

DEPARTMENT OF THE TREASURY**Office of Foreign Assets Control****31 CFR Part 515****Cuban Assets Control Regulations**

AGENCY: Office of Foreign Assets Control, Treasury

ACTION: Interim final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the Cuban Assets Control Regulations, part 515 of chapter V of 31 CFR, to implement the President's May 6, 2004 direction with respect to certain recommendations in the May 2004 Report to the President from the Commission for Assistance to a Free Cuba. This rule also contains additional substantive amendments consistent with the President's policy as well as technical and clarifying amendments.

DATES: Effective Date: June 30, 2004.

Comments: Written comments must be received no later than August 16, 2004.

ADDRESSES: Comments may be submitted in the English language by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Agency Web site: <http://www.treas.gov/offices/enforcement/ofac/comment.html>.
- Fax: Chief of Records, 202/622-1657.
- Mail: Chief of Records, ATTN: Request for Comments, Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Instructions: All submissions received must include "Office of Foreign Assets Control, Treasury" and the FR Doc. number that appears at the end of this document. Comments received will be posted without change to <http://www.treas.gov/ofac>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" subsection of the **SUPPLEMENTARY INFORMATION** section of this document. To read background documents or comments received, go to <http://www.treas.gov/ofac>.

FOR FURTHER INFORMATION CONTACT:

Chief of Licensing, tel.: 202/622-2480 or Chief of Policy Planning and Program Management, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel, tel.: 202/622-2410, Office of

Chief Counsel (Foreign Assets Control), Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:**Electronic and Facsimile Availability**

This file is available for download without charge in ASCII and Adobe Acrobat readable (*.PDF) formats at *GPO Access*. *GPO Access* supports HTTP, FTP, and Telnet at fedbbs.access.gpo.gov. It may also be accessed by modem dialup at 202/512-1387 followed by typing "/GO/FAC." Paper copies of this document can be obtained by calling the Government Printing Office at 202/512-1530. This document and additional information concerning the programs of the Office of Foreign Assets Control are available for downloading from the Office's Internet Home Page: <http://www.treas.gov/ofac>, or via FTP at ofacftp.treas.gov. Facsimiles of information are available through the Office's 24-hour fax-on-demand service: call 202/622-0077 using a fax machine, fax modem, or (within the United States) a touch-tone telephone.

Background

On October 10, 2003, the President announced the establishment of a Commission for Assistance to a Free Cuba (the "Commission"), an interagency commission tasked with identifying ways to hasten Cuba's transition to a free and open society and identifying U.S. Government programs that could assist the Cuban people during such a transition. On May 1, 2004, the Commission delivered its Report to the President, recommending, among other things, a number of proposed changes to the U.S. sanctions with respect to Cuba. On May 6, 2004, the President directed the implementation of certain of the Report's recommendations. In this interim final rule, the Office of Foreign Assets Control ("OFAC") is amending the Cuban Assets Control Regulations, 31 CFR part 515 (the "CACR"), to implement these recommendations, to make additional changes consistent with the President's policy with respect to Cuba, and to make certain technical and clarifying changes.

Fully-hosted travel. Section 515.420, the note to paragraph (c) and paragraph (f) of § 515.560, and paragraph (c)(4)(i) of § 515.572 are amended to remove discussion of and references to fully-hosted travel and the presumption that travelers to Cuba pay expenses for Cuba travel-related transactions. The term "fully-hosted travel" refers to travel to,

from, or within Cuba for which all costs and fees either are paid for by a third-country national who is not subject to U.S. jurisdiction or are covered or waived by Cuba or a national of Cuba. The term was first introduced into the CACR on July 22, 1982, in § 515.560 of the "Licenses, Authorizations, and Statements of Licensing Policy" subpart. See 47 FR 32060. Paragraph (j) of § 515.560 provided that all transactions incident to fully-hosted travel were authorized. On May 13, 1999, OFAC removed this provision from § 515.560, amended it, and placed it in a new § 515.420, which is in the "Interpretations" subpart of the CACR. See 64 FR 24808.

In the years since the May 13, 1999 amendments, it has been found that persons who claimed their travel was fully-hosted in fact routinely engaged in prohibited money transactions (e.g., payment of entry and exit and docking fees). It has also been determined that even a person who accepts goods or services in Cuba without paying for them is in fact engaging in a prohibited dealing in property in which Cuba or a Cuban national has an interest. Therefore, language regarding fully-hosted travel is removed from the CACR and any authorization of fully-hosted travel is thereby eliminated. Amended § 515.420 now explains that the prohibition in § 515.201(b)(1) on dealing in property includes a prohibition on the receipt of goods or services in Cuba when those goods or services are provided free-of-charge, whether received as a gift from the Government of Cuba, a national of Cuba, or a third-country national, unless otherwise authorized by an OFAC general or specific license. See, e.g., § 515.560(a) of the CACR. Amended § 515.420 also explains that payment for air travel to Cuba on a third-country carrier, which involves property in which Cuba has an interest (for example, because the carrier will pass a portion of the payment on to Cuba), is now prohibited unless the travel is pursuant to an OFAC general or specific license.

Along with the references to fully-hosted travel, the companion language in § 515.420, which states that any person who travels to Cuba without OFAC authorization is presumed to have engaged in prohibited travel-related transactions there, is also removed. Notwithstanding the removal of this language, it is OFAC's position that the receipt of services or other dealings in property in which Cuba has an interest, such as a stay at a Cuban hotel or the purchase of food in Cuba, can be inferred from evidence of multi-day travel in Cuba.

Importation of Cuban merchandise. Paragraph (c)(3) of § 515.560 is amended to eliminate the general license authorizing licensed travelers to Cuba to purchase in Cuba and return to the United States with up to \$100 worth of Cuban merchandise for personal consumption. The amended paragraph (c) now explains that, with the exception noted below, no merchandise may be purchased or otherwise acquired in Cuba and then brought back to the United States. OFAC has added a note to paragraph (c) explaining that this rule does not apply to the purchase in Cuba and importation into the United States of informational materials, which continue to be exempt from the prohibitions of the CACR, as described in § 515.206.

Exportation of accompanied baggage. Former paragraph (f) of § 515.560, which discussed the carrying of currency by fully-hosted travelers, is replaced with a new paragraph (f) limiting the amount of accompanied baggage carried by authorized travelers to Cuba to 44 pounds per traveler, unless a higher amount is authorized by the Bureau of Industry and Security of the Department of Commerce or, for exportations of non-U.S. origin accompanied baggage from third countries to Cuba, by a specific license from OFAC.

Travel to visit relatives in Cuba. Sections 515.560 and 515.561 are amended to make a number of changes to the rules regarding travel-related transactions incident to visiting relatives in Cuba.

Prior to these amendments, a person with a Cuban national close relative (defined to include second cousins) in Cuba could engage in travel-related transactions incident to visiting that relative once every 12 months under a general license and more often pursuant to specific licenses if requested. There was no stated limit to the duration of the first visit, and the traveler could spend up to the State Department per diem (currently \$167) for living expenses in Cuba plus any additional funds needed for transactions that were directly incident to visiting that relative.

These amendments narrow the category of relatives who can be visited in Cuba. The definition of “close relative” set forth in former paragraph (d) of § 515.561, is replaced by the term “member of a person’s immediate family,” which is defined in new paragraph (c). Under the new rule, a member of a person’s immediate family is defined as a spouse, child, grandchild, parent, grandparent, or sibling of that person or that person’s spouse, as well as any spouse, widow,

or widower of any of the foregoing. Relevant portions of § 515.561 also are amended to eliminate the policy of authorizing those who share a common dwelling as a family with the traveler to accompany the traveler, unless they are themselves members of the immediate family of the person to be visited.

The once-per-twelve-months general license contained in former paragraph (a) of § 515.561 is eliminated. In its place, new paragraph (a) states that OFAC will issue specific licenses authorizing travel-related transactions incident to visits to members of a person’s immediate family who are nationals of Cuba once per three-year period and for no more than 14 days. A person subject to U.S. jurisdiction who wishes to engage in travel-related transactions to visit a member of his or her immediate family who is a national of Cuba will need to request and receive specific permission from OFAC before engaging in those transactions. For those who emigrated to the United States from Cuba and have not since that time visited a family member in Cuba, the three-year period will be counted from the date they left Cuba. For all others, the three year period will be counted from the date they last left Cuba pursuant to the pre-existing family visit general license or, if they traveled under a family visit specific license, the date that license was issued. Former paragraph (b), under which OFAC issued specific licenses for additional visits, is eliminated. No additional visits will be authorized.

Former paragraph (c) of § 515.561 stated a different rule for travelers wishing to visit relatives who are not nationals of Cuba but who instead are in Cuba pursuant to an OFAC authorization (such as a student who is in Cuba under her university’s educational activities license). This rule has been moved to paragraph (b) and modified to provide for the issuance of a specific license to visit a member of a person’s immediate family in exigent circumstances provided the person to be visited is in Cuba pursuant to an OFAC authorization, the particular exigency has been reported to the U.S. Interests Section in Havana, and issuance of the license would support the mission of the U.S. Interests Section in Havana. Licenses would be issued under this paragraph, after consultation with the Department of State, in true emergent situations, such as serious illness accompanied by an inability to travel, and in order to support services normally provided in such circumstances by the U.S. Interests Section in Havana.

A number of individuals have outstanding specific licenses that were issued pursuant to former § 515.561(b) and (c). Those licenses will remain valid only until June 30, 2004, after which they are revoked. Accordingly, individuals who have such specific licenses may not use them to engage in any Cuba travel-related transaction occurring on or after June 30, 2004.

These amendments also reduce the amount of money travelers visiting members of their immediate family may spend for their living expenses in Cuba. The new limit, set forth in amended paragraph (c)(2) of § 515.560, is \$50 per day plus up to an additional \$50 per trip, if needed, to pay for transportation-related expenses in Cuba that exceed the \$50 per day limit. For example, a traveler whose five-day trip to visit her father in Camaguey includes roundtrip ground transportation between Havana and Camaguey may expend \$50 per day for her living expenses in Cuba plus up to an additional \$50, if needed, to pay for the costs of transportation between Havana and Camaguey, for a total of \$300 of in-Cuba costs (airfare to and from Cuba is not included in this limit). The per diem amount for all other categories of OFAC-authorized travel-related transactions in Cuba remains unchanged.

Attendance at certain professional meetings in Cuba. A note is added to paragraph (a)(1) of § 515.564 to clarify that the general license in paragraph (a) authorizing travel-related transactions incident to certain professional research in Cuba does not extend to transactions incident to attendance at professional meetings or conferences in Cuba. Attendance at certain professional meetings and conferences in Cuba already is addressed by a separate general license set forth in paragraph (a)(2). To the extent a professional researcher believes that attendance at a particular meeting or conference in Cuba is important to his or her research and the meeting or conference does not qualify under the general license set forth in paragraph (a)(2), the researcher may request a specific license from OFAC under paragraph (b).

Educational activities in Cuba. OFAC is amending § 515.565 to reflect new policy with respect to specific licensing of certain educational activities in Cuba. These amendments restrict the availability under paragraph (a) of specific licenses to institutions to undergraduate and graduate institutions. Accordingly, former paragraph (a)(2)(vi), which covered certain activities by secondary schools, has been eliminated. The duration of

these institutional licenses is shortened from two years to one year.

Paragraph (a) of § 515.565 is further amended by adding a requirement that any students who use an institution's license must be enrolled in an undergraduate or graduate degree program at that licensed institution. Students may no longer engage in Cuba travel-related transactions under the license of an educational institution other than their own even if their own institution will accept the licensed institution's program for credit toward the student's degree. Paragraph (a) also is amended to clarify that employees who travel under an institution's license must be full-time permanent employees of the licensed institution. Temporary employees and contractors do not qualify as full-time permanent employees of an institution.

Three of the six educational activities listed in paragraph (a) of § 515.565 that are available to licensed educational institutions and their students and staff are subject to a new requirement that those educational activities in Cuba be no shorter than 10 weeks. The three affected activities are: structured educational programs in Cuba offered as part of a course at the licensed institution; formal courses of study at a Cuban academic institution; and teaching at a Cuban academic institution. The remaining three educational activities may still be engaged in for a period of less than 10 weeks. These activities are: graduate research in Cuba; sponsorship of a Cuban national to teach or engage in other scholarly activities in the United States; and organization of and preparation for licensed educational activities. OFAC is also amending the requirements in paragraph (a) with respect to letters from the licensed institution that must be carried by each authorized traveler.

Some current holders of educational institution licenses may have already planned Cuba travel-related activities that would not be authorized under amended paragraph (a) of § 515.565. Those licensed institutions that, prior to the effective date of this Notice, have already planned Cuba trips that will not meet the new requirements may still engage in all transactions incident to such trips provided that the trips and all associated transactions are completed by August 15, 2004.

Paragraph (b) of § 515.565 is amended to clarify that its statement of specific licensing policy applies only to individuals seeking to engage in certain educational activities in Cuba if their educational institution does not have an institutional license under paragraph

(a). The licensing policies set forth in paragraphs (a) and (b) are not available to individuals or entities that purport to arrange, facilitate, or coordinate educational programs in Cuba for U.S. academic institutions.

Participation in international sports federation competitions; clinics and workshops licensing policy. OFAC is eliminating the general license set forth in paragraph (a) of § 515.567 for travel-related transactions incident to participation in amateur and semi-professional athletic competitions that take place in Cuba under the auspices of an international sports federation. In its place, revised paragraph (a) states a specific licensing policy under which OFAC will authorize those same activities on a case-by-case basis. OFAC also amends paragraph (b) of the same section to eliminate the policy of specifically licensing travel-related transactions incident to participation in clinics and workshops, whether sports-related or otherwise, in Cuba.

Quarterly remittances to nationals of Cuba. OFAC is amending the general license in paragraph (a) of § 515.570 to eliminate the authorization of quarterly \$300 remittances sent from any person subject to U.S. jurisdiction who is 18 years of age or older to any household of a national of Cuba. The amended general license authorizes such remittances only when they are sent to members of the remitter's immediate family. The term "member of the remitter's immediate family" is defined to include only a spouse, child, grandchild, parent, grandparent, or sibling of the remitter or that remitter's spouse, as well as any spouse, widow, or widower of any of the foregoing. Paragraph (a) is further amended to provide that the quarterly \$300 remittance cannot be remitted to certain government officials and certain members of the Cuban Communist Party.

Paragraph (c)(4)(i) of § 515.560 is also amended to reduce the total amount of quarterly \$300 remittances that an authorized traveler may carry to Cuba from \$3,000 to \$300.

NGO remittances to Cuba. Paragraph (d)(1) of § 515.570 is revised to clarify the specific licensing policy of authorizing remittances from nongovernmental organizations and individuals subject to U.S. jurisdiction to Cuban pro-democracy groups, independent civil society groups, and religious organizations as well as to individual members of such Cuban groups and organizations.

Remittance-related transactions by banks and other depository institutions. Paragraph (a)(3) of § 515.572 is amended

to eliminate the general license authorizing depository institutions to act as forwarders for the quarterly family household remittances or emigration-related remittances authorized in paragraphs (a), (b), and (c) of § 515.570. Depository institutions, as defined in § 515.333, are now required to apply to OFAC and receive specific authorization as remittance forwarders before providing such services. Depository institutions continue to be authorized by general license, however, to provide services related to other authorized financial transactions. For example, a banking institution does not need separate authorization from OFAC to transfer to Cuba funds covered by a specific license allowing overflight payments or remittances other than quarterly family or emigration-related remittances.

Technical and conforming amendments. OFAC is making a number of technical and conforming amendments to various sections of the CACR to amend wording, cross-references, and paragraph structure.

Public Participation

Because the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the "APA") requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. However, because of the importance of the issues addressed in these regulations, this rule is being issued in interim form and comments will be considered in the development of final regulations. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views. Comments may address the impact of the amendments on the submitter's activities, whether of a commercial, non-commercial or humanitarian nature, as well as changes that would improve the clarity and organization of the CACR. All comments must be submitted in the English language.

The period for submission of comments will close August 16, 2004. The Department will consider all comments postmarked before the close of the comment period. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. The Department will not accept public comments accompanied by a request that a part or all of the submission be treated confidentially because of its business proprietary

nature or for any other reason. The Department will return such submission to the originator without considering them in the development of final regulations. In the interest of accuracy and completeness, the Department requires comments in written form.

All public comments on these Regulations will be a matter of public record. Copies of the public record concerning these Regulations will be made available not sooner than September 14, 2004, and will be obtainable from OFAC's Web site (<http://www.treas.gov/ofac>). If that service is unavailable, written requests for copies may be sent to: Office of Foreign Assets Control, U.S. Department of the Treasury, 1500 Pennsylvania Ave., NW., Washington, DC 20220, Attn: Chief, Records Division.

Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the CACR are contained in 31 CFR part 501 (the "Reporting and Procedures Regulations"). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been previously approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 515

Administrative practice and procedure, Banks, Banking, Blocking of assets, Cuba, Currency, Foreign trade, Imports, Reporting and recordkeeping requirements, Securities, Travel restrictions.

- For the reasons set forth in the preamble, part 515 of 31 CFR chapter V is amended as follows:
- 1. The authority citation for 31 CFR part 515 continues to read as follows:

Authority: 18 U.S.C. 2332d; 22 U.S.C. 2370(a), 6001–6010; 31 U.S.C. 321(b); 50 U.S.C. App. 1–44; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 106–387, 114 Stat. 1549; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1147; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748; Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., p. 157; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 614.

Subpart D—Interpretations

- 1. Revise § 515.420 to read as follows:

§ 515.420 Travel to Cuba.

The prohibition on dealing in property in which Cuba or a Cuban national has an interest set forth in § 515.201(b)(1) includes a prohibition on the receipt of goods or services in Cuba, even if provided free-of-charge by the Government of Cuba or a national of Cuba or paid for by a third-country national who is not subject to U.S. jurisdiction. The prohibition set forth in § 515.201(b)(1) also prohibits payment for air travel to Cuba on a third-country carrier unless the travel is pursuant to an OFAC general or specific license.

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

- 2. Amend § 515.560 by removing the note to paragraph (c) and revising paragraphs (a) introductory text, (a)(1), (a)(7), (c) introductory text, (c)(2), (c)(3), (c)(4) introductory text, (c)(4)(i), and (f) to read as follows:

§ 515.560 Travel-related transactions to, from, and within Cuba by persons subject to U.S. jurisdiction.

(a) The travel-related transactions listed in paragraph (c) of this section may be authorized either by a general license or on a case-by-case basis by a specific license for travel related to the following activities (see the referenced sections for the applicable general and specific licensing criteria):

- (1) Visits to members of a person's immediate family (specific licenses) (see § 515.561);

* * * * *

- (7) Public performances, athletic and other competitions, and exhibitions (specific licenses) (see § 515.567);

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- (c) Persons generally or specifically licensed under this part to engage in transactions in connection with travel to, from, and within Cuba may engage in the following transactions:

* * * * *

(2) *Living expenses in Cuba.* All transactions ordinarily incident to travel anywhere within Cuba, including payment of living expenses and the acquisition in Cuba of goods for personal consumption there, are authorized, provided that, unless otherwise authorized, the total for such expenses does not exceed:

(i) For visits to members of a person's immediate family pursuant to § 515.561, \$50 per day plus up to an additional \$50 per trip, if needed, to cover within-Cuba transportation-related expenses.

(ii) For all other authorized activities, the "maximum per diem rate" for Havana, Cuba, in effect during the period that the travel takes place. The

maximum per diem rate is published in the State Department's "Maximum Travel Per Diem Allowances for Foreign Areas," a supplement to section 925, Department of State Standardized Regulations (Government Civilians, Foreign Areas), which is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371945, Pittsburgh, PA 15250–7954 and on the Internet at <http://www.state.gov/m/a/als/prdm>.

(3) *Importation of Cuban merchandise prohibited.* Nothing in this section authorizes the importation into the United States of any merchandise purchased or otherwise acquired in Cuba, including but not limited to any importation of such merchandise as accompanied baggage. The importation of Cuban-origin information and informational materials is exempt from the prohibitions of this part, as described in § 515.206.

(4) *Carrying remittances to Cuba.* The carrying to Cuba of any remittances that the licensed traveler is authorized to remit pursuant to § 515.570 is authorized, provided that:

- (i) The total of all family household remittances authorized by § 515.570(a) does not exceed \$300, and

* * * * *

(f) *Carrying accompanied baggage to Cuba.* The carrying to Cuba of accompanied baggage, as described in 15 CFR 740.14, provided that no more than 44 pounds of accompanied baggage per traveler may be carried unless otherwise authorized by the Bureau of Industry and Security of the Department of Commerce or, for exportations of non-U.S. origin accompanied baggage from third countries to Cuba, by a specific license from OFAC.

* * * * *

- 3. Revise § 515.561 to read as follows:

§ 515.561 Persons visiting members of their immediate family in Cuba.

(a) *Visiting a family member who is a national of Cuba.* Specific licenses may be issued on a case-by-case basis to persons subject to U.S. jurisdiction to engage in the travel-related transactions set forth in § 515.560(c) for the purpose of visiting a member of the person's immediate family who is a national of Cuba, as that term is defined in § 515.302 of this part, in Cuba for a period not to exceed 14 days in duration, provided it has been at least three years since the most recent of the following three dates:

(1) If the applicant emigrated from Cuba, the date of emigration;

(2) The date the applicant left Cuba after the applicant's most recent trip to

visit family there pursuant to a general license from OFAC;

(3) The date of issuance of the applicant's most recent specific license to visit family in Cuba.

(b) *Visiting a family member who is not a national of Cuba.* Specific licenses may be issued on a case-by-case basis authorizing persons subject to U.S. jurisdiction to engage in the travel-related transactions set forth in § 515.560(c) and additional travel-related transactions that are directly incident to the purpose of visiting a member of the person's immediate family who is not a national of Cuba, as that term is defined in § 515.302 of this part, in Cuba in exigent circumstances, provided the person to be visited is in Cuba pursuant to an OFAC authorization, the particular exigency has been reported to the U.S. Interests Section in Havana, and issuance of the license would support the mission of the U.S. Interests Section in Havana.

(c) For the purpose of this section, the term "member of a person's immediate family" means any spouse, child, grandchild, parent, grandparent, or sibling of that person or that person's spouse, as well as any spouse, widow, or widower of any of the foregoing.

■ 4. Amend § 515.564 by adding a note to paragraph (a)(1) to read as follows:

§ 515.564 Professional research and professional meetings in Cuba.

* * * * *

Note to paragraph (a)(1): This general license does not authorize as professional research any travel-related transactions incident to attendance at professional meetings or conferences. Such transactions must either qualify under the general license set forth in paragraph (a)(2) of this section or be the subject of a request for a specific license under paragraph (b) of this section.

■ 5. Amend § 515.565 by revising paragraphs (a) and (b) to read as follows:

§ 515.565 Educational activities.

(a) *Specific institutional licenses.* Specific licenses for up to one year in duration may be issued to an accredited U.S. undergraduate or graduate degree-granting academic institution authorizing the institution, its students enrolled in an undergraduate or graduate degree program at the institution, and its full-time permanent employees to engage, under the auspices of the institution, in the travel-related transactions set forth in § 515.560(c) and such additional transactions that are directly incident to:

(1) Participation in a structured educational program in Cuba as part of a course offered at the licensed institution, provided the program

includes a full term, and in no instance includes fewer than 10 weeks, of study in Cuba. An individual planning to engage in such transactions must carry a letter from the licensed institution stating that the individual is a student currently enrolled in an undergraduate or graduate degree program at the institution or is a full-time permanent employee of the institution, stating that the Cuba-related travel is part of a structured educational program of the institution that will be no shorter than 10 weeks in duration, and citing the number of the institution's license;

(2) Noncommercial academic research in Cuba specifically related to Cuba and for the purpose of obtaining a graduate degree. A student planning to engage in such transactions must carry a letter from the licensed institution stating that the individual is a student currently enrolled in a graduate degree program at the institution, stating that the research in Cuba will be accepted for credit toward that degree, and citing the number of the institution's license;

(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 undergraduate or graduate degree at the licensed U.S. institution and provided the course of study is no shorter than 10 weeks in duration. An individual planning to engage in such transactions must carry a letter from the licensed U.S. institution stating that the individual is a student currently enrolled in an undergraduate or graduate degree program at the U.S. institution, stating that the study in Cuba will be accepted for credit toward that degree and will be no shorter than 10 weeks in duration, and citing the number of the U.S. institution's license;

(4) Teaching at a Cuban academic institution by an individual regularly employed in a teaching capacity at the licensed institution, provided the teaching activities are related to an academic program at the Cuban institution and provided that the duration of the teaching will be no shorter than 10 weeks. An individual planning to engage in such transactions must carry a written letter from the licensed U.S. institution stating that the individual is a full-time permanent employee regularly employed in a teaching capacity at the U.S. institution and citing the number of the U.S. institution's license;

(5) Sponsorship, including the payment of a stipend or salary, of a Cuban scholar to teach or engage in other scholarly activity at the licensed institution (in addition to those transactions authorized by the general

license contained in § 515.571). Such earnings may be remitted to Cuba as provided in § 515.570 or carried on the person of the Cuban scholar returning to Cuba as provided in § 515.560(d)(3); or

(6) The organization of and preparation for activities described in paragraphs (a)(1) through (a)(5) of this section by a full-time permanent employee of the licensed institution. An individual engaging in such transactions must carry a written letter from the licensed institution stating that the individual is a full-time permanent employee of that institution and citing the number of the institution's license.

Note to paragraph (a): See §§ 501.601 and 501.602 of this chapter for applicable recordkeeping and reporting requirements. Exportation of equipment and other items, including the transfer of technology or software to foreign persons ("deemed exportation"), may require separate authorization from the Department of Commerce.

(b) *Other specific licenses.* Specific licenses may be issued to individuals on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions directly incident to the educational activities described in paragraphs (a)(2) and (a)(3) of this section but not engaged in pursuant to a specific license issued to an institution pursuant to paragraph (a) of this section.

* * * * *

■ 6. Revise § 515.567 to read as follows:

§ 515.567 Public performances, athletic and other competitions, and exhibitions.

(a) *Amateur and semi-professional international sports federation competitions.* Specific licenses, including for multiple trips to Cuba over an extended period of time, may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to athletic competition by amateur or semi-professional athletes or athletic teams wishing to travel to participate in athletic competition in Cuba, provided that:

(1) The athletic competition in Cuba is held under the auspices of the international sports federation for the relevant sport;

(2) The U.S. participants in the athletic competition are selected by the U.S. federation for the relevant sport; and

(3) The competition is open for attendance, and in relevant situations participation, by the Cuban public.

(b) *Public performances, other athletic or other non-athletic competitions, and exhibitions.* Specific licenses, including

for multiple trips to Cuba over an extended period of time, may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and other transactions that are directly incident to participation in a public performance, athletic competition not covered by paragraph (a) of this section, non-athletic competition, or exhibition in Cuba by participants in such activities, provided that:

(1) The event is open for attendance, and in relevant situations participation, by the Cuban public; and

(2) All U.S. profits from the event after costs are donated to an independent nongovernmental organization in Cuba or a U.S.-based charity, with the objective, to the extent possible, of benefiting the Cuban people.

(c) Specific licenses will not be issued pursuant to this section authorizing any debit to a blocked account.

Note to § 515.567: See § 515.571 for the authorization of certain transactions related to the activities of nationals of Cuba traveling in the United States.

■ 7. Amend § 515.570 by revising paragraphs (a), (d) introductory text, and (d)(1) and the note to the section to read as follows:

§ 515.570 Remittances to nationals of Cuba.

(a) *Periodic \$300 family household remittances authorized.* Persons subject to the jurisdiction of the United States who are 18 years of age or older are authorized to make remittances to nationals of Cuba who are members of the remitter's immediate family, provided that:

(1) The remitter's total remittances do not exceed \$300 per recipient household in any consecutive 3-month period, regardless of the number of members of the remitter's immediate family comprising that household;

(2) The remittances are not made from a blocked source unless:

(i) The remittances are authorized pursuant to paragraph (c) of this section; or

(ii) The remittances are made to a recipient in a third country and are made from a blocked account in a banking institution in the United States held in the name of, or in which the beneficial interest is held by, the recipient; and

(3) The recipient is not a prohibited official of the Government of Cuba or a prohibited member of the Cuban Communist Party. For the purposes of this paragraph, the term "prohibited official of the Government of Cuba"

means: Ministers and Vice-ministers, members of the Council of State, and the Council of Ministers; members and employees of the National Assembly of People's Power; members of any provincial assembly; local sector chiefs of the Committees for the Defense of the Revolution; Director Generals and sub-Director Generals and higher of all Cuban ministries and state agencies; employees of the Ministry of the Interior (MININT); employees of the Ministry of Defense (MINFAR); secretaries and first secretaries of the Confederation of Labor of Cuba (CTC) and its component unions; chief editors, editors and deputy editors of Cuban state-run media organizations and programs, including newspapers, television, and radio; and members and employees of the Supreme Court (Tribuno Supremo Nacional). For purposes of this paragraph, the term "prohibited members of the Cuban Communist Party" means: members of the Politburo; the Central Committee; Department Heads of the Central Committee; employees of the Central Committee; and secretary and first secretary of the provincial Party central committees.

(4) For the purposes of this paragraph (a), the term "member of the remitter's immediate family" means a spouse, child, grandchild, parent, grandparent, or sibling of the remitter or the remitter's spouse, as well as any spouse, widow, or widower of any of the foregoing.

Note to paragraph (a): The maximum amount set forth in this paragraph does not apply to remittances to a Cuban individual who has been unblocked or whose current transactions are otherwise authorized pursuant to § 515.505, because remittances to such persons do not require separate authorization.

* * * * *

(d) *Specific licenses.* Specific licenses may be issued on a case-by-case basis authorizing the following:

(1) Remittances by persons subject to U.S. jurisdiction, including but not limited to nongovernmental organizations and individuals, to independent non-governmental entities in Cuba, including but not limited to pro-democracy groups, civil society groups, and religious organizations, and to members of such groups or organizations.

* * * * *

Note to § 515.570: For the rules relating to the carrying of remittances to Cuba, see paragraph (c)(4) of § 515.560. Persons subject to U.S. jurisdiction are prohibited from engaging in the collection or forwarding of remittances to Cuba unless authorized pursuant to § 515.572. For a list of authorized U.S. remittance service providers, see the

following Web site: http://www.treas.gov/offices/eotffc/ofac/sanctions/cuba_tsp.pdf.

■ 8. Amend § 515.572 by revising paragraphs (a)(3) and (c)(4)(i) to read as follows:

§ 515.572 Authorization of transactions incident to the provision of travel services, carrier services, and remittance forwarding services.

(a) * * *

(3) *Authorization of remittance forwarders.* Persons subject to U.S. jurisdiction, including persons who provide remittance forwarding services and noncommercial organizations acting on behalf of donors, who wish to provide services in connection with the collection or forwarding of remittances authorized pursuant to this part must obtain a license from the Office of Foreign Assets Control. Depository institutions, as defined in § 515.533, must obtain a license pursuant to this section only for the provision of services in connection with the collection and forwarding of remittances authorized pursuant to paragraphs (a), (b), and (c) of § 515.570. Depository institutions do not need a license pursuant to this section to provide such services with respect to any other remittances authorized pursuant to this part.

* * * * *

(c) * * *

(4)(i) In the case of applications for authorization to serve as travel or carrier service providers, a report on the forms and other procedures used to establish that each customer is in full compliance with U.S. law implementing the Cuban embargo and either qualifies for one of the general licenses contained in this part authorizing travel-related transactions in connection with travel to Cuba or has received a specific license from the Office of Foreign Assets Control issued pursuant to this part. In the case of a customer traveling pursuant to a general license, the applicant must demonstrate that it requires each customer to attest, in a signed statement, to his or her qualification for the particular general license claimed. The statement must provide facts supporting the customer's belief that he or she qualifies for the general license claimed. In the case of a customer traveling under a specific license, the applicant must demonstrate that it requires the customer to furnish it with a copy of the license. The copy of the signed statement or the specific license must be maintained on file with the applicant.

* * * * *

■ 9. Remove the reference to "§ 515.565(a)(2)(v)" each place it

appears in part 515 and add in its place
“§ 515.565(a)(5)”).

Dated: June 10, 2004.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: June 10, 2004.

Juan C. Zarate,

*Deputy Assistant Secretary (Terrorist
Financing and Financial Crimes), Department
of the Treasury.*

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