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NSC, State Department, OFAC, BIS, And USDA Do Not Understand What Is Required For Arteries And Plumbing To Function Efficiently. They Excel In Creating, Maintaining, And Defending Clogs.

Disciples Of *Financial Benign Neglect*? Antony Blinken, Andrea Gacki, Juan Gonzalez, Brian Nichols, Gina Raimondo, Jacob Sullivan, Thomas Vilsack, And Janet Yellen.

A Simple Technical Correction. One-Way To Two-Way. No Big Deal.

The Delay Solely Harms Those Entrepreneurs In The Republic Of Cuba The Biden-Harris Administration Professes To Care Deeply About.

When Companies Believe The White House Is Choosing To Maintain Restrictions Upon The Movement Of Funds, That Is A Flashing Red Light To Avoid Doing Anything With Cuba- License Or No License.

Delivering direct investment and direct financing from the United States to micro, small, and medium-sized enterprises (**MSME**s) located in the Republic of Cuba requires plumbing- commercial plumbing, but more specifically, *financial plumbing*.

In the body, arteries pump blood in one direction- and the arteries do that efficiently primarily due to pressure and velocity. Using the shortest pathways for the blood to move from point to point. Any unnecessary detours delay and reduce blood flow. The body does not flourish, it withers.

- **Daniel Patrick Moynihan**, a Democratic Party member of the United States Senate from New York State (1977-2001) wrote controversially while serving in 1970 as Urban Affairs Advisor to Richard Nixon, President of the United States (1969-1974) about the concept of "*benign neglect*" as it related minorities. Benign neglect is defined as *"an attitude or policy of ignoring an often delicate or undesirable situation that one is held to be responsible for dealing with."*

- The **Biden-Harris Administration** (2021-) is guilty of not only embracing *financial benign neglect* with respect to its refusal to re-authorize direct correspondent banking between the United States and the Republic of Cuba, but also adopting a python-like grip upon absurdity.

The White House recognizes there is neither justification nor is it sensical to authorize a United States-based financial institution to have a correspondent account with a Republic of Cuba government-operated financial institution, while not authorizing a Republic of Cuba government-operated financial institution to have a correspondent account with a United States-based financial institution.

The reality is that by authorizing 50% of what is required, the other 50% becomes unusable. As a result, all is unusable. *Is more egregious The White House does not care or The White House does not grasp the negligence of its decision?*

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.***

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.

Perhaps, this analogy might be useful: The United States Postal Service (**USPS**) contracts with companies to deliver directly invoices to customers, but the USPS does not permit customers to deliver directly their payments to the companies. So, customers receive their invoices on time, but are not permitted to deliver their payments on time. They must find a third-party. That requirement results in additional expense, additional time, and additional inconvenience.

What makes the global financial system efficient? No speed limit on the financial autobahn and active government encouragement for financial institutions to develop ever faster methods to deliver funds.

Today, the Biden-Harris Administration embraces an anachronistic perspective about appreciating the essence of the private sector. Arrogance too.

Straightforward that the more points through which funds need to interact, the more time will be required for the completion of the transaction and the cost of the transaction will increase because each point will want to be paid. The private sector appreciates this reality. The public sector may appreciate it, but does not care about it. When the private sector changes its position, it is deemed to be adapting. When the public sector changes its position, it is defined as weakness rather than embracing new realities or correcting a wrong.

- **From United States Department of State:** "*Regarding direct correspondent banking, U.S. regulations do of course allow for U.S. banks to establish correspondent accounts in Cuba, but not the other way around, as you* [recipient] *note. Two-way direct correspondent banking would indeed likely decrease transactions costs. However, it is our understanding that even if the United States were to authorize direct two-way correspondent banking, Cuban banks would not actually establish accounts in the United States due to outstanding legal judgements against the Cuban government that would freeze and collect any funds a state financial institution held in the United States. Therefore, I expect you're* [recipient] *unlikely to see direct correspondent banking on the horizon*."

Officials of the Biden-Harris Administration extoll the existence of general licenses from Office of Foreign Assets Control (**OFAC**) of the United States Department of the Treasury and from the Bureau of Industry and Security (**BIS**) of the United States Department of Commerce which do not require an application. They extoll the authorizations and self-certifications from the United States Department of Agriculture (**USDA**) and the United States Department of State. They extoll too the availability of specific licenses which require an application to support MSMEs in the Republic of Cuba.

However, these same officials lament the lack of use of the general licenses and applications for specific licenses, placing blame upon those who should be interested, but are not interested enough to pursue what is available. Yet, they acknowledge the lack of re-authorizing direct correspondent banking is an impediment.

The position is both lamentable and revealing because a primary reason for a lack of interest is the refusal of these same officials- who generally have no entrepreneurial background, to acknowledge their primary role in the process of stagnation.

By adhering to the political position that re-authorizing direct correspondent banking while knowing fully the consequences of adhering to that political position, they equate stubbornness with intellectualism; serving as defender of the status quo despite incontrovertible evidence the position contributes directly to a lack of interest by those who are their primary constituency.

If this analysis sounds bizarre, it is because it is bizarre. The position reinforces a bureaucracy mired in a courage of its ignorance. Believing with their limited private sector experience and virtually no entrepreneurial experience, they know best what is needed by the those seeking to engage with MSMEs in the Republic of Cuba.

Most appalling is they take pride in their refusal to acknowledge they are wrong. They cherish the power they have over the private sector in the United States.

They can’t appreciate the eventual confluence of events- where their lack of common sense collides with their orgasmic fixation upon applauding simultaneously their actions and inactions.

The BIS, OFAC, Department of State, and USDA continue to issue licenses, issue approvals, and encourage activities which do not require authorization. *That’s fine.*

The problem is this increasing quantity of licenses and promotion of activities not requiring licenses do need functioning financial plumbing. Those using general licenses and specific licenses need to move funds directly from the United States to the Republic of Cuba and from the Republic of Cuba to the United States.

When representatives of the Biden-Harris Administration smugly defend their position that perfectly acceptable, logical for commercial funds from the United States to the Republic of Cuba be required to transit a third country and commercial funds from the Republic of Cuba to the United States be required to transit a third country, how can these representatives be engaged on a serious basis?

In 2015, the **Obama-Biden Administration** (2009-2017) 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.

That decision was ridiculous then and remains even more so today.

What is worse? The initial decision in 2015 or the continued defense of the decision in 2023. Particularly accounting for the Biden-Harris Administration focus upon supporting the re-emerging private sector in the Republic of Cuba… which requires support from the private sector in the United States… and the cost-effective, efficient, and transparent movement of funds- in two directions.

Officials of the Biden-Harris Administration curiously question why the United States private sector does not embrace more fulsomely opportunities existing through the use of general license provisions afforded by the OFAC and BIS. Two answers:

- *First*, prior to and increasing since the Republic of Cuba was returned by the United States Department of State in January 2021 to the *List of State Sponsors of Terrorism* during the final days of the **Trump-Pence Administration** (2017-2021), United States-based companies and United States-based financial institutions remain hesitant to engage with transactions involving the Republic of Cuba. The primary reasons: fear of running afoul of OFAC compliance requirements and the resulting OFAC financial penalties along with limited viable commercial opportunities provided in the Republic of Cuba.

- *Second*, the inability to transfer funds cost-effectively, efficiently, and transparently from the United States to the Republic of Cuba and from the Republic of Cuba to the United States. The Obama-Biden Administration could have remedied the issue. They chose not to. The Biden-Harris Administration can remedy the issue. They thus far choose not to. Consistency of nonsensical decisions.

U.S. Banks And Third Countries

In 2015, Pompano Beach, Florida-based **Stonegate Bank** (2017 assets approximately US$2.9 billion) acquired accounts for the Embassy of the Republic of Cuba in Washington, DC, and the Permanent Mission of the Republic of Cuba to the United Nations in New York after Buffalo, New York-based **M&T Bank Corporation** (2022 assets approximately US$200 billion) notified the embassy and mission that it would no longer provide services due to challenges with regulatory compliance for many accounts with embassies and missions.

Stonegate Bank in 2015 received a license from the OFAC for a correspondent account at Banco Internacional de Comercia SA (**BICSA**), a member of Republic of Cuba government-operated Grupo Nuevo Banca SA, created by Corporate Charter No. 49 in 1993 and commenced operation in 1994.

- According to the Republic of Cuba, *"Its [BICSA] main activity is 'enterprises' bank' carried through its central services and five branches based in the country's capital, Santiago de Cuba and Villa Clara. It records all transactions in real time providing its customers with card and remote banking services while it is working on developing other methods of electronic banking. Its institutional clients, national or foreign, receive a complete accounting and documentary service, while national entities also enjoy of significant volumes of credit facilities. Practically all sectors of the economy benefit from all this, such as that of agriculture, the food industry, the basic and light industries, transportation, aviation, fishing, construction, domestic and foreign trade, the iron and steel industry, sugar, informatics, communications and others with not only economic importance but also social, such as health, water supply, education, culture and sports. Credit policy followed by the Bank is dictated in a collegiate way by its Credit*

- *Committee on the basis of a strict analysis and control in loan making. The Bank counts on correspondents in the five continents, the majority are first class banks, mainly Europeans and Americans. Equity capital of shareholders (Grupo Nueva Banca with the biggest share and Bancholding), near the USD95 millions with a balance ranging from 550 to 600 millions, make sure the Bank has a strong solvency ratio."*

Without explanation the Obama-Biden Administration did not authorize BICSA under a license from the OFAC to have a correspondent account at Stonegate Bank, so Stonegate Bank routed transactions for approximately eighty (80) customers on a regular basis through Panama City, Panama-based **Multibank** (2019 assets approximately US$5 billion) which had dealings with the Republic of Cuba.

In 2017, Conway, Arkansas-based Home BancShares (2022 assets approximately US$22.8 billion) through its subsidiary *Centennial Bank* purchased Stonegate Bank. Stonegate Bank operations were absorbed into *Centennial Bank*.

On 16 June 2020, Bogota, Colombia-based **Grupo Aval Acciones y Valores SA** (2022 assets approximately US$90.1 billion) reported that "*On May 25th, Banco de Bogotá, through its subsidiary Leasing Bogotá S.A. Panamá, acquired 96.6% of the ordinary shares of Multi Financial Group* [Multibank]. *As part of the acquisition process, MFG's operation in Cuba was closed and as part of the transaction. Grupo Aval complies with OFAC regulations and doesn't have transactional relationships with Cuba*."

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 BICSA is authorized by the OFAC to establish a correspondent account with First American Bank and if First American Bank were to establish a correspondent account with BICSA, there would be an opportunity for direct two-way fund transfers for 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.

US$7+ Billion Through Third Countries

For the period December 2001 through March 2023 (the most recently available trade data) from when the first agricultural commodity and food products were exported from the United States to the Republic of Cuba under provisions of the Trade Sanctions Reform and Export Enhancement Act (**TSREEA**) of 2000, the value delivered was approximately **US$6,960,713,163.00.**

For the period 2003 through March 2023 (the most recently available trade data), the value of healthcare products (medical equipment, medical instruments, medical supplies, pharmaceuticals) delivered from the United States to the Republic of Cuba under provisions of the Cuban Democracy Act (**CDA**) of 1992 was approximately **US$36,480,694.00**.

Additional tens of millions of United States Dollars in commercial payments to the Republic of Cuba for telecommunications, aircraft overflights, cargo, informational materials, artwork, aircraft landing, authorized travel, casa particulares (Airbnb), passport renewals, etc.

All these funds moved not cost-effectively, efficiently, and transparently, but expensively, inefficiently, and absent transparency through third-country financial institutions. Those third-country financial institutions receive a fee from each transaction. Undeserved fees thus far on more than U$7 billion in funds.

From OFAC Frequently Asked Questions

742. Are financial institutions other than banks permitted to open correspondent accounts in Cuba? Depository institutions, as defined in 31 CFR § 515.333, which include certain financial institutions other than banks, are permitted to open correspondent accounts at banks in Cuba. See 31 CFR § 515.584(a). Released on September 23, 2020

743. Are Cuban banks permitted to open correspondent accounts at U.S. banks? No. U.S. depository institutions are permitted to open correspondent accounts at Cuban banks located in Cuba and in third countries, and at foreign banks located in Cuba, but Cuban banks are not generally licensed to open such accounts at U.S. banks. See note to 31 CFR § 515.584(a). Released on November 8, 2017

744. May correspondent accounts authorized pursuant to 31 CFR § 515.584(a) or used for transactions authorized by 31 CFR § 515.584(g) be established and maintained in U.S. dollars? Yes. Correspondent accounts of depository institutions (as defined in 31 CFR § 515.333) at a financial institution that is a national of Cuba authorized pursuant to § 515.584(a) may be established and maintained in U.S. dollars. Such accounts may be used only for transactions that are authorized by or exempt from the CACR. Transactions necessary to establish and maintain such correspondent accounts — such as originating, processing, and terminating authorized funds transfers in U.S. dollars — are authorized. Additionally, correspondent accounts used for transactions authorized by 31 CFR § 515.584(g), which permits banking institutions as defined in 31 CFR § 515.314(g) that are persons subject to U.S. jurisdiction to accept, process, and give credit to U.S. dollar monetary instruments presented indirectly by a financial institution that is a national of Cuba, may be denominated in U.S. dollars. However, financial institutions that are nationals of Cuba remain prohibited from opening correspondent accounts at a U.S. financial institution. For a complete description of what these general licenses authorize and the restrictions that apply, see 31 CFR § 515.584(a) and (g). § 515.584 Certain financial transactions involving Cuba.

- Correspondent accounts. Depository institutions, as defined in § 515.333, are authorized to engage in all transactions necessary to establish and maintain correspondent accounts at a financial institution that is a national of Cuba, provided that such accounts are used only for transactions authorized pursuant to, or exempt from, this part.

- (g) Any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction is authorized to accept, process, and give value to U.S. dollar monetary instruments presented for processing and payment by a banking institution located in a third country that is not a person subject to U.S. jurisdiction or a Cuban national and that has received the U.S. dollar monetary instruments from a financial institution that is a national of Cuba for which it maintains a correspondent account and which received the U.S. dollar monetary instruments in connection with an underlying transaction that is authorized, exempt, or otherwise not prohibited by this part, such as dollars spent in Cuba by authorized travelers or a third-country transaction that is not prohibited by this part. Note to paragraph (g): Correspondent accounts used for transactions authorized pursuant to § 515.584(g) may be denominated in U.S. dollars."