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Sad Biden-Harris Administration Finds More Digestible To Reverse A Trump-Pence Administration Decision Rather Than Change A Obama-Biden Administration Decision

Know Your Customer (KYC): Compliance Issues- What Is A Bank's Level Of Responsibility To Obtain Documents From A MSME?

Banks Want Certainty So They Are Not Subject To Enormous Fines From OFAC

OFAC Changes To The "*Frequently Asked Questions*" Rather Than Changes To The Code Of Federal Regulations (CFR) Will Not Be Enough For Most Banks.

Still No Correspondent Banking- Retaining A Triangle Rather Than A Straight Line

Biden Administration Retains Distain For Commerce

Interesting Who Was Briefed And Who Was Excluded- Continuing To Maintain That The U.S.-Cuba Commercial Landscape Is First And Only For Individuals Of Cuban Descent Is A Mistake

First OFAC And BIS Licenses For Most Of The Significant Commercial Engagements During The Last Twenty-Five Years Have Been By Individuals, Organizations, And Companies Not Connected With Individuals Of Cuban Descent

On 19 September 2023, the United States Department of State, Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury, and Bureau of Industry and Security (BIS) of the United States Department of Commerce are reported to publish new Republic of Cuba-related regulations and revised Republic of Cuba-related regulations.

The focus is upon assisting the redevelopment of Micro, Small, and Medium-Size Enterprises (MSMEs) owned by Republic of Cuba nationals residing in the Republic of Cuba.

MSMEs are expected to be authorized to engage with and to have operating accounts within financial institutions located in the United States. Financial institutions located outside of the United States will again be permitted to engage in U-Turn transactions. Individuals subject to United States jurisdiction may be authorized by general license (as permitted now by a specific license from the OFAC) to provide direct investment in and direct financing to a MSME.

- U-turn financial transactions are essential for customers located outside of the United States for Denver, Colorado-based **Western Union Company** (2022 revenue US\$4.5 billion) to manage electronic remittance transfers to the Republic of Cuba. For example, when a customer in **Spain** uses an online portal or visits a retail location to send funds to the Republic of Cuba, Western Union Company needs to have an operating account in Spain from which to send the funds to the Republic of Cuba. Absent U-turn authorization, the remittance cannot be sent to the Republic of Cuba and cannot be sent to another financial institution.

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On 10 May 2022, the **Biden-Harris Administration** (2021-) through a two-year license issued by the OFAC-authorized the first direct investment in and direct financing to a privately-owned company in the Republic of Cuba owned by a Republic of Cuba national. The OFAC license application was submitted on 10 June 2021.

- LINK: [Biden-Harris Administration Approves First Equity Investment Since 1960 In A Private Cuban Company May 10, 2022](#)
- LINK: [With U.S. Government Authorization For First Direct Equity Investment Into A Private Company In Cuba, Here Is Important Context And Details. About The Parties; About The Message. May 16, 2022](#)
- LINK: [Biden Administration Will Use Cuba's Authorization Of SMSE's As Means To Expand Support For Cuba Private Sector- U.S. Investments And Loans May Be Next June 02, 2021](#)

NOTE: Despite numerous entreaties for nearing two years, the government of the Republic of Cuba has yet to publish regulations for the process by which a MSME may obtain direct foreign investment and direct financing.

The Biden-Harris Administration has, although with unnecessary delay, authorized Republic of Cuba-based MSMEs to establish operating accounts at financial institutions located in the United States.

The Biden-Harris Administration has reversed a 9 October 2019 decision by the Trump-Pence Administration (2017-2021) and re-authorized U-Turn transactions by financial institutions located outside of the United States. This change will be particularly of value to Western Union Company and other electronic payment processors.

However, troubling that the Biden-Harris Administration finds far more digestible to reverse a decision by the Trump-Pence Administration than reverse a decision by the Obama-Biden Administration (2009-2017).

In 2015, the Obama-Biden Administration *authorized* United States-based financial institutions to have correspondent accounts with Republic of Cuba government-operated financial institutions, *but did not authorize* Republic of Cuba government-operated financial institutions to have correspondent accounts with United States-based financial institutions. The regulations were managed by the OFAC.

Absent direct correspondent banking, commercial transactions from the Republic of Cuba to the United States and from the United States to the Republic of Cuba will continue to be required to use a third-country. For small transactions by an MSME, the financial institution fees may be onerous and thus discouraging.

Fixing the problem with direct correspondent banking is not a big deal. It is a technical fix to make workable what is not malfunctioning, but is nonfunctioning. A transaction requiring a third-country connection is not cost-effective, not efficient, and not transparent. *It is expensive, inefficient, and absent transparency.*

- LINK: **State Department, NSC, OFAC, BIS, USDA Don't Understand Requirements For Financial Plumbing To Function Efficiently. They Excel In Creating, Maintaining, And Defending Clogs.**

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If Republic of Cuba government-operated financial institutions choose not to seek correspondent accounts with United States-based financial institutions, then MSME activity will remain constrained.

Consequential to permit the choice- engage or the status quo. Engagement will require efficiency and transparency, both of which have generally been avoided by the government of the Republic of Cuba. Force them to choose.

In the banking system, the most efficient process to move funds is through point-to-point transactions. Straight lines rather than triangles. Think of two one-way arteries operating adjacent to one another. In this instance, a two-way financial autobahn.

In June 2022, Elk Grove Village, Illinois-based Chicago, Illinois-based **First American Bank** (2022 assets approximately US\$6 billion) acquired from *Centennial Bank* an operating account (and Republic of Cuba-focused branch personnel) for the Embassy of the Republic of Cuba in Washington, DC. First American Bank has since ceased managing the account for the Embassy of the Republic of Cuba. If Republic of Cuba government-operated financial institutions are authorized by the OFAC to establish correspondent accounts with First American Bank and if First American Bank were to establish a correspondent account with a Republic of Cuba government-operated financial institution, there would be an opportunity for direct two-way fund transfers for authorized transactions by MSMEs and other authorized transactions (agricultural commodities, food products, healthcare products (medical equipment, medical instruments, medical supplies, pharmaceuticals, informational materials, travel (visa processing, overflight fees, landing fees, accommodation payments- Airbnb, etc.), remittances, and entrepreneurial activities (direct investment to and direct financing for privately-owned companies located in the Republic of Cuba, etc.). This same scenario would apply to almost any United States-based financial institution.