed educational activities in Cuba on behalf of U.S. academic institutions or secondary schools under certain conditions (31 C.F.R. 515.565).

People-to-People Travel. Travel directly incident to educational exchanges not involving academic study pursuant to a degree program. Such travel must be for the purpose of engaging in a full-time schedule of activities intended to enhance contact with the Cuban people, support civil society in Cuba, or promote the Cuban people's independence from Cuban authorities. The educational activities are to result in meaningful interaction between the traveler and individuals in Cuba and the predominant portion of the activities may not be with a prohibited official of the government of Cuba or the Cuban Communist Party. For such travel conducted under the auspices of an organization that sponsors such people-to-people exchanges, an employee, paid consultant, or agent of the organization must accompany each group traveling to Cuba (31 C.F.R. 515.565).

- **Religious Activities.** Persons subject to U.S. jurisdiction, including religious organizations located in the United States and members and staff of such organizations engaged in a full-time program of religious activities (31 C.F.R. 515.566).
- **Public Performances, Clinics, Workshops, Athletic and Other Competitions, and Exhibitions.** Participation in amateur and semi-professional international sports federation competitions, provided that the athletic completion is held under the auspices of the international sports federation for the relevant sport; the U.S. participants are selected by the U.S. federation for the relevant sport; and the competition is open for attendance, and in relevant situations, participation by the Cuban public.

  Participation in, or organization of, public performances, clinics, workshops, other athletic or non-athletic competitions, or exhibitions in Cuba, provided that the event is open for attendance, and in relevant situations, participation, by the Cuban public. (31 C.F.R. 515.567).

- **Support for the Cuban People.** Those traveling for activities in support of the Cuban people, provided that the activities are of recognized human rights organizations; independent organizations designed to promote a rapid, peaceful transition to democracy; or individuals and non-governmental organizations that promote independent activity intended to strengthen civil society in Cuba (31 C.F.R. 515.574).
- **Humanitarian Projects.** Those involved in the following humanitarian projects in Cuba that are designed to directly benefit the Cuban people: medical and health-related projects; construction projects intended to benefit legitimately independent civil society groups; disaster preparedness, relief, and response;

historical preservation; environmental projects; projects involving formal or non-formal educational training, within Cuba or off-island, on entrepreneurship and business, civil education, journalism, advocacy and organizing, adult literacy, or vocational skills; community-based grassroots projects; projects suitable to the development of small-scale private enterprise; projects that are related to agricultural and rural development that promote independent activity; microfinancing projects; and projects to meet basic human needs (31 C.F.R. 515.575).

- **Activities of Private Foundations or Research or Educational Institutes.** Those involved in activities by private foundations or research or education institutes with an established interest in international relations to collect information related to Cuba for noncommercial purposes (31 C.F.R. 515.576).
- **Exportation, Importation, or Transmission of Information or Informational Materials.** Those involved in the exportation, importation, or transmission of informational materials, as defined (in 31 C.F.R. 515.332) as publications, films posters, phonograph records, photographs, microfilms, microfiche, tapes, compact disks, CD-ROMs, artworks, news wire feeds, and other informational and informational articles. Those involved in professional media or artistic productions of information or informational materials for exportation, importation, or transmission, including the filming or production of media programs (such as movies and television programs), the recording of music, and the creation of artworks in Cuba, provided that the traveler is regularly employed in or has demonstrated professional experience in a field relevant to such professional media or artistic productions (31 C.F.R. 515.545).
- **Export Transactions.** Those involved in activities directly incident to the conduct of market research, commercial marketing, sales or contract negotiation, accompanied delivery, installation, leasing or servicing in Cuba of items consistent with the export or re-export licensing policy of the Department of Commerce (31 C.F.R. 515.533 and 31 C.F.R. 515.559).

The Cuban government publishes statistics on the number of travelers to Cuba from the United States, but not including Cuban Americans, who are excluded from such statistics since Cuba considers them nationals. According to a Cuban government official, there were some 161,000 American visitors in 2015, up from 91,254 in 2014, a 77% increase. Overall, the Cuban government reports that there were 3.5 million international visitors in 2015, a 17% increase.[27] In prior years, American visitors to Cuba from the United States had been increasing each year—from 52,455 in 2009 to 98,050 in 2012, but then declined to 92,348 in 2013.[28] The overall number of Americans traveling is much higher when including several hundred thousand Cuban Americans who visit each year. A State Department official estimated in December 2015 that some 300,000-500,000 Americans visit Cuba annually, with the majority Cuban Americans, while some press reports estimate that some 600,000 travel annually.[29]

[27] "Cuban Tourism Boom Seen Slowing, But Finding a Room Still Hard," Reuters News, February 23, 2016.

[28] Oficina Nacional de Estadísticas e Información (ONE), República de Cuba, "Anuario Estadístico de Cuba, 2014," Edición 2015, at http://www.one.cu/aec2014/15%20Turismo.pdf (see Table 15.3, Visitors per country of origin).

[29] U.S. Department of State, "Background Briefing on the Progress Made Toward the Normalization of U.S.-Cuba Relations," December 15, 2015; and Andrea Rodriguez and Peter Orsi, "Tourists Flocking to Cuba, Ahead of Expected U.S. Influx, Lifting Travel Ban Could Generate Billions of Dollars," *South Florida Sun-Sentinel*, March 24, 2015.

# Current Policy on Remittances

U.S. restrictions on remittances to Cuba have been regulated by the CACR and, just like restrictions on travel, have changed over time. Since 2009, the Obama Administration has significantly eased restrictions on remittances. In 2009, the President lifted all restrictions on family remittances. In 2011, the Administration restored a general license category for so-called nonfamily remittances (for up to $500 per quarter) and created a general license for remittances to religious institutions in Cuba in support of religious activities.

In January 2015, as part of the President's policy shift on Cuba, OFAC increased the amount allowed for nonfamily remittances (referred to as periodic remittances to Cuban nationals) to $2,000 per quarter; increased the amount of remittances that authorized travelers were permitted to carry to Cuba to $10,000, up from the previous limit of $3,000; and created a general license for certain remittances for humanitarian projects, support for the Cuban people, and support for the development of private businesses. In September 2015, OFAC removed the cap altogether on nonfamily remittances, referring to them in the amended regulations as "donative remittances to Cuban nationals." OFAC also removed the cap on the amount that licensed travelers may carry to Cuba.

Among the CACR's current provisions on remittances are the following:

- **Family Remittances.** Persons subject to the jurisdiction of the United States who are 18 years of age or older are authorized to send remittances to close relatives in Cuba (31 C.F.R. 515.570(a)). There is no limit on the amount or frequency of the remittances. As with the travel-related transactions, a close relative is defined as any individual related to the remitter by blood, marriage, or adoption who is no more than three generations removed from the remitter or from a common ancestor with the remitter (31 C.F.R. 515.339). The recipient of the remittances cannot be a prohibited official of the Cuban government (defined in 31 C.F.R. 515.337) or a prohibited member of the Cuban Communist Party (defined in 31 C.F.R. 515.338).
- **Donative Remittances to Cuban Nationals.** Persons subject to the jurisdiction of the United States are authorized to send periodic remittances (31 C.F.R. 515.570(b)), and there is no limit on the amount or frequency of the remittances. The recipient of the remittances cannot be a prohibited official of the Cuban government (defined in 31 C.F.R. 515.337) or a prohibited member of the Cuban Communist Party (defined in 31 C.F.R. 515.338).
- **Remittances to Religious Organizations.** Persons subject to the jurisdiction of the United States are authorized to send remittances to religious organizations in Cuba in support of religious activities (31 C.F.R. 515.570(c)).
- **Remittances to U.S. Students in Cuba.** Remittances are authorized to send to close relatives in Cuba who are students involved in licensed educational activities (31 C.F.R. 515.570(d)).
- **Emigration-Related Remittances.** Two one-time $1,000 emigration-related are authorized (31 C.F.R. 515.570(e)).
- **Remittances to Certain Individuals and Independent Nongovernmental Organizations in Cuba.** Persons subject to U.S. jurisdiction may send remittances to individuals and independent

nongovernmental entities in Cuba, including pro-democracy groups and civil society groups, and to members of such organizations in order to support humanitarian projects designed to directly benefit the Cuban people; activities of recognized human rights organizations, independent organizations designed to promote a rapid, peaceful transition to democracy, and individuals and NGOs that promote independent activity intended to strengthen civil society in Cuba; and the development of private businesses, including small farms (31 C.F.R. 515.570(g)(1)).

- **Carrying of Remittances to Cuba.** Authorized travelers to Cuba may carry authorized remittances to Cuba (31 C.F.R. 515.560(c)(4)(i)), and no limit is indicated. Emigration-related remittances may not be carried to Cuba unless a U.S. immigration visa has been issued for the recipient and the licensed traveler can produce certain information regarding the recipient.

The State Department reports that remittances to Cuba are estimated to be $2 billion a year.[30] A February 2015 report by the Inter-American Dialogue estimated that remittances to Cuba from all countries were estimated at $1.4 billion in 2015. The report also contended that increased Cuban emigration may have increased remittances by more than $50 million in 2015.[31]

# Enforcement of Travel Restrictions: Civil Penalties

Beginning in April 2003, OFAC began making available a regular listing of civil penalties enforcement information for its sanctions programs, including violations of the Cuba travel regulations.[32] According to a Treasury Department spokesman, the information was being made available to make the process more transparent to the public. Under the Trading with the Enemy Act, the Secretary of the Treasury may impose civil fines up to $65,000 per violation of the Cuban Assets Control Regulations.[33] According to OFAC, typical individual penalties have been much lower. Penalties against companies are generally much larger.

Since April 2003, enforcement actions for the Cuba travel regulations have included penalties against the following companies: Metso Minerals, Zim American Israeli Shipping Company, Playboy Enterprises, Omega World Travel, Mr. Travel, Havanatur & Travel Service, American Airlines, Cuba Paquetes, MRP Group Inc., Air Jamaica, Trek Tours (Rhode Island), Premiere Travel of Ohio, Hialeah Gardens Immigration Agency, Only Believe Ministries (Ohio), the Salvation Army (Texas Division), Beau Rivage Resorts Inc. (Mississippi), E & J Gallo Winery (California), the Four Oaks Foundation (New York), Pioneer Valley Travel (Massachusetts), the International Bicycle Fund (Washington State), Augsburg College (Minnesota), the U.S./Cuba Labor Exchange (Michigan), Coda International Tours Inc. (Florida), Travelocity.com (Texas), American Express Company (Mexico), Lakes Community Credit Union (Michigan), Sonida International (New York), Journey Corporation Travel Management (New York), RMO Inc. (Colorado), Tours International America (California), Aerovacations Inc. (California), Agoda Company (Thailand), Center for Cross Cultural Study Inc. (Massachusetts), Priceline.com

[30] U.S. Department of States, "U.S. Relations with Cuba," fact sheet, July 21, 2015.

[31] Manuel Orozco, Laura Porras, and Julia Yansara, "The Continued Growth of Family Remittances to Latin America and the Caribbean in 2015," Inter-American Dialogue, February 2016.

[32] See OFAC's website for information on civil enforcement, at http://www.treasury.gov/resource-center/sanctions/CivPen/Pages/civpen-index2.aspx.

[33] U.S. Department of the Treasury, Office of Foreign Assets Control, "Economic Sanctions Enforcement Guidelines," 74 *Federal Register* 57593-57608, November 9, 2009.

(Connecticut), Magic USA Tours (Florida), Philips Electronics of North America Corporation (New York), First Incentive Travel (Florida), American Express Travel Related Services Company (New York), World Fuel Services Corporation (Florida), Weatherford International Ltd. and its subsidiaries and affiliates, CWT B.V. (Netherlands), Decolar.com Inc. (Argentina), American International Group, Inc. (New York), Red Bull North America Inc. (California), and Gil Tours Travel Inc. (Pennsylvania). Many other companies have received penalties for violating other aspects of the Cuba embargo regulations, including some that have been assessed multi-million dollar penalties.[34]

In July 2013, American Express Travel Related Services Inc. (TRS) agreed to pay $5.2 million for violations of the travel regulations from December 2005 to November 2011, when it issued more than 14,000 tickets for travel between Cuba and countries other than the United States. OFAC maintained that TRS expressed "reckless disregard for the CACR" because of similar apparent violations in 1995 and 1996, the lack of oversight by its U.S. management of TRS's foreign offices, and the failure to implement effective mechanisms for detecting Cuba travel bookings until late 2010 after having informed OFAC in 1995 and 1996 that it would do so.[35] Cuba's Ministry of Foreign Affairs criticized the action as reflecting the "U.S. obsession of preventing American citizens from freely traveling to Cuba, at all costs."[36]

In addition to civil penalties against companies, OFAC in the past has sanctioned individuals for violating various restrictions under the CACR, including the travel restrictions. According to OFAC's listing of civil enforcement actions on its website, from 2004 to 2005, over 800 individuals had civil penalties assessed or reached informal settlements for alleged violations of the CACR. The individuals either were assessed a penalty or reached an informal settlement for violations of the Cuba regulations (not just travel-related restrictions) with almost $1.1 million in penalties. Since 2006, however, after backlogged cases were resolved, the number of individuals penalized by OFAC fell considerably. Less than 100 individuals have been penalized since 2006, with 21 in 2006, 17 in 2007, 32 in 2008, 3 in 2009, and 1 in 2010; since 2011, OFAC has not reported any individuals being penalized for violations of the CACR.

# Debate on Lifting Remaining Travel Restrictions

With President Obama's action significantly easing restrictions on those categories of travel set forth in the CACR, attention has turned to debate on whether to lift remaining restrictions on travel to Cuba. As noted above, this would require congressional action amending or repealing the LIBERTAD Act, which codified the embargo and linked its termination to the fulfillment of certain democratic conditions in Cuba. It also would require congressional action amending or repealing a provision in the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) that prohibits travel to Cuba for tourist activities. As noted below, several legislative initiatives have been introduced to lift all restrictions on travel, while others would attempt to roll

[34] For example, ING Bank, N.V. of the Netherlands reached a $619-million settlement with OFAC in June 2012 for violating U.S. sanction regimes against Cuba, Iran, Burma, Sudan, and Libya. The Cuban sanctions violations accounted for the majority of the bank's settlement. See U.S. Department of the Treasury, Office of Foreign Assets Control, "Enforcement Information for June 12, 2012." In another example, in June 2014, the French bank BNP Paribas, SA (BNPP) agreed to plead guilty for violating U.S. sanctions against Sudan, Iran, and Cuba by processing financial transactions involving those countries through the U.S. financial system. The company agreed to pay $8.97 billion in penalties, a record U.S fine. See U.S. Department of Justice, "BNP Paribas Agrees to Plead Guilty and to Pay $8.9 Billion for Illegally Processing Financial Transactions for Countries Subject to U.S. Economic Sanctions," press release, June 30, 2014.

[35] U.S. Department of the Treasury, Office of Foreign Assets Control, "Enforcement Information for July 22, 2013."

[36] "Cuba Denounces Reinforcement of U.S. Blockade," *BBC Monitoring Americas*, July 31, 2013.

back or prevent the Administration from easing such restrictions. (See "Legislative Initiatives in the 114th Congress," below.)

**Arguments for Lifting the Travel Restrictions.** Those who argue in favor of lifting remaining travel restrictions contend that the restrictions hinder U.S. efforts to influence political and economic conditions in Cuba. They maintain that the best way to realize change in Cuba is to lift restrictions altogether, allowing a flood of U.S. citizens to travel and engage in conversations with average Cubans. They point to the influence of person-to-person contact in Russia and Eastern European nations, which they argue ultimately helped lead to the fall of communism in the Soviet bloc. They maintain that restricting travel by ordinary Americans prevents interaction and information exchanges with ordinary Cubans, exchanges that can help break down the Cuban government's tight control and manipulation of news.

Another argument made by those who want to lift all travel restrictions is that the restrictions abridge the rights of ordinary Americans to travel. They contend that such restrictions subvert the first amendment right of free speech and maintain that the U.S. government should not limit the categories of travelers who can visit Cuba or subject them to record keeping.

Those in favor of lifting the travel restrictions also argue that U.S. citizens can travel to other communist or authoritarian governments around the world, such as the People's Republic of China, Vietnam, and Iran. They point out that Americans could travel to the Soviet Union before its breakup. In addition, they point to widespread public support for unrestricted travel by all Americans.[37]

Finally, some supporters of lifting the travel restrictions argue that the U.S. economy would benefit from increased demand for air and cruise travel, which reportedly would expand U.S. economic output, and from increased U.S. agricultural exports to Cuba. The U.S. International Trade Commission (USITC) produced a study in 2007 (updated in 2009) examining the effects of lifting U.S. restrictions on travel to Cuba and restrictions on U.S. government financing for agricultural exports to Cuba on the level of U.S. agricultural sales to Cuba. The USITC 2009 update found that the U.S. share of Cuba's agricultural imports would have increased significantly absent the financing and travel restrictions.[38] The USITC is currently conducting another investigation on the effects of U.S. restrictions on trade with and travel to Cuba, which was expected to be completed in March 2016.

**Arguments for Maintaining the Travel Restrictions.** Those favoring the continuation of restrictions on travel to Cuba point out that there are already significant provisions in U.S. law permitting Americans to travel there for legitimate reasons that support the Cuban people and not the Cuban government. They point out that thousands of Americans travel to Cuba legally under the various provisions of the Cuban embargo regulations, and that now Cuban Americans may visit close relatives without restrictions. Other categories of travel allowed include students, journalists, researchers, artists, musicians, and athletes.

Another argument made for maintaining restrictions on travel to Cuba is that lifting them entirely would open the floodgates to American tourist travel that would support Raúl Castro's rule by

[37] For example, a February 2014 poll by the Atlantic Council found that 61% of respondents nationwide (and 67% of respondents in Florida) supported removing all restrictions on travel to Cuba. See Atlantic Council, Adrienne Arsht Latin American Center, *US-Cuba, A New Public Survey Supports Policy Change*, February 11, 2014, at http://www.atlanticcouncil.org/publications/reports/us-cuba-a-new-public-survey-supports-policy-change.

[38] USITC, *U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions*, USITC Publication 3932, July 2007, at http://www.usitc.gov/publications/332/pub3932.pdf; USITC, *U.S. Agricultural Sales to Cuba: Certain Economic Effects of U.S. Restrictions, An Update*, Office of Industries Working Paper, by Jonathan R. Coleman, no. ID-22, June 2009, at http://www.usitc.gov/publications/332/ID-22.pdf.

providing his government with millions in tourist receipts. Advocates of restricting travel oppose any loosening that could prolong the regime by propping it up with increased income. In contrast to those supporting tourist travel, they believe that continued travel restrictions will help influence Cuba's policy. They argue that since the collapse of the Soviet Union and the loss of Soviet subsidies to Cuba, the travel and embargo regulations have contributed to the Cuban government's decision to cut the military's size and budget and to introduce economic reforms. Lifting travel restrictions, they argue, would eliminate the U.S. leverage on Cuba to enact further reforms and to improve the human rights situation.

Those favoring the maintenance of travel restrictions argue that the reality of the human rights situation dispels the notion that American tourists would be engaging in exchanges with ordinary Cubans. They maintain that the thousands of European, Canadian, and other tourists who travel to Cuba each year largely stay in tourist hotels and have no discernible effect on the human rights situation in Cuba.

# Legislative Initiatives in the 114th Congress

Several legislative initiatives introduced in the 114th Congress would lift remaining restrictions on travel and remittances. Three bills would lift the overall embargo, H.R. 274 (Rush), H.R. 403 (Rangel), and H.R. 735 (Serrano), including restrictions on travel and remittances. One bill, H.R. 635 (Rangel), would facilitate the export of U.S. agricultural and medical exports to Cuba and lift travel restrictions. Three bills would focus solely on prohibiting restrictions on travel to Cuba: H.R. 634 (Rangel), H.R. 664 (Sanford), and S. 299 (Flake). In contrast, two other introduced bills, S. 1388 (Vitter) and H.R. 2466 (Rooney), would require the President to submit a plan for resolving all outstanding claims relating to property confiscated by the government of Cuba before taking action to ease restrictions on travel to or trade with Cuba.

Efforts to ease and tighten travel restrictions played out in the FY2016 appropriations process, but ultimately no such provisions were included in the FY2016 omnibus appropriations measure (P.L. 114-113). The Senate Appropriations Committee-approved version of the FY2016 Financial Services appropriation bill, S. 1910, had a provision that would have lifted restrictions on travel to Cuba. In contrast, House-passed H.R. 2577, the FY2016 House Transportation, Housing, and Urban Development appropriations bill, had two Cuba provisions that would have affected the Administration's efforts to increase travel to and from Cuba by impeding the establishment of regularly scheduled air service and passenger ferry service. In addition, the House Appropriations Committee-approved FY2016 Financial Services appropriations bill, H.R. 2995, had a broader provision that would have prevented people-to-people educational travel.

For background on legislative action and initiatives related to the travel restrictions from the 106th through the 113th Congress (1999-2014), see **Appendix B**.

# Appendix A. Chronology of Cuba Travel Restrictions, 1962-2016

**1962/1963**—In February 1962, President Kennedy imposed a trade embargo on Cuba because of the Castro government's ties to the Soviet Union. Pursuant to the President's directive, the Department of the Treasury's Office of Foreign Assets Control (OFAC) issued the Cuban Import Regulations. On July 9, 1963, OFAC issued a more comprehensive set of prohibitions, the Cuban Assets Control Regulations, which effectively banned travel by prohibiting any transactions with Cuba.

**1977**—In March, the Carter Administration announced the lifting of restrictions on U.S. travel to Cuba that had been in place since the early 1960s. The Carter Administration lifted the travel ban by issuing a general license for travel-related transactions for those visiting Cuba. Direct flights were also allowed.

**1982**—In April, the Reagan Administration reimposed restrictions on travel to Cuba, although it allowed for certain categories of travel, including travel by U.S. government officials, employees of news or filmmaking organizations, persons engaging in professional research, or persons visiting their close relatives. It did not allow for ordinary tourist or business travel that had been allowed since the Carter Administration's 1977 action.

**1984**—On June 28, the Supreme Court, in a 5-4 decision in the case of *Regan v. Wald*, rejected a challenge to the ban on travel to Cuba and asserted the executive branch's right to impose travel restrictions for national security reasons.

**1993**—The Clinton Administration, in June 1993, slightly amended restrictions on U.S. travel to Cuba. Two additional categories of travel were allowed: travel to Cuba "for clearly defined educational or religious activities" and travel "for activities of recognized human rights organizations." In both categories, travelers were required to apply for a specific license from OFAC.

**1994**—In August, President Clinton announced several measures against the Cuban government in response to an escalation in the number of Cubans fleeing to the United States. Among these measures, the Administration tightened travel restrictions by prohibiting family visits under a general license and allowing specific licenses for family visits only "when extreme hardship is demonstrated in cases involving extreme humanitarian need," such as terminal illness or severe medical emergency. Such visits required a specific license from OFAC. In addition, professional researchers were required to apply for a specific license, whereas since 1982 they had been able to travel freely under a general license (*Federal Register*, August 30, 1994, pp. 44884-44886).

**1995**—In October, President Clinton announced measures to ease some U.S. restrictions on travel and other activities with Cuba, with the overall objective of promoting democracy and the free flow of ideas. The new measures included authorizing general licenses for transactions relating to travel to Cuba for Cuban Americans making yearly visits to close relatives in "circumstances that demonstrate extreme humanitarian need." This reversed the August 1994 action that required specific licenses. However, those traveling for this purpose more than once in a 12-month period would need to apply to OFAC for a specific license. In addition, the new measures allowed for specific licenses for freelance journalists traveling to Cuba (*Federal Register*, October 20, 1995, pp. 54194-54198).

**1996**—On February 26, following the shootdown of two U.S. civilian planes two days earlier by Cuban fighter jets, President Clinton took several measures against Cuba, including the indefinite

suspension of charter flights between Cuba and the United States. Qualified licensed travelers could go to Cuba, provided their flights were routed through third countries.

**1998**—On March 20, following Pope John Paul II's January trip to Cuba, President Clinton announced several changes in U.S. policy toward Cuba, including the resumption of licensing for direct charter flights to Cuba. On July 2, OFAC issued licenses to nine air charter companies to provide direct passenger flights from Miami International Airport to Havana's José Martí International Airport.

**1999**—On January 5, President Clinton announced several measures to support the Cuban people that were intended to augment changes implemented in March 1998. Among the measures introduced was the expansion of direct passenger charter flights from additional U.S. cities other than Miami. In August, the State Department announced that direct flights to Cuba would be allowed from New York and Los Angeles. In addition, President Clinton also announced in January 1999 that measures would be taken to increase people-to-people exchanges. As a result, on May 13, 1999, OFAC issued a number of changes to the Cuba embargo regulations that effectively loosened restrictions on certain categories of travelers to Cuba. Travel for professional research became possible under a general license, and travel for a wide range of educational, religious, sports competition, and other activities became possible with specific licenses authorized by OFAC on a case-by-case basis. In addition, those traveling to Cuba to visit a close family member under either a general or specific license only needed to "demonstrate humanitarian need," as opposed to "extreme humanitarian need" that had been required since 1995 (*Federal Register*, May 13, 1999, pp. 25808-25820).

**2000**—In October, Congress approved and the President signed the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA; Title IX of P.L. 106-387), which included a provision that prohibited travel-related transactions for "tourist activities," which as set forth in Section 910(b)(2) of the act are defined as any activity not authorized or referenced in the existing travel regulations (31 C.F.R. 515.560, paragraphs (1) through (12)).

**2001**—On July 12, OFAC published regulations pursuant to the provisions of TSRA that prohibited travel-related transactions for "tourist activities" (*Federal Register*, July 12, 2001, pp. 36683-36688). On July 13, 2001, President Bush announced that he had asked the Treasury Department to enhance and expand the capabilities of OFAC to prevent, among other things, "unlicensed and excessive travel."

**2003**—On January 29, OFAC published proposed enforcement guidelines (as an appendix to 31C.F.R. Part 501) for all its economic sanctions programs and additional guidelines (as an appendix to 31 C.F.R. Part 515) for the Cuba sanctions program. The general guidelines provided a procedural framework for OFAC's enforcement of economic sanctions, while the Cuba-specific guidelines consist of penalties for different embargo violations (*Federal Register*, January 29, 2003, pp. 4422-4429).

On March 24, 2003, OFAC announced that the Cuba travel regulations were being amended to ease travel to Cuba for those visiting close relatives (*Federal Register*, March 24, 2003, pp. 14141-14148). Travel was permitted to visit relatives to within three degrees of relationship of the traveler and was not restricted to travel in circumstances of humanitarian need. The new regulations also increased the amount a traveler may carry, up to $3,000 (compared to $300 previously), although the limit of $300 per quarter destined for each household remained. Finally, the regulations were tightened for certain types of educational travel. People-to-people educational exchanges unrelated to academic coursework were no longer allowed. Some groups lauded the restriction of these educational exchanges because they believed they had become an opportunity for unrestricted travel; others criticized the Bush Administration's decision to restrict

the second largest category of travel to Cuba in which ordinary people were able to travel and exchange with their counterparts on the island.

On October 10, 2003, President Bush instructed the Department of Homeland Security, as part of a broader initiative on Cuba, to increase inspections of travelers and shipments to and from Cuba in order to more strictly enforce the trade and travel embargo.

**2004**—On February 26, President Bush ordered the Department of Homeland Security to expand its policing of the waters between Florida and Cuba with the objective of stopping pleasure boating traffic (*Federal Register*, March 1, 2004, pp. 9315-9517).

On June 16, 2004, OFAC published changes to the CACR implementing the President's directives to implement certain recommendations of the Commission for Assistance to a Free Cuba. The new regulations tightened travel restrictions in several ways. Fully-hosted travel was eliminated as a legal category of permissible travel. Family visits were restricted to one trip every three years under a specific license to visit only immediate family (grandparents, grandchildren, parents, siblings, spouses, and children) for a period not to exceed 14 days. The daily amount of money that family visitors could spend while in Cuba was reduced from the State Department per diem rate for Havana (then $179) to $50. Specific licenses for visiting non-Cuban nationals in Cuba (such as a student) were limited to when the family member visited was in "exigent circumstances." The general license for amateur or semi-professional athletic teams to travel to Cuba to engage in sports competitions was eliminated; such travel now required a specific license (*Federal Register*, June 16, 2004, pp. 33768-33774).

Specific licenses for educational activities were further restricted in several ways: the institutional licenses were restricted to undergraduate and graduate institutions, while the category of educational exchanges sponsored by secondary schools was eliminated; the duration of institutional licenses was shortened from two to one year; three types of licensed educational activities—structural education programs in Cuba offered as part of a course at the licensed institution; formal courses of study offered at a Cuban academic institution; and teaching at a Cuban academic institution—were required to be no shorter than 10 weeks.

The new regulations also further restricted sending cash remittances to Cuba. Quarterly remittances of $300 could still be sent, but were restricted to members of the remitter's immediate family and could not be remitted to certain government officials and certain members of the Cuban Communist Party. The regulations were also changed to reduce the amount of remittances that authorized travelers may carry to Cuba, from $3,000 to $300. This reversed OFAC's March 2003 changes to the regulations that had increased the amount that authorized travelers could carry to $3,000.

On June 22, 2004, the Department of Commerce's Bureau of Industry and Security (BIS) published regulations related to the recommendations of the Commission for Assistance to a Free Cuba. The new regulations placed new limits on gift parcels sent to Cuba and personal baggage of travelers going to Cuba. Gift parcels could no longer contain items such as seeds, clothing, personal hygiene items, veterinary medicines and supplies, fishing equipment and supplies, and soap-making equipment. Baggage was limited to 44 pounds (*Federal Register*, pp. 34565-34567).

On July 8, 2004, the U.S. Coast Guard published regulations requiring U.S. vessels less than 100 meters to have a Coast Guard permit to enter Cuban territorial waters (*Federal Register*, pp. 41367-41374).

**2005**—On March 31, OFAC made changes to its guidelines for license applications related to religious travel. According to the guidelines, specific licenses issued under C.F.R. 515.566(b) for religious organizations only authorized up to 25 individuals to travel to Cuba no more than once per calendar quarter. The specific licenses under this section would not be valid for more than one

year (OFAC, *Comprehensive Guidelines for License Applications to Engage in Travel-related Transactions Involving Cuba*, revised September 2004, p. 40, the relevant paragraph was updated March 31, 2005).

**2009**—On March 11, President Obama signed into law the Omnibus Appropriations Act, 2009 (P.L. 111-8), with two provisions easing restrictions on travel to Cuba.

Section 620 of Division D amended the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) to require the Secretary of the Treasury to issue regulations for travel to, from, or within Cuba under a general license for the marketing and sale of agricultural and medical goods, meaning that there would be no requirement to obtain special permission from OFAC. Such travel had required a specific license from OFAC, issued on a case-by-case basis. OFAC maintained that it would issue regulations in the coming weeks, although a letter from Secretary of the Treasury Timothy Geithner published in the *Congressional Record* stated that the new regulations "would provide that the representatives of only a narrow class of businesses would be eligible, under a new general license, to travel to market and sell agricultural and medical goods." The Secretary also maintained that "any business using the general license would be required to provide both advance written notice outlining the purpose and scope of the planned travel and, upon return, a report outlining the activities conducted, including the persons with whom they met, the expenses incurred, and business conducted in Cuba" (*Congressional Record*, March 10, 2009, p. S2933).

Section 621 of Division D prohibited funds from being used to administer, implement, or enforce family travel restrictions that were imposed by the Bush Administration in June 2004. OFAC implemented this provision by reinstating a general license for family travel as it existed prior to the Bush Administration's tightening of restrictions in June 2004. As implemented by OFAC, travel was allowed once every 12 months to visit a close relative for an unlimited length of stay, and the limit for daily expenditure allowed by family travelers became the same as for other authorized travelers to Cuba (State Department maximum per diem rate for Havana in effect when the travel takes place.) The new general license also expanded the definition of "close relative" to mean any individual related to the traveler by blood, marriage, or adoption who was no more than three generations removed from that person.

On April 13, 2009, President Obama directed that all restrictions on family travel and on remittances to family members in Cuba be lifted. The Administration also announced measures to expand the scope of eligible humanitarian donations through gift parcels and to increase telecommunications links with Cuba.[39]

On September 3, 2009, OFAC issued amendments to the Cuban Assets Control Regulations implementing President Obama's policy changes with regard to family travel, remittances, and greater telecommunications links with Cuba. The amendments also included new categories of travel under general licenses, including travel for the marketing and sale of agricultural and medical goods (implementing the legislative provision approved in March 2009 described above) and travel for telecommunications providers and those attending professional meetings for commercial telecommunications transactions (*Federal Register*, September 8, 2009, pp. 46000-46007). On the same day, the Department of Commerce's Bureau of Industry and Security issued amendments to the Export Administration Regulations that expanded the value and list of eligible item that may be included in gift parcels to Cuba and removed the previous weight limit of 44 pounds for accompanied baggage to Cuba (*Federal Register*, September 8, 2009, pp. 45985-45990).

[39] White House, "Fact Sheet – Reaching Out to the Cuban People," April 13, 2009, at http://www.whitehouse.gov/the_press_office/Fact-Sheet-Reaching-out-to-the-Cuban-people/.

**2011**—On January 14, the White House announced that President Obama had directed the Secretaries of State, Treasury, and Homeland Security to make changes to regulations and policies to (1) increase purposeful travel to Cuba related to religious, educational, and journalistic activities; (2) allow any U.S. person to send remittances to nonfamily members in Cuba and make it easier for religious institutions to send remittances for religious activities; and (3) allow all U.S. international airports to provide services to licensed charter flights to and from Cuba.[40]

On January 28, 2011, OFAC issued changes to the CACR implementing the revised policy announced by the President on January 14 and designed to increase purposeful travel and ease restrictions on remittances to nonfamily members in Cuba and to religious institutions for religious activities (*Federal Register*, January 28, 2011, pp. 5072-5078). On the same day, the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP), issued changes to DHS regulations to allow additional international airports in the United States to request approval of CBP to process authorized flights between the United States and Cuba (*Federal Register*, January 28, 2011, pp. 5058-5061).

On July 25, 2011, OFAC issued an advisory reaffirming that travel conducted by people-to-people travel groups licensed for travel to Cuba must "certify that all participants will have a full-time schedule of educational exchange activities that will result in meaningful interaction between the travelers and individuals in Cuba" (U.S. Department of the Treasury, OFAC, "Cuba Travel Advisory," July 25, 2011).

**2012**—On March 9, OFAC published an announcement regarding advertising for people-to-people travel, noting that all advertisements must state the name of the licensed organization conducting the travel and that the organization must use the name under which their OFAC travel was licensed unless the group requests and receives a license amendment from OFAC to use an alternative name. The announcement also stated that advertising that appeared to suggest that the people-to-people trips were focused on activities that travelers may undertake off hours (after their daily full-time schedule of people-to-people activities) may give an incorrect impression and prompt OFAC to contact the licensed organization and conduct an investigation. It maintained that people-to-people organizations that failed to meet requirements of their licenses may have their licenses revoked or be issued a civil penalty up to $65,000 per violation.[41]

On May 10, 2012, OFAC tightened restrictions on people-to-people travel by making changes to its license guidelines. The revised guidelines reflected similar language to the March 2012 announcement described above regarding advertising. The revised guidelines also required an organization applying for a people-to-people license to describe how the travel "would enhance contact with the Cuban people, and/or support civil society in Cuba, and/or promote the Cuban people's independence from Cuban authorities." Just as in 2011, the guidelines required applicants to certify that the predominant portion of activities engaged in would not be with prohibited Cuban government or Cuban Communist Party officials (as defined in 31 C.F.R. 515.337 and 31 C.F.R. 515.338), but the changes in May 2012 required that the sample itinerary for the proposed travel needed to specify how meetings with such officials would advance purposeful travel by enhancing contact with the Cuban people, supporting civil society, or promoting independence from Cuban authorities (U.S. Department of the Treasury, OFAC, *Comprehensive Guidelines for License Applications to Engage in Travel-Related Transactions Involving Cuba*, revised May 10, 2012).

[40] White House, "Reaching Out to the Cuban People," January 14, 2011, at http://www.whitehouse.gov/the-press-office/2011/01/14/reaching-out-cuban-people.

[41] U.S. Department of the Treasury, OFAC, "Advertising Educational Exchange Travel to Cuba for People-to-People Contact," March 9, 2012, at http://www.treasury.gov/resource-center/sanctions/Programs/Pages/cuba_ppl_notice.aspx.

**2015**—As part of President Obama's new policy approach toward Cuba, OFAC amended the embargo regulations, effective January 16, 2015, that significantly eased restrictions on travel and also eased restrictions on remittances. Among the changes, OFAC authorized travel by general licenses for all 12 categories of travel set forth in the CACR; permitted authorized travelers to use U.S. credit and debit cards; eliminated traveler per diem limits; increased dollar limits for so-called nonfamily remittances and the amount of remittances that could be carried to Cuba; and created a general license for humanitarian projects, support for the Cuban people, and support for the development of private businesses (*Federal Register*, January 26, 2015, pp. 2291-2302).

Effective September 21, 2015, OFAC further eased restrictions on travel and remittances by amending the CACR. Among the changes, OFAC permitted all authorized travelers to open and maintain bank accounts in Cuba to access funds for authorized transactions, established a general license for transportation by vessel, removed dollar limits on nonfamily remittances (referred to as "donative remittances to Cuban nationals") and remittances carried to Cuba by authorized travelers (*Federal Register*, September 21 2015, pp. 56915-56926).

**2016**—Effective, January 27, 2016, OFAC further eased the travel restrictions. Among the changes were travel related to professional media or artistic production and travel related to the organization of professional meetings and public performances, clinics, workshops, athletic and other competitions, and exhibitions (*Federal Register*, January 27, 2016, pp. 4583-4586).

Effective March 16, 2016, OFAC eased the travel restrictions to allow individuals to travel to Cuba for individual people-to-people educational travel (*Federal Register*, March 16, 2016, pp. 13989-13994).

# Appendix B. Legislative Action from the 106th to the 113th Congress, 1999-2014

## Legislative Initiatives in the 106th Congress, 1999-2000

The only action completed by the 106th Congress relating to Cuba travel involved a tightening of travel restrictions. The final version of the FY2001 agriculture appropriations measure (P.L. 106-387, Title IX, Trade Sanctions Reform and Export Enhancement Act of 2000) included a provision that restricts travel to Cuba to those categories of non-tourist travel already allowed by the Treasury Department regulations. Section 910 of the law provides that neither general nor specific licenses for travel to Cuba can be provided for activities that do not fit into the 12 categories expressly authorized in the Cuban Assets Control Regulations, Section 515.560 (a) of Title 31, C.F.R., paragraphs (1) through (12).

As noted in the law, the Secretary of the Treasury may not authorize travel-related transactions "for travel to, from, or within Cuba for tourist activities," which are defined as any activity that is not expressly authorized in the 12 categories of the regulations. The provision prevents the Administration from loosening the travel restrictions to allow tourist travel. This, in effect, strengthens restrictions on travel to Cuba and somewhat circumscribes the authority of OFAC to issue specific travel licenses on a case-by-case basis. Regulations implementing the provision of the law were issued by OFAC on July 12, 2001.

In other legislative action, the Senate considered the issue of travel to Cuba in June 30, 1999, floor action on the FY2000 Foreign Operations Appropriations bill, S. 1234. An amendment was introduced by Senator Christopher Dodd that would have terminated regulations or prohibitions on travel to Cuba and on transactions related to such travel in most instances.[42] The Senate defeated the amendment by tabling it in a 55-43 vote on June 30, 1999. On November 10, 1999, Senator Dodd introduced identical language as S. 1919, the Freedom to Travel to Cuba Act of 2000, but no action was taken on the bill.

The House took up the issue of travel to Cuba when it considered H.R. 4871, the Treasury Department appropriations bill, on July 20, 2000. A Sanford amendment was approved (232-186) to prohibit funds in the bill from being used to administer or enforce the Cuban Assets Control Regulations with respect to any travel or travel-related transaction. Subsequently, the language of the amendment was dropped from a new version of the FY2001 Treasury Department appropriations bill, H.R. 4985, introduced on July 26. H.R. 4985 was appended to the conference report on the legislative branch appropriations bill—H.R. 4516, H.Rept. 106-796—in an attempt to bypass Senate debate on its version of the Treasury appropriations bill, S. 2900. The Senate initially rejected this conference report on September 20, 2000, by a vote of 28-69, but later agreed to the report, 58-37, on October 12. The House had agreed to the conference report earlier, on September 14, 2000, by a vote of 212-209.

[42] The Dodd amendment allowed for travel restrictions to be imposed if the United States is at war with Cuba, if armed hostilities are in progress, or when threats to physical safety or public health exist. Under current law, the Secretary of State has the same authority to restrict travel (22 U.S.C. 211a).

## Legislative Initiatives in the 107th Congress, 2001-2002[43]

In the 107th Congress, although various measures were introduced that would have eliminated or eased restrictions on travel to Cuba and the House voted in both the first and second sessions to prohibit spending to administer the travel regulations, no legislative action was completed by the end of the second session.

### First Session Action

During July 25, 2001, floor action on H.R. 2590, the FY2002 Treasury Department appropriations bill, the House approved an amendment that would prohibit spending for administering Treasury Department regulations restricting travel to Cuba. H.Amdt. 241, offered by Representative Flake (which amended H.Amdt. 240 offered by Representative Smith), would prohibit funding to administer the Cuban Assets Control Regulations (administered by OFAC) with respect to any travel or travel-related transaction. The amendment was approved by a vote of 240 to 186, compared to a vote of 232-186 for a similar amendment in last year's Treasury Department appropriations bill.

The Senate version of H.R. 2590, approved September 19, 2001, did not include any provision regarding U.S. restrictions on travel to Cuba, and the provision was not included in the House-Senate conference on the bill (H.Rept. 107-253). During Senate floor debate, Senator Byron Dorgan noted that he had intended to offer an amendment on the issue, but that he decided not to because he did not want to slow passage of the bill. He indicated that he would support the House provision during conference, but ultimately the House-Senate conference report on the bill did not include the Cuba provision. In light of the changed congressional priorities in the aftermath of the September 11 attacks on New York and Washington, conference negotiators reportedly did not want to slow passage of the bill with any controversial provisions. The Bush Administration had threatened to veto the Treasury bill if it included the Cuba travel provision.

### Second Session Action

The Cuba travel issue received further consideration in the second session of the 107th Congress. A bipartisan House Cuba working group of 40 Representatives vowed as one of its goals to work for a lifting of travel restrictions. On February 11, 2002, the Senate Appropriations Committee's Subcommittee on Treasury and General Government held a hearing on the issue, featuring Administration and outside witnesses.

The travel issue was part of debate during consideration of the FY2003 Treasury Department appropriations bill (H.R. 5120 and S. 2740). Secretary of State Colin Powell and Secretary of the Treasury Paul O'Neill said they would recommend that the President veto legislation that includes a loosening of restrictions on travel to Cuba (or a weakening of restrictions on private financing for U.S. agricultural exports to Cuba).[44] The White House also stated that President Bush would veto such legislation.[45]

In July 23, 2002, floor action on H.R. 5120, the House approved three Cuba sanctions amendments, including one on the easing of travel restrictions offered by Representative Jeff

[43] For a complete listing and discussion of all Cuba bills in the 107th Congress, see CRS Report RL30806, *Cuba: Issues for the 107th Congress*, by (name redacted) and (name redacted).

[44] U.S. Department of State, International Information Programs, Washington File, "Bush Administration Opposes Legislative Efforts to Amend Cuba Policy," July 16, 2002.

[45] White House, press briefing by Ari Fleischer, July 24, 2002.

Flake. The House approved the Flake travel amendment (H.Amdt. 552), by a vote of 262-167, that would provide that no funds could be used to administer or enforce the Treasury Department regulations with respect to travel to Cuba. The Flake amendment would not prevent the issuance of general or specific licenses for travel to Cuba. Some observers raised the question of whether the effect of this amendment would be limited since the underlying embargo regulations restricting travel would remain unchanged; enforcement action against violations of the relevant embargo regulations could potentially take place in future years when the Treasury Department appropriations measure did not include the funding limitations on enforcing the travel restrictions.[46]

During consideration of H.R. 5120, the House also rejected two Cuba amendments. A Rangel amendment (H.Amdt. 555), rejected by a vote of 204-226, would have prevented any funds in the bill from being used to implement, administer, or enforce the overall economic embargo of Cuba, which includes travel. A Goss amendment (H.Amdt. 551), rejected by a vote of 182-247, would have provided that any limitation on the use of funds to administer or enforce regulations restricting travel to Cuba or travel-related transactions would only apply after the President certified to Congress that certain conditions were met regarding biological weapons and terrorism.[47] The rule for the bill's consideration, H.Res. 488 (H.Rept. 107-585), had provided that the Goss amendment would not be subject to amendment.

The House subsequently passed H.R. 5120 on July 24, 2002, by a vote of 308-121, with the three Cuba amendments, including the Flake Cuba travel amendment.

The Senate version of the Treasury Department appropriations measure, S. 2740, as reported by the Senate Committee on Appropriations on July 17, 2002 (S.Rept. 107-212), included a provision, in Section 516, that was similar, although not identical, to the Flake amendment described above. It provided that no funds may be used to enforce the Treasury Department regulations with respect to any travel or travel-related transactions, but it would not prevent OFAC from issuing general and specific licenses for travel to Cuba. In addition, Section 124 of the Senate bill stipulated that no Treasury Department funds for "Departmental Offices, Salaries, and Expenses" may be used by OFAC until OFAC has certain procedures in place to expedite license applications for travel to Cuba.

Congress did not complete action on the FY2003 Treasury Department appropriations measure before the end of the 107th Congress, so action was deferred until the 108th Congress.

## Additional Legislative Initiatives in the 107th Congress

Several other initiatives were introduced in the 107th Congress that would have eased U.S. restrictions on travel to Cuba, but no action was taken on these measures.

- H.R. 5022 (Flake), introduced June 26, 2002, would have lifted all restrictions on travel to Cuba.
- Several broad bills would have lifted all sanctions on trade, financial transactions, and travel to Cuba: H.R. 174 (Serrano), the Cuban Reconciliation Act, introduced January 3, 2001, and identical bills S. 400 (Baucus) and H.R. 798 (Rangel), the Free Trade with Cuba Act, introduced February 27 and 28, 2001, respectively.

[46] "House Approves Limits on Treasury Enforcement of Cuba Embargo," *Inside U.S. Trade*, July 26, 2002.

[47] For further information on the issues of biological weapons and terrorism as they relate to Cuba, see CRS Report RL30806, *Cuba: Issues for the 107th Congress*, by (name redacted) and (name redacted).

- S. 1017 (Dodd) and H.R. 2138 (Serrano), the Bridges to the Cuban People Act of 2001, introduced June 12, 2001, would, among other provisions, have removed all restrictions on travel to Cuba by U.S. nationals or lawful permanent resident aliens.
- Several bills would, among other provisions, have repealed the travel restrictions imposed in the 106th Congress by the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX, Section 910). These include identical bills S. 402 (Baucus) and H.R. 797 (Rangel), the Cuban Humanitarian Trade Act of 2001, introduced February 27 and 28, 2001; S. 171 (Dorgan), introduced January 24, 2001; and S. 239 (Hagel), the Cuba Food and Medicine Access Act of 2001, introduced February 1, 2001.

## Legislative Initiatives in the 108th Congress, 2003-2004[48]

In the 108th Congress, several FY2004 and FY2005 appropriations bills had provisions that would have eased Cuba travel restrictions in various ways, but ultimately these provisions were not included in final appropriations measures. The Administration had threatened to veto legislation if it contained provisions weakening Cuba sanctions. In addition, several bills in the 108th Congress were introduced that specifically would have lifted or eased restrictions on travel to Cuba, but no action was taken on these measures.

### First Session Action

Since action on FY2003 Treasury Department appropriations was not completed before the end of the 107th Congress, the 108th Congress faced early action on it and other unfinished FY2003 appropriations measures. The final version of the FY2003 omnibus appropriations measure, H.J.Res. 2 (P.L. 108-7), which included Treasury Department appropriations, did not include provisions affecting restrictions on travel to Cuba. The White House had threatened to veto the measure if it contained provisions weakening the embargo. While the Senate version did not include the Senate Appropriations Committee provision from the 107th Congress that would have eased travel restrictions by prohibiting any funding for enforcing the Cuba travel regulations, it did include a provision (contained in Division J, Section 124) that would have expedited action on travel applications for travel by OFAC within 90 days of receipt. Ultimately, however, the Senate provision was dropped in the conference report (H.Rept. 108-10) on the omnibus measure.

Both the House and Senate versions of the FY2004 Transportation-Treasury appropriations bill, H.R. 2989, had nearly identical provisions that would have prevented funds from being used to administer or enforce restrictions on travel or travel-related transactions. But the provisions were dropped in the conference report to the FY2004 Consolidated Appropriations Act, P.L. 108-199 (H.R. 2673, H.Rept. 108-401, filed November 25, 2003), which incorporated seven regular appropriations acts, including Transportation-Treasury appropriations. The conference also dropped two Cuba provisions from the House version of H.R. 2989 that would have eased restrictions on remittances and on people-to-people educational exchanges. The White House again threatened to veto any legislation that would weaken economic sanctions against Cuba.

The House provisions had been approved during September 9, 2003, House floor consideration of the H.R. 2989: H.Amdt. 375 (Flake), approved by a vote of 227-188, would have prevented funds

[48] For a complete listing and discussion of all Cuba bills in the 108th Congress, see CRS Report RL31740, *Cuba: Issues for the 108th Congress*, by (name redacted) .

from enforcing travel restrictions (§745 of the House version); H.Amdt. 377 (Delahunt), approved by a vote of 222-196, would have prevented funds from enforcing restrictions on remittances (§746); and H.Amdt. 382 (Davis), approved by a vote of 246-173, would have prohibited funds from being used to eliminate the travel category of people-to-people educational exchanges (§749).

During Senate floor consideration of H.R. 2989 on October 23, 2003, the Senate approved by voice vote S.Amdt. 1900 (Dorgan), nearly identical to the Flake amendment noted above that would have prevented funds from being used to administer or enforce restrictions on travel or travel-related transactions (§643 of the Senate version). A motion to table the Dorgan amendment was defeated by a vote of 59-36. The Senate approved the bill by a vote of 91-3. The only difference between the Senate and House language was that the Dorgan amendment, as amended by S.Amdt. 1901 (Craig), provided that the section would take effect one day after enactment of the bill.

In other action, the conference on the FY2004 Consolidated Appropriations Act, P.L. 108-199 (H.R. 2673), also dropped a provision in the Senate version of the FY2004 agriculture appropriations bill that would have allowed travel to Cuba under a general license for travel related to the sale of agricultural and medical goods. On July 17, 2003, the Senate Appropriations Committee approved its version of the FY2004 agriculture appropriations bill, S. 1427, that included a provision (§760) allowing travel to Cuba under a general license (which does not require applying to the Treasury Department) for travel related to the commercial sale of agricultural and medical goods. The Senate included this provision when it approved H.R. 2673 on November 6, 2003. The House-passed version of the bill, H.R. 2673, had no such provision. At present, such travel to Cuba is allowed with OFAC's approval of a specific license. In early June 2003, the Treasury Department rejected an application to travel to Cuba for organizers of a second U.S. food and agribusiness fair in Havana.[49] The first such trade fair, held in September 2002, featured some 288 exhibitors from more than 30 states and resulted in millions in U.S. agricultural sales to Cuba.[50]

## Second Session Action

Several FY2005 appropriations measures had provisions that would have eased Cuba sanctions, but these were dropped in the FY2005 omnibus appropriations measure (H.R. 4818, H.Rept. 108-792).

The House-passed version of the FY2005 Commerce, Justice, and State appropriations bill, H.R. 4754, approved July 8, 2004 (397-18), included a provision (§801) that would have prohibited funds from being used to implement, administer, or enforce recent amendments to the Cuba embargo regulations that tightened restrictions on gift parcels and baggage taken by individuals for travel to Cuba. The provision was added by a Flake amendment, H.Amdt. 647, approved by a vote of 221-194 on July 7, 2004. The Senate version of the bill, S. 2809, as reported out of committee, did not include such a provision.

Both the House-approved version of the FY2005 Transportation/Treasury appropriations bill, H.R. 5025, and the Senate Appropriations Committee version of the bill, S. 2806, had provisions that would have eased Cuba sanctions in various ways. In its statement of policy on H.R. 5025,

[49] Nancy San Martin, "U.S. Pulls Plug on Cuba Expo," *Miami Herald*, June 18, 2003.

[50] Nancy San Martin, "U.S. Official Dampens Trade-Show Enthusiasm with Talks of Cuban Credit," *Miami Herald*, September 29, 2002.

the Administration indicated that the President would veto the measure if it contained provisions weakening Cuba sanctions.

The House-passed version of H.R. 5025 had three provisions that would have eased Cuba sanctions. During floor consideration on September 21, 2004, by a vote of 225-174, the House approved a Davis (of Florida) amendment (H.Amdt. 769), which provided that no funds could be used to administer, implement, or enforce the Bush Administration's June 2004 tightening of restrictions on visiting relatives in Cuba. On September 22, 2004, the House approved two additional Cuba amendments by voice vote, a Waters amendment (H.Amdt. 770) that would have prohibited funds from being used to implement any sanction imposed on private commercial sales of agricultural commodities or medicine or medical supplies to Cuba and a Lee amendment (H.Amdt. 771) that would have prohibited funds from being used to implement, administer, or enforce the Bush Administration's June 2004 tightening of restrictions on travel for educational activities. The House also rejected a Rangel amendment (H.Amdt. 772) on September 22, 2004, by a vote of 225-188 that would have more broadly prohibited funds from being used to implement, administer, or enforce the economic embargo of Cuba. During September 15, 2004, House floor consideration of H.R. 5025, Representative Jeff Flake announced his intention not to offer an amendment, as he had for the past three years, which would have prohibited funds from being used to administer or enforce restrictions on travel or travel-related transactions.

The Senate version of the FY2005 Transportation/Treasury appropriations bill, S. 2806, as reported out of the Senate Appropriations Committee (S.Rept. 108-342) on September 15, 2004, had a provision (§222) that would have prohibited funds from administering or enforcing restrictions on Cuba travel or travel-related transactions. That provision, which was proposed by Senator Byron Dorgan, was unanimously approved by the Subcommittee on Transportation, Treasury, and General Government on September 9, 2004.

The Senate version of the FY2005 Agriculture Appropriation bill, S. 2803, as reported by the Senate Appropriations Committee (S.Rept. 108-340), had a provision (§776) that would have directed the Secretary of the Treasury to promulgate regulations allowing for travel to Cuba under a "general license" when it was related to the commercial sale of agricultural and medical products. The House-passed version of the bill, H.R. 4766, had no such provision. In its statement of policy on the bill, the Administration stated that the President would veto the measure if it contained a provision weakening Cuba sanctions.

## Additional Initiatives in the 108th Congress

Among other initiatives introduced in the 108th Congress, but not acted upon, two bills would specifically have lifted restrictions on travel to Cuba: S. 950 (Enzi), introduced April 30, 2003, and H.R. 2071 (Flake), introduced May 13, 2003. H.R. 3422 (Serrano), introduced October 30, 2003, would, among other provisions, have lifted restrictions on travel to Cuba. Three broad legislative initiatives were introduced that would have lifted all Cuba embargo restrictions, including those on travel: H.R. 188 (Serrano), introduced January 7, 2003, S. 403 (Baucus), introduced February 13, 2003, and H.R. 1698 (Paul), introduced April 9, 2003. Another initiative, S. 2449 (Baucus)/H.R. 4457 (Otter), introduced respectively on May 19 and 20, 2004, would have required yearly congressional approval for the renewal of trade and travel restrictions with respect to Cuba. Finally, H.R. 4678 (Davis of Florida), introduced June 24, 2004, in the aftermath of the President's tightening of Cuba sanctions, would have barred certain additional restrictions on travel and remittances to Cuba.

## Legislative Initiatives in the 109th Congress, 2005-2006

In the 109th Congress, several amendments to FY2006 and FY2007 appropriations bills that would have eased Cuba travel restrictions in various ways and restrictions on sending gift parcels to Cuba were defeated. Several bills were introduced that would have lifted or eased restrictions on travel and the provision of remittances to Cuba, but no action was taken on these measures.

### First Session Action

On June 30, 2005, the House rejected three amendments easing Cuba sanctions to H.R. 3058, the FY2006 Transportation, Treasury, Housing and Urban Development, Judiciary, District of Columbia, and Independent Agencies Appropriations Act. The amendments failed during House floor consideration: H.Amdt. 420 (Davis) on family travel, by a vote of 208-211; H.Amdt. 422 (Lee) on educational travel, by a vote of 187-233; and H.Amdt. 424 (Rangel) on the overall embargo, by a vote of 169-250. An additional amendment on religious travel, H.Amdt. 421 (Flake), was withdrawn, and an amendment on family travel by members of the U.S. military, H.Amdt. 419 (Flake), was ruled out of order for constituting legislation in an appropriations bill. The introduction of H.Amdt. 419 was prompted by the case of a U.S. military member who served in Iraq, Sergeant Carlos Lazo, who was prohibited from visiting his two sons in Cuba because he last visited there in 2003.

During June 29, 2005, Senate consideration of H.R. 2361, the FY2006 Interior, Environment, and Related Agencies Appropriations Act, the Senate rejected (60-35; a two-thirds majority vote was required) a motion to suspend the rules with respect to S.Amdt. 1059 (Dorgan), which would have allowed travel to Cuba under a general license for the purpose of visiting a member of the person's immediate family for humanitarian reasons. The amendment was then ruled out of order. Its introduction had also been prompted by the case of Sergeant Carlos Lazo, who wanted to visit his sons in Cuba, one of whom was gravely sick.

On June 15, 2005, the House rejected (210-216) H.Amdt. 270 (Flake) to H.R. 2862, the FY2006 Science, State, Justice, Commerce, and Related Agencies Appropriations Act. The amendment would have prohibited the use of funds to implement, administer, or enforce June 2004 tightened restrictions on sending gift parcels to Cuba. H.Amdt. 269 (McDermott), which would have prohibited the use of funds in the bill to prosecute any individual for travel to Cuba, was offered but subsequently withdrawn.

During April 6, 2005, Senate floor consideration of the FY2006 and FY2007 Foreign Affairs Authorization Act, S. 600, the Senate considered S.Amdt. 281 (Baucus) and a second-degree amendment, S.Amdt. 282 (Craig) that would have facilitated the sale of U.S. agricultural products to Cuba. The language of the amendments consisted of the provisions of S. 328 (Craig), the Agricultural Export Facilitation Act of 2005, which included a provision for a general license for travel transactions related to the marketing and sale of agricultural products, as opposed to the current requirement of a specific license for such travel transactions. Neither action on the amendments nor on S. 600 was completed.

### Second Session Action

On June 14, 2006, the House rejected two amendments to the FY2007 Transportation/Treasury appropriation bill, H.R. 5576, that would have eased Cuba travel restrictions. H.Amdt. 1050 (Rangel), rejected by a vote of 183-245, would have prohibited funds from being used to implement the overall economic embargo of Cuba. H.Amdt. 1051 (Lee), rejected by a vote of 187-236, would have prohibited funds from being used to implement the Administration's June 2004 tightening of restrictions on educational travel to Cuba. An additional Cuba amendment,

H.Amdt. 1032 (Flake), would have prohibited the use of funds to amend regulations relating to travel for religious activities in Cuba; it was withdrawn from consideration.

In other action, on June 22, 2006, the Senate Appropriations Committee reported its version of the FY2007 Agriculture appropriations bill, H.R. 5384 (S.Rept. 109-266), which contained a provision (§755) liberalizing travel to Cuba related to the sale of agricultural and medical goods. The provision would have provided for such travel under a general license, instead of under a specific license as currently allowed, issued on a case-by-case basis by the Treasury Department. Final action on the appropriations measure was not completed by the end of the 109th Congress. Similar Senate provisions in FY2004 and FY2005 agricultural appropriations bills were stripped out of the final enacted measures.

### Additional Initiatives in the 109th Congress

A number of other legislative initiatives were introduced in the 109th Congress that would have eased restrictions on travel and remittances to Cuba. Two bills—S. 894 (Enzi) and H.R. 1814 (Flake)—would have specifically lifted overall restrictions on travel to Cuba. H.R. 2617 (Davis) would have prohibited any additional restrictions on per diem allowances, family visits to Cuba, remittances, and accompanied baggage beyond those that were in effect on June 15, 2004. H.R. 3064 (Lee) would have prohibited the use of funds available to the Department of the Treasury to implement regulations from June 2004 that tightened restrictions on travel to Cuba for educational activities. H.Con.Res. 206 (Serrano), introduced in the aftermath of Hurricane Dennis that struck Cuba in July 2005 (causing 16 deaths and significant damage), would have expressed the sense of Congress that the President should temporarily suspend restrictions on remittances, gift parcels, and family travel to Cuba to allow Cuban Americans to assist their relatives.

Two bills—H.R. 208 (Serrano) and H.R. 579 (Paul)—would have lifted the overall embargo on trade and financial transactions with Cuba, including restrictions on travel and remittances to Cuba.

Finally, two identical bills dealing with easing restrictions on exporting agricultural commodities to Cuba—H.R. 719 (Moran of Kansas) and S. 328 (Craig)—included provisions that would have provided for a general license for travel transactions related to the marketing and sale of agricultural products, as opposed to the current requirement of a specific license for such travel transactions.

## Legislative Initiatives in the 110th Congress, 2007-2008

In the 110th Congress, several House and Senate committee versions of appropriations bills had provisions that would have eased restrictions on travel to Cuba in various ways, but none of these provisions were included in final enacted legislation. Numerous other bills were introduced that would have eased restrictions on travel and remittance in various ways, but no action was taken on these measures.

### First Session Action

In the first session of the 110th Congress, two Senate Appropriations Committee-reported versions of appropriations bills had provisions that would have eased restrictions on travel to Cuba for the marketing and sale of agricultural and medical goods, but ultimately these provisions were not included in the FY2008 Consolidated Appropriations Act (P.L. 110-161). The Senate version of the FY2008 Financial Services and General Government appropriations bill, reported July 19, 2007, H.R. 2829, had a provision in Section 620 that would eased such travel restrictions, while

the Senate version of the FY2008 Agriculture appropriations bill, S. 1859, reported July 24, 2007, had such a provision in Section 741.

## Second Session Action

In the second session, several versions of House and Senate appropriations bills had provisions easing Cuba travel restrictions and other Cuba sanctions, but none of these were included in the FY2009 continuing resolution. The House Appropriations Committee approved its version of the Financial Services and General Government Appropriations bill for FY2009 on June 25, 2008, which contained provisions in Title VI that would have eased restrictions on the sale of U.S. agricultural exports to Cuba and on family travel to Cuba. The committee ultimately introduced and reported the bill, H.R. 7323, on December 10, 2008 (H.Rept. 110-920). With regard to family travel, Section 622 would have allowed for such travel once a year (instead of the current restriction of once every three years), while Section 623 would have expanded such travel by a person to visit an aunt, uncle, niece, nephew, or first cousin (instead of the current restriction limiting such travel to visit a spouse, child, grandchild, parent, grandparent, or sibling).

On July 14, 2008, the Senate Appropriations Committee reported its version of the FY2009 Financial Services and General Government Appropriations bill, S. 3260 (S.Rept. 110-417), which included provisions easing restrictions on family travel and on travel to Cuba relating to the commercial sale of agricultural and medical goods. With regard to family travel, Section 620 would have provided that no funds could be used to administer, implement, or enforce the Administration's June 2004 tightening of restrictions related to travel to visit relatives in Cuba. With regard to travel for agricultural or medical sales, Section 619 would have allowed for a general license for such travel instead of a specific license that requires permission from the Treasury Department.

On July 21, 2008, the Senate Appropriations Committee reported its version of the FY2009 Agriculture Appropriations bill, S. 3289 (S.Rept. 110-426), with a provision in Section 737 that would have eased restrictions on travel to Cuba for the sale of agricultural and medical goods. The provision would have allowed for a general license for such travel instead of a specific license that requires permission from the Treasury Department. The measure had been approved by the committee on July 17, 2008.

## Additional Initiatives in the 110th Congress

A number of other initiatives introduced in the 110th Congress would have eased Cuba travel restrictions. H.R. 654 (Rangel), S. 721 (Enzi), and Section 254 of S. 554 (Dorgan) would prohibit the President from regulating or prohibiting travel to Cuba or any of the transactions incident to travel. Two bills that would lift overall economic sanctions—H.R. 217 (Serrano) and H.R. 624 (Rangel)—would also lift travel restrictions. H.R. 177 (Lee) would ease restrictions on educational travel to Cuba. H.R. 757 (Delahunt) would lift restrictions on family travel and the provision of remittances for family members in Cuba. H.R. 1026 (Moran, Jerry), which would facilitate the sale of U.S. agricultural products to Cuba, includes a provision that would provide for general license authority for travel-related transactions for people involved in agricultural sales and marketing activities or in the transportation of such sales. H.R. 2819 (Rangel) and S. 1673 (Baucus), which would ease restrictions on U.S. agricultural and medical exports to Cuba, would also lift restrictions on travel to Cuba. The Senate Committee on Finance held a hearing on S. 1673 on December 11, 2007.

### *Legislative Initiatives in the Aftermath of 2008 Hurricanes*

In the aftermath of the Hurricanes Gustav and Ike that struck Cuba in late August and early September 2008, several legislative initiatives were introduced that would have temporarily eased U.S. embargo restrictions in several areas, including restrictions on family travel, remittances, the provision of gift parcels, and the sale of relief supplies to Cuba. On September 15, 2008, Senator Dodd offered S.Amdt. 5581 to the Department of Defense authorization bill (S. 3001) that would have, for a 180-day period, allowed unrestricted family travel; eased restrictions on remittances by removing the limit and allowing any American to send remittances to Cuba; expanded the list of allowable items that may be included in gift parcels; and allowed for unrestricted U.S. cash sales of food, medicines, and relief supplies to Cuba. The amendment was not considered and therefore not part of the final bill.

In the House, two legislative initiatives were introduced in the aftermath of the hurricanes that would have temporarily eased restrictions in various ways. On September 16, 2008, Representative Flake introduced H.R. 6913, which would have prohibited any funds from going to the Department of Commerce to implement, administer, or enforce tightened restrictions on the contents of gift parcels to Cuba that were introduced in June 2004. On September 18, 2008, Representative Delahunt introduced H.R. 6962, the Humanitarian Relief to Cuba Act, which would have, for a 180-day period, allowed unrestricted family travel; eased restrictions on remittances by removing the limit and allowing any American to send remittances to Cuba; and expanded the list of allowable items that may be included in gift parcels.

## Legislative Initiatives in the 111th Congress, 2009-2010

The 111th Congress took action in March 2009 to ease restrictions on family travel and travel for the marketing and sale of agricultural and medical goods. The eased family travel restrictions were superseded by the Obama Administration's April 2009 action to allow unlimited family travel and remittances. At the same time, the Administration also eased restrictions for travel for telecommunications-related sales and for attendance at professional meetings related to commercial telecommunications. Numerous other bills introduced in the 111th Congress would have lifted or eased restrictions on travel and remittances to Cuba, but these restrictions were not considered. One House initiative, H.R. 4645 (Peterson), would have lifted all restrictions on travel to Cuba and also would have eased restrictions on the payment mechanisms for U.S. agricultural exports to Cuba. The House Agriculture Committee approved the measure, but no further action was taken on the bill.

### First Session Action

On March 11, 2009, President Obama signed into law the Omnibus Appropriations Act, 2009 (P.L. 111-8), with two provisions easing restrictions on travel to Cuba. (The provisions were identical to provisions that had been included in the Senate Appropriations Committee version of the FY2009 Financial Services and General Government Appropriations bill in the 110th Congress, S. 3260.)

In the enacted bill, Section 620 of Division D, Financial Services and General Government Appropriations Act, 2009, amended the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA) to require the Secretary of the Treasury to issue regulations for travel to, from, or within Cuba under a general license for the marketing and sale of agricultural and medical goods, meaning that there would be no requirement to obtain special permission from OFAC. Such travel had required a specific license from OFAC, issued on a case-by-case basis. OFAC issued regulations implementing this provision on September 3, 2009.

Section 621 of Division D prohibited funds from being used to administer, implement, or enforce family travel restrictions that were imposed by the Bush Administration in June 2004. OFAC implemented this provision by reinstating a general license for family travel as it existed prior to the Bush Administration's tightening of restrictions in June 2004. As implemented by the Treasury Department, travel was allowed once every 12 months to visit a close relative for an unlimited length of stay, and the limit for daily expenditure allowed by family travelers became the same as for other authorized travelers to Cuba (the State Department maximum per diem rate for Havana). The new general license also expanded the definition of "close relative" to mean any individual related to the traveler by blood, marriage, or adoption who is no more than three generations removed from that person. This provision was superseded by the Obama Administration's further liberalization of family travel to Cuba announced in April 2009.

The joint explanatory statement to P.L. 111-8 also required the Department of the Treasury to prepare a report within 90 days on the steps that it is taking to assess OFAC's allocation of resources for investigating and penalizing violations of the Cuba embargo with respect to the numerous other sanctions programs it administers. As part of the report, the Treasury Department was directed to provide detailed information on OFAC's Cuba-related licensing on its enforcement of the Cuba embargo.

On November 19, 2009, the House Committee on Foreign Affairs held a hearing on U.S. restrictions on travel to Cuba entitled "Is It Time to Lift the Ban on Travel to Cuba?" that featured former U.S. government officials and other private witnesses.

## Second Session Action

In the second session, the only legislative action related to Cuba travel restrictions occurred in the House Committee on Agriculture, and no subsequent action was taken. On March 11, 2010, the committee held a hearing to review U.S. agricultural sales to Cuba. At the hearing, there was discussion of recently introduced H.R. 4645 (Peterson), a measure that would remove restrictions on travel to Cuba and also remove some restrictions regarding payments for U.S. agricultural exports to Cuba. On June 30, 2010, the committee reported out H.R. 4645 by a vote of 25-20 (H.Rept. 111-653). The bill would have lifted all restrictions on travel to Cuba. It also included two provisions easing restrictions on the payment mechanisms for U.S. agricultural exports to Cuba. The House Committee on Foreign Affairs was scheduled to hold a markup of the bill on September 29, 2010, but postponed its consideration, and in the aftermath of the 2011 U.S. legislative elections, no further action was taken. An identical companion bill in the Senate, S. 3112 (Klobuchar), was introduced March 15, 2010, and referred to the Committee on Foreign Relations.

On April 29, 2010, the House Ways and Means Committee, Subcommittee on Trade, held a hearing on U.S.-Cuba policy that examined whether relaxing current Cuba travel and trade restrictions would advance U.S. economic objectives, as well as U.S. political and human rights goals in Cuba.

## Additional Initiatives in the 111th Congress

Several other legislative initiatives were introduced in the 111th Congress that would have eased restrictions on travel to Cuba, but no action was taken on these measures. H.R. 874 (Delahunt)/S. 428 (Dorgan) and H.R. 1528 (Rangel) would have prohibited restrictions on travel to Cuba. H.R. 188 (Serrano), H.R. 1530 (Rangel), and H.R. 2272 (Rush) would have lifted the overall embargo on trade and financial transactions with Cuba, including travel restrictions. H.R. 1531 (Rangel)/S. 1089 (Baucus) would have facilitated the export of U.S. agricultural products to Cuba and also would have prohibited restrictions on travel to Cuba. H.R. 332 (Lee) would have eased

restrictions on educational travel by providing that no funds made available to the Department of the Treasury may be used to implement, administer, or enforce regulations to require specific licenses for travel-related transactions directly related to educational activities in Cuba. S. 774 (Dorgan), H.R. 1918 (Flake), and S. 1517 (Murkowski) would have amended the Trade Sanctions Reform and Economic Enhancement Act of 2000 to require the Secretary of the Treasury to authorize travel to Cuba under a general license in connection to hydrocarbon exploration and extraction activities. In contrast, H.Con.Res. 132 (Tiahrt) would have called for the fulfillment of certain democratic conditions before the United States increases trade and tourism to Cuba.

## Legislative Initiatives in the 112th Congress, 2011-2012

There were several attempts in the first session of the 112th Congress aimed at rolling back the Obama Administration's actions easing restrictions on travel and remittances, but none of these were approved. Several legislative initiatives were also introduced that would have further eased or lifted such restrictions altogether, but no action was taken on these measures.

### FAA Reauthorization

During consideration of the Federal Aviation Administration reauthorization bill, S. 223, in February 2011, an amendment was submitted, but never considered, S.Amdt. 61 (Rubio), that would have prohibited an expansion of flights to locations in countries that are state sponsors of terrorism (which includes Cuba).

### FY2012 Financial Services and General Government Appropriations

The House Appropriations Committee reported its version of the FY2012 Financial Services and General Government Appropriations bill, H.R. 2434, on July 7, 2011, with a provision in Section 901 that would have rolled back the Obama Administration's actions easing restrictions on family travel and on remittances overall. (The Senate Appropriations Committee version of the measure, S. 1573, did not contain a similar provision.) The House provision had been offered as an amendment by Representative Mario Diaz-Balart that was agreed to by voice vote during the committee's June 24, 2011, markup of the measure. The provision would have repealed amendments to the Cuban Assets Control Regulations made since January 19, 2009, regarding family travel (31 C.F.R. 515.561), carrying remittances (31 C.F.R. 515.560(c)(4)(i)), and sending remittances to Cuba (31 C.F.R. 515.570). According to the provision, such regulations would be restored and carried out as in effect on January 19, 2009, notwithstanding any guidelines, opinions, letters, presidential directives, or agency practices relating to such regulations that are issued or carried out after such date.

If the provision were to be enacted, family travel would have been limited to once every three years for a period of up to 14 days and would have required a specific license from the Treasury Department; licensed travelers would have been allowed to carry just $300 in remittances compared to the $3,000 currently allowed; family remittances would have been limited to $300 per quarter; nonfamily remittances restored by the Obama Administration, up to $500 per quarter, would not have been allowed; and the general license for remittances to religious organizations would have been eliminated, with such remittances permitted via specific license.

The White House's Statement of Administration Policy on H.R. 2434, issued July 13, 2011, stated that Administration opposed Section 901 because it would reverse the President's policy on family travel and remittances, and that the President's senior advisors would recommend a veto if the bill contained the provision. According to the statement, Section 901 "would undo the President's efforts to increase contact between divided Cuban families, undermine the enhancement of the Cuban people's economic independence and support for private sector

activity in Cuba that come from increased remittances from family members, and therefore isolate the Cuban people and make them more dependent on Cuban authorities."[51]

A second Cuba amendment agreed to by voice vote during the markup of H.R. 2434 was offered by Representative Jeff Flake. The amendment made changes to the committee report to the bill (H.Rept. 112-136) and would have required a report from OFAC on the current number of pending applications seeking specific licenses related to educational exchanges not involving academic study pursuant to a degree program under the auspices of an organization that sponsors and organizes such programs to promote people-to-people contact. The report also would have required information on the number of these licenses that OFAC has approved to date, its plan for getting through the current queue of license applications, and its plan for expeditiously reviewing those applications in the future.

In November 2011, an attempt to include the Senate version of the Financial Services appropriations measure, S. 1573, in a "minibus" with two other full-year appropriations measures and a short-term continuing resolution failed in part because of disagreement over a Cuba provision that would have allowed direct transfers from a Cuban financial institution to a U.S. financial institution to pay for U.S. agricultural and medical exports to Cuba. (For background on that provision, see CRS Report R41617, *Cuba: Issues for the 112th Congress* and CRS Report R42008, *Financial Services and General Government: FY2012 Appropriations*.)

In December 2011, a legislative battle ensued over the Consolidated Appropriations Act, FY2012, H.R. 2055, a "megabus" bill that combined nine full-year appropriations measures, including the Financial Services and General Government bill. At issue was the potential inclusion of two Cuba provisions that had been in the House Appropriations Committee-approved version of the Financial Services bill, H.R. 2434: one described above that would roll back to January 2009 the Obama Administration's actions easing restrictions on family travel and on remittances; and the second a provision that would continue to clarify, for the third fiscal year in a row, the definition of "payment of cash in advance" for U.S. agricultural and medical exports to Cuba so that the payment was due upon delivery in Cuba as opposed to being due before the goods left U.S. ports. (The text of the two Cuba provisions was also included in Division C, Sections 632 and 634, of H.R. 3671, a new "megabus" bill introduced by House Republicans on December 14, 2011.)

Ultimately congressional leaders agreed to not include the two Cuba provisions in H.R. 2055 (H.Rept. 112-331), and the measure was approved by the House and Senate, respectively, on December 16 and 17, 2011, and signed into law on December 23, 2011 (P.L. 112-74). The White House reportedly had exerted strong pressure not to include the Cuba provision that would have rolled back the Administration's easing of restrictions on travel and remittances. Dropping the second provision on the definition of "payment of cash in advance" for U.S. agricultural and medical products appears to have been a political tradeoff made to compensate for the travel rollback provision being dropped.

## FY2012 Foreign Relations Authorization Act

In other congressional action, on July 21, 2011, the House Committee on Foreign Affairs marked up H.R. 2583 (H.Rept. 112-223), the FY2012 Foreign Relations Authorization Act, with a provision (§1126 of the reported bill) that would have required the President to fully enforce all U.S. regulations on travel to Cuba as in effect on January 19, 2009, and impose the corresponding penalties against individuals determined to be in violation of such regulations. The provision was

[51] Executive Office of the President, Office of Management and Budget, Statement of Administration Policy, H.R. 2434—Financial Services and General Government Appropriations Act, 2012, July 13, 2011.

added by an amendment offered by Representative David Rivera, approved 36-6, that had the intent of reinstating tighter travel restrictions as they existed under the Bush Administration in January 2009.

### Amendments to the Cuban Adjustment Act

Two additional measures introduced in August 2011 would have amended the Cuban Adjustment Act of 1966 (CAA, P.L. 89-732) in order to curb travel to Cuba by Cubans who had recently immigrated to the United States. Introduced on August 1, 2011, H.R. 2771 (Rivera) would have amended the CAA to increase to five years the period during which a Cuban national must be physically present in the United States in order to qualify for adjustment of status to that of a permanent resident. The legislation also would have provided that an alien would be ineligible for adjustment to permanent resident status if the alien returned to Cuba after admission or parole into the United States before becoming a U.S. citizen. A subsequent version, H.R. 2831 (Rivera), introduced August 30, 2011, just contained the provision maintaining that an alien from Cuba would be ineligible for adjustment to permanent resident status under the CAA if he or she returned to Cuba before becoming a U.S. citizen. The House Committee on the Judiciary, Subcommittee on Immigration on Policy Enforcement, held a hearing on H.R. 2831 on May 31, 2012 (available at http://judiciary.house.gov/hearings/Hearings%202012/hear_05312012_3.html).

### Initiatives to Ease Restrictions on Travel and Remittances

In contrast to measures aimed at rolling back the Obama Administration's polices easing travel and remittances to Cuba, several measures would have eased or lifted travel restrictions altogether. H.R. 1886 (Rangel) would have prohibited restrictions on travel to Cuba. H.R. 1888 (Rangel), in addition to removing some restrictions on the export of U.S. agricultural products to Cuba, would also have prohibited Cuba travel restrictions. Two initiatives that would have lifted the overall embargo on trade and restrictions on financial transaction with Cuba, H.R. 255 (Serrano) and H.R. 1887 (Rangel), would also have lifted restrictions on travel and remittances to Cuba. H.R. 380 (Lee) would have provided that no funds made available to the Department of the Treasury could be used to implement, administer, or enforce regulations to require specific licenses for travel-related transactions directly related to educational activities in Cuba.

## Legislative Initiatives in the 113th Congress, 2013-2014

In the 113th Congress, appropriations measures had provisions that would have tightened and eased Cuba travel restrictions, but none of these provisions were included in final action. Additional measures were introduced that would have lifted travel restrictions, but no action was taken on these measures.

### First Session

In the first session of the 113th Congress, the House and Senate versions of the FY2014 Financial Services and General Government appropriations measure, H.R. 2786 and S. 1371, as reported by the Appropriations Committees in July 2013, had different provisions regarding U.S. policy regarding travel to Cuba. The House version would have tightened restrictions on travel by prohibiting funding for any additional authorization of people-to-people exchanges during the fiscal year, while the Senate version would have eased restrictions on travel by authorizing a new general license for professional travel related to disaster prevention, emergency preparedness, and natural resource protection. Ultimately, however, none of these provisions was included in the FY2014 omnibus appropriations measure, H.R. 3547 (P.L. 113-76), signed into law January 17, 2014.

As reported out of the House Appropriations Committee on July 23, 2013, H.R. 2786 (H.Rept. 113-172) had a provision in Section 124 that would have prohibited FY2014 funding used "to approve, license, facilitate, authorize, or otherwise allow" travel-related or other transactions related to nonacademic educational exchanges (i.e. people-to-people travel) to Cuba set forth in 31 C.F.R. 515.565(b)(2) of the CACR. The committee report to the House bill contended that this category of travel violates the prohibition on travel related to tourist activities set forth in the Trade Sanctions Reform and Export Enhancement Act of 2000 (P.L. 106-387, Title IX). The report also maintained that the stated purpose of people-to-people travel—to promote the Cuban people's independence from Cuban authorities—"cannot be accomplished through itineraries that mainly feature interactions with representatives of a dictatorship that actively oppresses the Cuban people, nor can it be accomplished through itineraries that do not require meetings with pro-democracy activists or independent members of Cuban civil society."

The House bill had a second Cuba provision in Section 125 that would have required a Treasury Department report within 90 days of the bill's enactment with information for each fiscal year since FY2007 on the number of travelers visiting close relatives in Cuba, the average duration of these trips, the average amount of U.S. dollars spent per family traveler (including amount of remittances carried to Cuba), the number of return trips per year, and the total sum of U.S. dollars spent collectively by family travelers for each fiscal year.

As reported out of the Senate Appropriations Committee on July 25, 2013, S. 1371 (S.Rept. 113-80) had a provision in Section 628 that would have provided for a new general license for travel-related transactions for full-time professional research; attendance at professional meetings if the sponsoring organization was a U.S. organization; and the organization and management of professional meetings and conferences in Cuba if the sponsoring organization was a U.S. professional organization—if the travel was related to disaster prevention; emergency preparedness; and natural resource protection, including for fisheries, coral reefs, and migratory species. This provision would have expanded the general licenses available for professional research and meetings in Cuba that allow full-time professionals to conduct professional research in their areas (with certain conditions), attend professional meetings or conferences in Cuba organized by an international professional organization, and attend professional meetings for commercial telecommunications transactions (31 C.F.R. 515.564).

## Second Session

In the second session of the 113th Congress, the House-passed version of the FY2015 Financial Services and General Government Appropriations Act, H.R. 5016 (H.Rept. 113-508), had a provision that would have prohibited the use of any funds in the act to approve, license, facilitate, authorize, or otherwise allow people-to-people travel. The measure also had a provision that would have required the Administration to prepare a report with specific information on family travel to Cuba since FY2007. A draft Senate bill (not introduced, but released by the Senate Committee on Appropriations in July 2014) did not include any provisions on Cuba sanctions.

H.R. 5016 was approved by the House July 16, 2014, by a vote of 228 to 195. Section 126 of the bill would have prevented any funds in the act from being used "to approve, license, facilitate, authorize or otherwise allow" people-to-people travel. Section 127 would have required a joint report from the Secretary of the Treasury and the Secretary of Homeland Security with information for each fiscal year since FY2007 on the number of travelers visiting close relatives in Cuba; the average duration of these trips; the average amount of U.S. dollars spent per family traveler (including amount of remittances carried to Cuba); the number of return trips per year; and the total sum of U.S. dollars spent collectively by family travelers for each fiscal year. As noted above, similar provisions had appeared in the House Appropriations Committee-reported

FY2014 Financial Services and General Government Appropriations Act, H.R. 2786, but ultimately were not included in the Consolidated Appropriation Act, 2014 (P.L. 113-76).

The House Committee on Appropriations report to H.R. 5016 (H.Rept. 113-508) contended that the people-to-people category of travel "contravenes the explicit prohibition against tourist activities as provided in section 910(b) of the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA)," (22 U.S.C. 7209(b)). The report also maintained that the stated purpose of people-to-people travel—to promote the Cuban people's independence from Cuban authorities—"cannot be accomplished through itineraries that mainly feature interactions with representatives of a dictatorship that actively oppresses the Cuban people, nor can it be accomplished through itineraries that do not require meetings with pro-democracy activists or independent members of Cuban civil society."

Ultimately Congress did not complete action on H.R. 5016, and the FY2015 omnibus appropriations measure approved in December 2014 (P.L. 113-235) did not include the Cuba-related travel provisions in H.R. 5016.

### Additional Legislation Introduced in the 113th Congress

In addition to the appropriations measured discussed below, several other initiatives were introduced in the 113th Congress that would lifted all travel restrictions, but no action was taken on these measures: H.R. 871 (Rangel) would have lifted travel restrictions; H.R. 873 (Rangel) would have lifted travel restrictions and restrictions on U.S. agricultural exports; and H.R. 214 (Serrano), H.R. 872 (Rangel), and H.R. 1917 (Rush) would have lifted the overall embargo, including travel restrictions.

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