

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: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is amending the Cuban Assets Control Regulations to further implement elements of the policy announced by the President on December 17, 2014, to engage and empower the Cuban people. Among other things, these amendments authorize certain transactions related to Cuban-origin pharmaceuticals and joint medical research; add, expand, and clarify authorizations relating to trade and commerce; authorize certain civil aviation safety-related services; further facilitate authorized travel to Cuba; and expand the authorizations for grants and humanitarian-related services designed to directly benefit the Cuban people. These amendments also implement certain technical and conforming changes. OFAC is making these amendments in support of the process of normalizing bilateral relations with Cuba.

DATES: *Effective:* October 17, 2016.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202-622-2480, Assistant Director for Regulatory Affairs, tel.: 202-622-4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202-622-2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202-622-2410.

SUPPLEMENTARY INFORMATION:**Electronic Availability**

This document and additional information concerning OFAC are available from OFAC's Web site (www.treasury.gov/ofac).

Background

The Department of the Treasury issued the Cuban Assets Control Regulations, 31 CFR part 515 (the "Regulations"), on July 8, 1963, under the Trading With the Enemy Act (50 U.S.C. 4301-4341). OFAC has amended the Regulations on numerous occasions.

Most recently, on January 16, June 15, and September 21, 2015, and January 27 and March 16, 2016, OFAC amended

the Regulations, in coordinated actions with the Department of Commerce, to implement certain policy measures announced by the President on December 17, 2014, to further engage and empower the Cuban people. Today, OFAC and the Department of Commerce are taking additional coordinated actions in support of the President's Cuba policy.

OFAC is making additional amendments to the Regulations with respect to health, trade and commerce, civil aviation safety, travel and related transactions, humanitarian-related activities, and certain other activities, as set forth below.

Health

Joint medical research. OFAC is amending section 515.547 to authorize persons subject to U.S. jurisdiction to engage in joint medical research projects with Cuban nationals. This general license expands the scope of joint research projects that are authorized to include both non-commercial and commercial medical research.

Cuban-origin pharmaceuticals. OFAC is also amending section 515.547 to add new authorizations related to Cuban-origin pharmaceuticals. Specifically, section 515.547 now authorizes transactions incident to obtaining approval from the U.S. Food and Drug Administration (FDA) of Cuban-origin pharmaceuticals. The general license includes discovery and development, pre-clinical research, clinical research, regulatory review, regulatory approval and licensing, regulatory post-market activities, and the importation into the United States of Cuban-origin pharmaceuticals. Section 515.547 also now authorizes the importation into the United States, and the marketing, sale, or other distribution in the United States, of FDA-approved Cuban-origin pharmaceuticals.

In addition, revised section 515.547 authorizes persons subject to U.S. jurisdiction who are engaging in such authorized activities to open, maintain, and close bank accounts at Cuban financial institutions as long as such accounts are used solely for the authorized activities. The statement of licensing policy previously contained in section 515.547 for the importation of Cuban-origin commodities for bona-fide research purposes in sample quantities remains in effect for items that would not be authorized by the new general license in section 515.547(b).

Trade and Commerce

Transactions incident to exports and reexports to Cuba. Section 515.533(a) of the Regulations authorizes transactions

ordinarily incident to certain exportations of items from the United States, as well as certain reexportations of items from a third country, to Cuba, provided that the exportations or reexportations are authorized by the Department of Commerce. OFAC is removing references to "100% U.S.-origin items" in this section for clarity and to minimize the circumstances under which persons authorized by Commerce to export or reexport items to Cuba are required to obtain a specific license from OFAC. Consistent with Section 1706 of the Cuban Democracy Act of 1992 (22 U.S.C. 6005) (CDA), this general license does not authorize any transaction between a U.S.-owned or -controlled firm in a third country and Cuba for the exportation to Cuba of commodities produced in a country other than the United States or Cuba. Such transactions must be specifically licensed pursuant to section 515.559 in addition to any required authorization from the Department of Commerce. There are also restrictions imposed by the CDA on the types of transactions that may be licensed pursuant to that section.

OFAC is also making a technical correction to section 515.533(a) to remove references to "agricultural items" so that only "agricultural commodities," as defined in 15 CFR part 772, are subject to the limitations on payment and financing terms required by the Trade Sanctions Reform and Export Enhancement Act of 2000, 22 U.S.C. 7207(b)(1). OFAC is making a conforming edit with respect to section 515.584(f) and also expanding that authorization to apply to any banking institution.

Finally, OFAC is adding a note to section 515.533(a) to clarify that this paragraph authorizes the importation into the United States of items from a third country for exportation to Cuba pursuant to a license or other authorization by the Department of Commerce. OFAC is making additional technical and conforming changes to remove certain obsolete language and consolidate all of the conditions applicable to this general license in a single paragraph.

Importation of certain items previously exported or reexported to Cuba and servicing and repair of such items. OFAC is further amending section 515.533 to add a new general license authorizing the importation into the United States or a third country of items previously exported or reexported to Cuba pursuant to section 515.533 or 515.559. This authorization will allow recipients of authorized exports or reexports to Cuba to return the items to

the United States or a third country, including for service and repair. Irrespective of involvement in the importation of these items, persons subject to U.S. jurisdiction are authorized to service and repair such items. The exportation or reexportation of serviced, repaired, or replacement items to Cuba, however, must be separately authorized pursuant to section 515.533(a) or 515.559, in addition to any Department of Commerce authorization that may be required.

Certain vessel transactions. Section 515.207(a) prohibits foreign vessels that call on Cuban ports for trade purposes from entering U.S. ports for the purpose of loading or unloading freight for 180 days from the date they depart Cuba, absent OFAC authorization. OFAC is amending section 515.550 to add an additional exception to the prohibition in section 515.207(a) for foreign vessels that have carried from a third country to Cuba only items that, were they subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR), would be designated as EAR99 or would be controlled on the Commerce Control List only for anti-terrorism reasons.

Contingent contracts. OFAC is adding a new general license in section 515.534 authorizing persons subject to U.S. jurisdiction to enter into certain contingent contracts for transactions prohibited by the Regulations and to engage in transactions ordinarily incident to negotiating and entering into such contracts. The performance of such contracts—making deposits, receiving payments, providing certain services or goods, etc.—must be made contingent on OFAC authorizing the underlying transactions or authorization no longer being required. Furthermore, if the transaction implicates another Federal agency's licensing requirements, then the contract must make obtaining the necessary license(s) from such agency or the removal of that licensing requirement an additional precondition of performance. OFAC is making a conforming change to section 515.533 to remove a provision in that section authorizing certain contingent contracts that are now authorized by this new general license.

Civil Aviation Safety

Civil aviation safety-related services. OFAC is amending section 515.572 to add a new general license authorizing persons subject to U.S. jurisdiction to provide Cuba and Cuban nationals, wherever located, with services aimed at ensuring safety in civil aviation and

the safe operation of commercial aircraft.

Travel and Related Transactions

OFAC is making several changes to rules related to the importation of Cuban-origin merchandise as accompanied baggage and certain travel-related authorizations.

Importation of Cuban merchandise. Section 515.560 previously authorized persons subject to U.S. jurisdiction engaging in authorized travel to Cuba to acquire merchandise in Cuba and import it into the United States as accompanied baggage, provided that the merchandise was for personal use only and had a value of \$400 or less (with no more than \$100 of such merchandise consisting of alcohol or tobacco products). OFAC is now removing these monetary value limits, which means that the normal limits on duty and tax exemptions for merchandise imported as accompanied baggage and for personal use will apply. OFAC will continue to require that such merchandise be imported as accompanied baggage and for personal use.

Certain transactions in third countries. Previously, section 515.585 authorized persons who are subject to U.S. jurisdiction but located in countries other than the United States or Cuba to, among other things, purchase or acquire merchandise subject to the prohibitions in section 515.204 provided that the merchandise was for personal consumption while in a third country. OFAC is amending section 515.585 to remove the limitation that the merchandise be consumed while abroad, to authorize the importation of such merchandise into the United States as accompanied baggage provided that the merchandise is for personal use only, and to clarify that this authorization is applicable to persons subject to U.S. jurisdiction who are present in a third country, such as when traveling in or through the third country.

Foreign passengers' baggage. Previously, section 515.569 authorized foreign passengers to import Cuban-origin goods, excluding Cuban-origin alcohol and tobacco products, as accompanied baggage, provided that the goods were not in commercial quantities and not imported for resale. OFAC is now removing the exclusion for alcohol and tobacco products while retaining the conditions that the goods not be in commercial quantities and not be imported for resale.

Professional research and professional meetings in Cuba. Section 515.564 includes a general license

authorizing persons subject to U.S. jurisdiction to travel to Cuba for purposes of attending or organizing professional meetings or conferences in Cuba. Today, OFAC is removing the restriction in section 515.564(a)(2)(i) that the purpose of such meeting or conference not be for the promotion of tourism in Cuba, and making additional conforming edits. OFAC is also taking this opportunity to clarify section 515.564 by removing paragraphs (a)(1)(ii) and (a)(2)(iii), which included language inconsistent with adjacent paragraphs.

Remittances for third-country national travel. OFAC is amending section 515.570 to authorize persons subject to the jurisdiction of the United States to make remittances to third-country nationals for travel by third-country nationals to, from, and within Cuba, provided that such travel would be authorized by a general license if the traveler were a person subject to U.S. jurisdiction. OFAC is also making a clarifying change in section 515.420 to make clear that the interpretation in that section relates only to persons subject to U.S. jurisdiction.

Recordkeeping requirements for providers of travel and carrier services. In the case of customers traveling pursuant to a specific license, in order to ease the burden on persons subject to U.S. jurisdiction that provide authorized travel or carrier services pursuant to section 515.572, OFAC is amending section 515.572(b)(1) to make clear that such service providers may collect and retain either a copy of the traveler's specific license or the traveler's specific license number.

Humanitarian-Related Transactions

Additional grants, scholarships, and awards. Sections 515.565 and 515.575 previously authorized the provision of grants, scholarships, and awards in which Cuba or Cuban nationals have an interest (including as recipients) with respect to educational and humanitarian activities, respectively. OFAC is now expanding that authorization to authorize the provision of grants, scholarships, and awards in two additional categories of activities: scientific research and religious activities. OFAC is consolidating these authorizations in new section 515.590 and making conforming edits to sections 515.565 and 515.575.

Services related to developing Cuban infrastructure. OFAC is adding section 515.591 to authorize persons subject to the jurisdiction of the United States to provide Cuba or Cuban nationals with services related to developing, repairing, maintaining, and enhancing Cuban

infrastructure, consistent with the export or reexport licensing policy of the Department of Commerce. “Infrastructure” in this case means systems and assets used to provide the Cuban people with goods and services produced by the public transportation, water management, waste management, non-nuclear electricity generation, and electricity distribution sectors, as well as hospitals, public housing, and primary and secondary schools.

Other Amendments

Definition of prohibited officials of the Government of Cuba and prohibited members of the Cuban Communist Party. OFAC is amending sections 515.337 and 515.338 to narrow the definitions in these sections.

Additional technical and conforming edits. OFAC is also making several technical and conforming edits, including adjusting a cross-reference in the note to section 515.421(a)(4) to reflect that the payment and financing terms for agricultural commodities are now located in section 515.533(a)(4); removing sections 515.531 and 515.803 as obsolete; adding the word “repair” to the general licenses for certain travel-related transactions in sections 515.533 and 515.559 to clarify that travel for such purposes has been within the scope of the existing authorizations; removing paragraphs (a) and (b) of section 515.536, as all activities described in such paragraphs are authorized by the general license in section 515.562 relating to official business of the U.S. government; correcting the cross-reference in section 515.560(c)(6)(ii) to the definition of depository institution to be section 515.333; adding the words “paragraphs (a)(1) through (a)(4)” in the first sentence of section 515.572(b)(1) to clarify that records pertaining to passengers do not need to be maintained for transactions authorized pursuant to paragraph (a)(5) of section 515.572; removing a duplicative “subject” from Note 1 to section 515.578(a); and adding the word “authorized” to complete the sentence in section 515.584(c).

Public Participation

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

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the “Reporting, Procedures and Penalties Regulations”) and section 515.572 of this part. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control numbers 1505–0164, 1505–0167, and 1505–0168. 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, Banking, Banks, Blocking of assets, Credit, Cuba, Financial transactions, Foreign trade, Reporting and recordkeeping requirements, Sanctions, Services, Travel restrictions.

For the reasons set forth in the preamble, the Department of the Treasury’s Office of Foreign Assets Control amends 31 CFR part 515 as set forth below:

PART 515—CUBAN ASSETS CONTROL REGULATIONS

- 1. The authority citation for part 515 continues to read as follows:

Authority: 22 U.S.C. 2370(a), 6001–6010, 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 4301–4341; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 104–114, 110 Stat. 785 (22 U.S.C. 6021–6091); Pub. L. 105–277, 112 Stat. 2681; Pub. L. 111–8, 123 Stat. 524; Pub. L. 111–117, 123 Stat. 3034; E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; 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 C—General Definitions

- 2. Revise § 515.337 to read as follows:

§ 515.337 Prohibited officials of the Government of Cuba.

For purposes of this part, the term *prohibited officials of the Government of Cuba* means members of the Council of Ministers and flag officers of the Revolutionary Armed Forces.

- 3. Revise § 515.338 to read as follows:

§ 515.338 Prohibited members of the Cuban Communist Party.

For purposes of this part, the term *prohibited members of the Cuban Communist Party* means members of the Politburo.

Subpart D—Interpretations

- 4. Revise the second sentence of § 515.420 to read as follows:

§ 515.420 Travel to Cuba.

* * * The prohibition set forth in § 515.201(b)(1) also prohibits payment for air travel by a person subject to U.S. jurisdiction to Cuba on a third-country carrier unless the travel is pursuant to an OFAC general or specific license.

- 5. Revise the note to § 515.421(a)(4) to read as follows:

§ 515.421 Transactions ordinarily incident to a licensed transaction.

- (a) * * *
- (4) * * *

Note to paragraph (a)(4): See § 515.533(a)(4) for payment and financing terms for exportations or reexportations authorized pursuant to § 515.533.

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

§ 515.531 [Removed]

- 6. Remove § 515.531 from subpart E.
- 7. Revise § 515.533 to read as follows:

§ 515.533 Exportations from the United States to Cuba; reexportations to Cuba; importation and servicing or repair of certain items previously exported or reexported to Cuba.

(a) All transactions ordinarily incident to the exportation of items from the United States, or the reexportation of items from a third country, to any person within Cuba are authorized, provided that:

(1) The exportation or reexportation is licensed or otherwise authorized by the Department of Commerce under the provisions of the Export Administration Act of 1979, as amended (50 U.S.C. 4601–4623) (see the Export Administration Regulations, 15 CFR parts 730 through 774);

(2) The transaction is not a transaction between a U.S.-owned or -controlled firm in a third country and Cuba for the exportation to Cuba of commodities produced in a country other than the United States or Cuba;

(3) The transaction is not financed from any blocked account; and

(4) In the case of agricultural commodities, as that term is defined in 15 CFR part 772, only the following payment and financing terms are used:

(i) Payment of cash in advance. For the purposes of this section, the term “payment of cash in advance” shall mean payment before the transfer of title to, and control of, the exported items to the Cuban purchaser; or

(ii) Financing by a banking institution located in a third country provided the banking institution is not a designated national, a U.S. citizen, a U.S. permanent resident alien, or an entity organized under the laws of the United States or any jurisdiction within the United States (including any foreign branch of such an entity). Such financing may be confirmed or advised by a U.S. banking institution.

Note 1 to paragraph (a): The transactions authorized by this paragraph include all transactions that are directly incident to the shipping of specific exports or reexports (e.g., insurance and transportation of the exports to Cuba). Transactions that are not tied to specific exports or reexports, such as transactions involving future (non-specific) shipments, must be separately licensed by OFAC. For the waiver of the prohibitions on entry into U.S. ports contained in § 515.207 for vessels transporting shipments of items between the United States and Cuba pursuant to this section, see § 515.550.

Note 2 to paragraph (a): The limitation in paragraph (a)(4) applies only to payment and financing terms for exports or reexports of agricultural commodities and is required by the Trade Sanctions Reform and Export Enhancement Act of 2000, 22 U.S.C. 7207(b)(1). For other authorized exports and reexports, paragraph (a) does not restrict payment and financing terms. See § 515.584 for an authorization for banking institutions to provide financing for authorized exports and reexports of items other than agricultural commodities.

Note 3 to paragraph (a): Transactions ordinarily incident to exportation from the United States authorized by this paragraph include the importation into the United States of items from a third country for exportation to Cuba pursuant to a license or other authorization by the Department of Commerce.

Note 4 to paragraph (a): See § 515.534 for a general license authorizing certain contingent contracts, including contingent contracts for the sale of items that may be exported from the United States to Cuba or reexported from a third country to Cuba consistent with the export licensing policy of the Department of Commerce, where performance of such contingent contracts is expressly made contingent on prior authorization by the Department of Commerce.

(b) *Importation of certain items previously exported to Cuba; servicing and repair of such items.* (1) All transactions ordinarily incident to the importation into the United States or a third country of items previously exported from the United States to Cuba or exported or reexported from a third country to Cuba, and the servicing and repair of such items, are authorized, provided that:

(i) The items previously were exported or reexported to Cuba pursuant

to paragraph (a) of this section or § 515.559; and

(ii) The items are being imported into the United States or a third country either:

(A) In order to service or repair the items before they are exported or reexported back to Cuba, or

(B) To return them to the United States or a third country.

Note to paragraph (b): This paragraph does not authorize the exportation or reexportation of any item to Cuba. The exportation or reexportation of serviced, repaired, or replacement items to Cuba must be separately authorized pursuant to paragraph (a) of this section or § 515.559, in addition to any Department of Commerce authorization that may be required.

(c) *General license for travel-related transactions incident to exportation or reexportation of certain items.* (1) The travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to the conduct of market research, commercial marketing, sales or contract negotiation, accompanied delivery, installation, leasing, servicing, or repair in Cuba of items consistent with the export or reexport licensing policy of the Department of Commerce are authorized, provided that the traveler's schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule.

(2) The travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to the facilitation of the temporary sojourn of aircraft and vessels as authorized by 15 CFR 740.15 (License Exception Aircraft, Vessels and Spacecraft) or pursuant to other authorization by the Department of Commerce for authorized travel between the United States and Cuba, including travel-related transactions by persons subject to U.S. jurisdiction who are required for normal operation and service aboard a vessel or aircraft, as well as persons subject to U.S. jurisdiction who are required to provide services to a vessel in port or aircraft on the ground, are authorized, provided that:

(i) Such travel-related transactions are limited to the duration and scope of their duties in relation to the particular authorized temporary sojourn; and

(ii) The aircraft or vessel must be transporting individuals whose travel between the United States and Cuba is authorized pursuant to any section of this part other than paragraph (c)(2) of this section.

(d) *Specific licenses.* Specific licenses may be issued on a case-by-case basis authorizing the travel-related transactions set forth in § 515.560(c) and

such other transactions as are related to the exportation and reexportation of items to Cuba when such transactions do not qualify for the general license under paragraph (c) of this section.

■ 8. Add § 515.534 to subpart E to read as follows:

§ 515.534 Negotiation of, and entry into, contingent contracts relating to transactions prohibited by this part.

(a) Persons subject to the jurisdiction of the United States are authorized to enter into, and to engage in all transactions ordinarily incident to the negotiation of and entry into, contingent contracts for transactions that are prohibited by this part, provided that:

(1) The performance of any such contingent contract is made expressly contingent on the prior authorization of the Office of Foreign Assets Control pursuant to this part or authorization no longer being required; and

(2) The performance of any such contingent contract that is subject to licensing requirements of another Federal agency is expressly made contingent upon the prior authorization of that agency or the removal of those licensing requirements.

(b) For purposes of this section, the term "contingent contracts" includes executory contracts, executory pro forma invoices, agreements in principle, executory offers capable of acceptance such as bids or proposals in response to public tenders, binding memoranda of understanding, or any other similar agreement.

Note to § 515.534: This section does not authorize transactions related to travel to, from, or within Cuba. See § 515.533(c) for a general license authorizing travel-related and other transactions incident to the negotiation of contracts for the exportation or reexportation of certain items to Cuba, and § 515.564(a)(2) for a general license authorizing travel-related and other transactions incident to attending or organizing professional meetings in Cuba, which include professional meetings relating to the negotiation of contingent contracts authorized by this section.

■ 9. Amend § 515.536 by removing paragraphs (a) and (b), redesignating paragraphs (c) and (d) as (a) and (b), respectively, and revising redesignated paragraph (a) to read as follows:

§ 515.536 Certain transactions with respect to merchandise affected by § 515.204.

(a) The purchase outside the United States for importation into the United States of nickel-bearing materials presumptively subject to § 515.204 and the importation of such merchandise into the United States are authorized if there is presented to the collector of

customs in connection with such importation the original of an appropriate certificate of origin as defined in paragraph (b) of this section and provided that the merchandise was shipped to the United States directly, or on a through bill of lading, from the country issuing the appropriate certificate of origin.

* * * * *

■ 10. Amend § 515.542 by revising Note 1 to § 515.542 to read as follows:

§ 515.542 Mail and telecommunications-related transactions.

* * * * *

Note 1 to § 515.542: For an authorization of travel-related transactions that are directly incident to the conduct of market research, commercial marketing, sales or contract negotiation, accompanied delivery, installation, leasing, servicing, or repair in Cuba of items consistent with the export or reexport policy of the Department of Commerce, see § 515.533(c). For an authorization of travel-related transactions that are directly incident to participation in professional meetings, including where such meetings relate to telecommunications services or other activities authorized by paragraphs (b) through (e) of this section, see § 515.564(a).

* * * * *

■ 11. Revise § 515.547 to read as follows:

§ 515.547 Certain transactions related to medical research and Cuban-origin pharmaceuticals; research samples.

(a) Persons subject to U.S. jurisdiction are authorized to engage in all transactions incident to joint medical research projects with Cuban nationals.

Note 1 to paragraph (a): The export or reexport to Cuba of goods (including software) or technology subject to the Export Administration Regulations (15 CFR parts 730 through 774) may require separate authorization from the Department of Commerce.

Note 2 to paragraph (a): This paragraph does not authorize transactions related to travel to, from, or within Cuba, nor does it authorize transactions related to travel to, from, or within the United States by Cuban nationals. See § 515.564(a) for a general license authorizing travel-related and other transactions incident to professional research and professional meetings in Cuba. See § 515.571 for a general license authorizing transactions incident to travel to, from, and within the United States by certain Cuban nationals.

Note 3 to paragraph (a): This paragraph also does not authorize persons subject to U.S. jurisdiction to establish a business or physical presence in Cuba, to hire Cuban nationals, or to engage in any transactions prohibited by § 515.208.

(b) Persons subject to U.S. jurisdiction are authorized to engage in all transactions incident to obtaining approval from the U.S. Food and Drug Administration (FDA) of Cuban-origin pharmaceuticals, including discovery and development, pre-clinical research, clinical research, regulatory review, regulatory approval and licensing, regulatory post-market activities, and the importation into the United States of Cuban-origin pharmaceuticals.

(c) Persons subject to U.S. jurisdiction are authorized to engage in all transactions incident to the marketing, sale, or other distribution in the United States of FDA-approved Cuban-origin pharmaceuticals, including the importation into the United States of Cuban-origin pharmaceuticals.

(d)(1) *Opening and maintaining bank accounts at Cuban financial institutions to engage in authorized transactions.* The opening and maintenance of accounts, including the deposit of funds in such accounts by wire transfer, at a financial institution in Cuba, is authorized provided that such accounts are used only for transactions authorized pursuant to this section.

(2) *Closing bank accounts.* The closing of an account opened pursuant to the authorization in paragraph (d)(1) of this section is authorized, provided that any transfer of funds may only be effected by wire transfer to an account maintained at a depository institution, as defined in § 515.333, that is a person subject to U.S. jurisdiction.

(e) *Specific licenses.* (1) To the extent not authorized by paragraph (b) of this section, specific licenses may be issued for the importation of Cuban-origin commodities for bona-fide research purposes in sample quantities only.

(2) Specific licenses may be issued for transactions related to medical research or pharmaceutical products not authorized by paragraphs (a) through (c) of this section.

Note to § 515.547: Transactions authorized by this section may require separate authorizations or approvals by the FDA or other Federal agencies.

■ 12. Revise § 515.550 to read as follows:

§ 515.550 Certain vessel transactions authorized.

(a) Unless a vessel is otherwise engaging or has otherwise engaged in transactions that would prohibit entry pursuant to § 515.207, § 515.207 shall not apply to a vessel that is:

(1) Engaging or has engaged in trade with Cuba authorized pursuant to this part;

Note to paragraph (a)(1): The authorization in this paragraph includes, for example, trade

with Cuba authorized pursuant to § 515.533, § 515.559, or § 515.582, or by specific license.

(2) Engaging or has engaged in trade with Cuba that is exempt from the prohibitions of this part (see § 515.206);

(3) Engaging or has engaged in the exportation or reexportation to Cuba from a third country of agricultural commodities, medicine, or medical devices that, were they subject to the Export Administration Regulations (15 CFR parts 730 through 774) (EAR), would be designated as EAR99;

(4) A foreign vessel that has entered a port or place in Cuba while carrying students, faculty, and staff that are authorized to travel to Cuba pursuant to § 515.565(a); or

(5) Carrying or has carried persons between the United States and Cuba or within Cuba pursuant to the authorization in § 515.572(a)(2) or, in the case of a vessel used solely for personal travel (and not transporting passengers), pursuant to a license or other authorization issued by the Department of Commerce for the exportation or reexportation of the vessel to Cuba.

(b) Unless a vessel is otherwise engaging or has otherwise engaged in transactions that would prohibit entry pursuant to § 515.207, § 515.207(a) shall not apply to a foreign vessel that has engaged in the exportation to Cuba from a third country only of items that, were they subject to the EAR, would be designated as EAR99 or would be controlled on the Commerce Control List only for anti-terrorism reasons.

■ 13. Amend § 515.559 by revising paragraph (d) to read as follows:

§ 515.559 Certain export and import transactions by U.S.-owned or -controlled foreign firms.

* * * * *

(d) *General license.* Travel-related transactions set forth in § 515.560(c) and such other transactions as are directly incident to market research, commercial marketing, sales or contract negotiation, accompanied delivery, installation, leasing, servicing, or repair in Cuba of exports that are consistent with the licensing policy under paragraph (a) of this section are authorized, provided that the traveler's schedule of activities does not include free time or recreation in excess of that consistent with a full-time schedule.

* * * * *

■ 14. Amend § 515.560 by revising paragraphs (c)(3) and (c)(6)(ii) and Note 3 to § 515.560 to read as follows:

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

* * * *

(c) * * *

(3) *Importation of Cuban merchandise.* The purchase or other acquisition in Cuba and importation as accompanied baggage into the United States of merchandise is authorized, provided that the merchandise is imported for personal use only. The importation of Cuban-origin information and informational materials is exempt from the prohibitions of this part, as described in § 515.206. The importation of certain other specified goods and services is authorized in §§ 515.544, 515.547, 515.569, 515.578, 515.582, and 515.585.

* * * *

(6) * * *

(ii) *Closing bank accounts.* All transactions incident to the closing of accounts opened pursuant to the authorization in paragraph (c)(6)(i) of this section are authorized, provided that any transfer of funds may only be effected by wire transfer to an account maintained at a depository institution, as defined in § 515.333, that is a person subject to U.S. jurisdiction.

* * * *

Note 3 to § 515.560: The export or reexport to Cuba of goods (including software) or technology subject to the Export Administration Regulations (15 CFR parts 730 through 774) may require separate authorization from the Department of Commerce.

■ 15. Amend § 515.564 by removing paragraph (a)(1)(ii), redesignating (a)(1)(iii) as (a)(1)(ii), and revising paragraph (a)(2) to read as follows:

§ 515.564 Professional research and professional meetings in Cuba.

(a) * * *

(2) *Professional meetings.* The travel-related transactions set forth in § 515.560(c) and such additional transactions as are directly incident to attendance at, or organization of, professional meetings or conferences in Cuba are authorized, provided that:

(i) For a traveler attending a professional meeting or conference, the purpose of the meeting or conference directly relates to the traveler's profession, professional background, or area of expertise, including area of graduate-level full-time study;

(ii) For a traveler organizing a professional meeting or conference on behalf of an entity, either the traveler's profession must be related to the organization of professional meetings or conferences or the traveler must be an

employee or contractor of an entity that is organizing the professional meeting or conference; and

(iii) The traveler's schedule of activities does not 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.

Note to § 515.564(a)(2): Transactions incident to the organization of professional meetings or conferences include marketing related to such meetings or conferences in Cuba.

* * * *

■ 16. Amend § 515.565 as follows:

■ (a) Remove paragraph (a)(11);

■ (b) Redesignate paragraphs (a)(12) and (a)(13) as paragraphs (a)(11) and (a)(12), respectively;

■ (c) Revise redesignated paragraph (a)(11); and

■ (d) Add new note 4 to paragraph (a) to read as follows:

§ 515.565 Educational activities.

(a) * * *

(11) The organization of, and preparation for, activities described in paragraphs (a)(1) through (a)(10) of this section by employees or contractors of the sponsoring organization that is a person subject to U.S. jurisdiction;

* * * *

Note 4 to paragraph (a): See § 515.590(a) for an authorization for the provision of educational grants, scholarships, or awards to a Cuban national or in which Cuba or a Cuban national otherwise has an interest.

* * * *

■ 17. Revise § 515.569 to read as follows:

§ 515.569 Foreign passengers' baggage.

The importation of merchandise subject to the prohibitions in § 515.204, including Cuban-origin goods, brought into the United States as accompanied baggage by any person arriving in the United States other than a citizen or resident of the United States is hereby authorized, provided that such goods are not in commercial quantities and are not imported for resale.

■ 18. Amend § 515.570 to redesignate paragraph (i) as paragraph (j) and to add new paragraph (i) to read as follows:

§ 515.570 Remittances.

* * * *

(i) *Remittances to third-country nationals for certain travel.* Persons subject to the jurisdiction of the United States are authorized to make remittances to third-country nationals for travel by third-country nationals to, from, or within Cuba, provided that

such travel would be authorized by a general license issued pursuant to this part if the traveler were a person subject to U.S. jurisdiction.

* * * *

■ 19. Amend § 515.572 by revising the section heading, adding paragraph (a)(5), and revising paragraph (b)(1) to read as follows:

§ 515.572 Provision of travel, carrier, other transportation-related, and remittance forwarding services.

(a) * * *

(5) *Authorization to provide civil aviation safety-related services.* Persons subject to U.S. jurisdiction are authorized to provide civil aviation safety-related services to Cuba and Cuban nationals, wherever located, to ensure the safety of civil aviation and the safe operation of commercial aircraft.

Note to paragraph (a)(5): For provisions related to transactions ordinarily incident to the exportation or reexportation of items to Cuba, see §§ 515.533 and 515.559.

* * * *

(b) * * *

(1) Persons subject to U.S. jurisdiction providing services authorized pursuant to paragraphs (a)(1) through (a)(4) of this section must retain for at least five years from the date of the transaction a certification from each customer indicating the section of this part that authorizes the person to travel or send remittances to Cuba. In the case of a customer traveling under a specific license, the specific license number or a copy of the license must be maintained on file with the person subject to U.S. jurisdiction providing services authorized pursuant to this section.

* * * *

■ 20. Amend § 515.575 by revising note 2 to paragraph (a) to read as follows:

§ 515.575 Humanitarian projects.

(a) * * *

Note 2 to paragraph (a): See § 515.590(b) for an authorization for the provision of grants, scholarships, or awards related to humanitarian projects in or related to Cuba that are designed to directly benefit the Cuban people as set forth in paragraph (b).

* * * *

■ 21. Amend § 515.578 by revising note 1 to § 515.578(a) to read as follows:

§ 515.578 Exportation, reexportation, and importation of certain internet-based services; importation of software.

(a) * * *

Note 1 to § 515.578(a): The export or reexport to Cuba of items subject to the

Export Administration Regulations (15 CFR parts 730 through 774) may require separate authorization from the Department of Commerce.

* * * * *

■ 22. Revise § 515.581 to read as follows:

§ 515.581 Transactions related to conferences in third countries.

Persons subject to U.S. jurisdiction are authorized to sponsor, organize, or provide services in connection with, as well as participate in, conferences or other similar events in a third country that are attended by Cuban nationals.

Note to § 515.581: The export or reexport to Cuba of technology subject to the Export Administration Regulations (15 CFR parts 730 through 774) may require separate authorization from the Department of Commerce.

■ 23. Amend § 515.584 by revising paragraphs (c) and (f) to read as follows:

§ 515.584 Certain financial transactions involving Cuba.

* * * * *

(c) *Credit and debit cards.* All transactions incident to the processing and payment of credit and debit cards involving travel-related and other transactions consistent with § 515.560 are authorized.

* * * * *

(f) Any banking institution, as defined in § 515.314, that is a person subject to U.S. jurisdiction is authorized to provide financing for exports or reexports of items, other than agricultural commodities, authorized pursuant to § 515.533, including issuing, advising, negotiating, paying, or confirming letters of credit (including letters of credit issued by a financial institution that is a national of Cuba), accepting collateral for issuing or confirming letters of credit, and processing documentary collections.

* * * * *

■ 24. Amend § 515.585 by revising paragraph (c), removing the note to paragraph (c), adding paragraph (d), and amending Note 3 and Note 4 to § 515.585 to read as follows:

§ 515.585 Certain transactions in third countries.

* * * * *

(c) Individuals who are persons subject to U.S. jurisdiction who are present in a third country are authorized to purchase or acquire merchandise subject to the prohibitions in § 515.204, including Cuban-origin goods, and to receive or obtain services in which Cuba or a Cuban national has an interest that are ordinarily incident to travel and maintenance within that country.

(d) Individuals who are persons subject to U.S. jurisdiction are authorized to import into the United States as accompanied baggage merchandise subject to the prohibitions in § 515.204, including Cuban-origin goods, that is purchased or acquired in a third country, provided that the merchandise is imported for personal use only.

* * * * *

Note 3 to § 515.585: Except as provided in paragraphs (c) and (d) of this section, this section does not authorize any transactions prohibited by § 515.204.

Note 4 to § 515.585: The export or reexport to Cuba of goods (including software) or technology subject to the Export Administration Regulations (15 CFR parts 730 through 774) may require separate authorization from the Department of Commerce.

■ 25. Add § 515.590 to subpart E to read as follows:

§ 515.590 Certain grants, scholarships, and awards.

The provision of grants, scholarships, or awards relating to the following activities to a Cuban national or in which Cuba or a Cuban national otherwise has an interest is authorized:

- (a) Educational activities;
- (b) Humanitarian projects, as set forth in § 515.575(b);
- (c) Scientific research; and
- (d) Religious activities.

■ 26. Add § 515.591 to subpart E to read as follows:

§ 515.591 Services related to infrastructure.

Persons subject to the jurisdiction of the United States are authorized to provide to Cuba or Cuban nationals services related to developing, repairing, maintaining, and enhancing Cuban infrastructure that directly benefit the Cuban people, provided that those services are consistent with the export or reexport licensing policy of the Department of Commerce. For the purposes of this section, infrastructure means systems and assets used to provide the Cuban people with goods and services produced or provided by the public transportation, water management, waste management, non-nuclear electricity generation, and electricity distribution sectors, as well as hospitals, public housing, and primary and secondary schools. This authorization includes projects related to the environmental protection of U.S., Cuban, and international air quality, waters, and coastlines.

Note 1 to § 515.591: For provisions related to transactions ordinarily incident to the

exportation or reexportation of items to Cuba, see §§ 515.533 and 515.559. See § 746.2(b) of the Export Administration Regulations (15 CFR parts 730 through 774) for the Department of Commerce's Cuba licensing policy.

Note 2 to § 515.591: See § 515.564 for a general license authorizing travel-related and other transactions incident to professional research and professional meetings in Cuba, § 515.533(c) for a general license authorizing travel-related and other transactions relating to certain exports and reexports to Cuba, and § 515.575(a) for a general license authorizing transactions, including travel-related transactions, related to certain humanitarian projects.

Subpart H—Procedures

§ 515.803 [Removed]

■ 27. Remove § 515.803 from subpart H.

Dated: October 11, 2016.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–25032 Filed 10–14–16; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 310

[Docket ID: DOD–2016–OS–0059]

Privacy Act of 1974; Implementation

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: The Office of the Secretary of Defense is exempting records maintained in DUSDI 01-DoD, “Department of Defense (DoD) Insider Threat Management and Analysis Center (DITMAC) and DoD Component Insider Threat Records System,” from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G), (H), and (I), (5), and (8); and (g) of the Privacy Act.

In addition, in the course of carrying out collections and analysis of information in connection with the operations of the DITMAC and DoD Component insider threat programs, exempt records received from other systems of records may become part of this system. To the extent that copies of exempt records from those other systems of records are maintained in this system, the Department also claims the same exemptions for the records from those other systems that are maintained in this system, as claimed