



DEPARTMENT OF THE TREASURY



DEPARTMENT OF COMMERCE

## **Fact Sheet: Supporting the Cuban People's Right to Seek, Receive, and Impart Information through Safe and Secure Access to the Internet**

August 11, 2021

### **Overview**

The United States stands with the Cuban people in their quest for democracy, human rights, and fundamental freedoms. In July 2021, tens of thousands of Cubans took to the streets to make these demands of their government. In response to these protests, the Cuban regime reacted with violence and repression, including by implementing measures to curb the flow of information over the internet in Cuba.<sup>1</sup> These actions continue a decades-long history of oppression by the regime, and a track record of failing to respect the basic universal rights of the Cuban population.

The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) and the U.S. Department of Commerce's Bureau of Industry and Security (BIS) administer a comprehensive economic embargo on Cuba, consistent with applicable legislation. While most transactions between persons subject to U.S. jurisdiction and Cuba continue to be prohibited under the embargo, the U.S. government allows for certain activities to support the Cuban people's access to information on the internet. The relevant OFAC regulations can be found in the Cuban Assets Control Regulations, 31 C.F.R. part 515 (CACR), which are available [here](#). The relevant BIS regulations can be found in the Export Administration Regulations (EAR), 15 C.F.R. parts 730-774, which are available [here](#).

Accordingly, and in view of recent events, OFAC and BIS are issuing this fact sheet to emphasize the U.S. government's commitment to promoting the ability of the Cuban people to seek, receive, and impart information, by highlighting the most relevant exemptions and authorizations pertinent to supporting the Cuban people through the provision of certain internet and related telecommunications services.<sup>2</sup> In the event that individuals, entities, or governments face sanctions-related challenges in providing such assistance, have questions regarding the application of the exemptions or authorizations, or believe additional authorizations are needed, OFAC and BIS stand ready to engage with those stakeholders to provide guidance and respond to applications for specific licenses.

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<sup>1</sup> As outlined by the White House on July 22, 2021, the United States calls on Cuba's leaders to reinstate and to maintain access to all internet and telecommunications services for all people within Cuba's borders. Please see the White House Fact Sheet on Biden-Harris Administration Measures on Cuba here: <https://www.whitehouse.gov/briefing-room/statements-releases/2021/07/22/fact-sheet-biden-harris-administration-measures-on-cuba/>.

<sup>2</sup> This Fact Sheet is informational, does not have the force of law, and does not supersede any relevant statutes, Executive Orders, or regulations, including the legal provisions cited. The information herein is current and operative as of the date of publication of this Fact Sheet, unless or until modified.

## **Provisions That Support Internet Freedom in Cuba**

### ***OFAC General Licenses***

OFAC maintains the following general licenses (GLs), exemptions, and frequently asked questions (FAQs) related to the provision of internet-based services in Cuba; these may support the Cuban people's right to seek, receive, and impart information through safe and secure access to the internet.<sup>3</sup> OFAC encourages those interested in providing such assistance to the Cuban people to avail themselves of these exemptions and authorizations to the extent applicable.

- **Software and services for Cuban internet users:** The CACR authorize the provision of certain services incident to the exchange of communications over the internet and services related to the exportation and reexportation of certain communications-related items. These authorizations cover the provision of certain fee-based internet communications services such as e-mail or other messaging platforms, social networking, VOIP, web hosting, and domain-name registration, among other services. These authorizations also cover services related to many kinds of software (including applications) used on personal computers, cell phones, and other personal communications devices. The CACR authorize the provision of services, including software design, business consulting, and IT management and support (including cloud storage), related to certain communications-related items or to install, repair, or replace such items or provide related training. These communications-related items include hardware and software exported or reexported to Cuba pursuant to BIS' License Exception Consumer Communications Device (CCD), License Exception Support for the Cuban People (SCP), or an individual license from BIS, as well as certain items that are not subject to the EAR. (CACR § [515.578](#) and §[515.533](#); see also [FAQs 785](#) and [787](#))
- **Provision of telecommunications services and establishment of telecommunications facilities:** The CACR authorize transactions, including payments, incident to the provision of telecommunications services related to the transmission or the receipt of telecommunications involving Cuba. The CACR also authorize certain transactions relating to the establishment of facilities to provide telecommunications services linking the United States or third countries and Cuba, including facilities to provide telecommunications services in Cuba. The CACR define telecommunications services to include internet connectivity, data, telephone, telegraph, radio, television, news wire feeds, and similar services, regardless of medium of transmission, including transmission by satellite. These authorizations are intended to improve access to telecommunications services for Cubans and increase international connections with the Cuban people, both with the United States and with third countries around the world. (CACR § [515.542](#); see also [FAQ 784](#))

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<sup>3</sup> The Commerce Department regulates exports or reexports to Cuba of commodities, software, and technology that are subject to the EAR; exports and reexports that are licensed or otherwise authorized by the Commerce Department are, subject to certain requirements, also authorized by the Treasury Department under an existing OFAC general license (see EAR provisions outlined below; see §§ [515.533](#) of the CACR).

- **In-country presence of internet and telecommunications providers:** The CACR authorize providers of certain telecommunications or internet-based services to engage in transactions necessary to establish and maintain a physical presence (including leasing of physical premises such as an office, warehouse, classroom, or retail outlet space), or a business presence in Cuba to engage in transactions authorized by or exempt from the CACR. Transactions necessary to establish or maintain a business presence may include establishing and maintaining subsidiaries, branches, offices, joint ventures, franchises, or agency or other business relationships with any Cuban individual or entity (including ETECSA, the Cuban state-owned telecommunications provider), subject to certain limitations. (CACR § [515.573](#); see also [FAQs 765](#) and [788](#))
- **Internet-based distance learning and educational training:** The CACR authorize the provision of certain internet-based courses, including distance learning and Massive Open Online Courses, to Cuban nationals, wherever located, provided that the course content is at the undergraduate level or below. (CACR §§ [515.565](#); see also [FAQ 702](#))
- **Information and informational materials:** Transactions associated with the importation from any country and the exportation to any country of information or informational materials as defined in section 515.332 of the CACR, whether commercial or otherwise, regardless of format or medium of transmission, are exempt from the prohibitions of the CACR (except for payments owed to Cuba for telecommunications services between Cuba and the United States, which are subject to the provisions of section [515.542](#)). Additionally, the CACR authorize the creation, dissemination, artistic or other substantive alteration, or enhancement of informational materials, as well as travel-related transactions and other transactions that are directly incident to the exportation, importation, or transmission of information or informational materials, subject to certain conditions. (CACR §§ [515.206\(a\)](#) and [515.545](#); see also [FAQ 710](#))

### ***BIS License Exceptions***

BIS regulates the export and reexport to Cuba of commodities, software, and technology. Although nearly all U.S. items require a license for export or reexport to Cuba, there are several license exceptions that may be used to authorize such transactions in lieu of a license. Certain telecommunications and internet-related items may be exported and reexported to Cuba *under a license exception* issued by BIS if the items are intended to improve the free flow of information to, from, and among the Cuban people. License Exceptions Consumer Communications Devices (CCD) and Support for the Cuban People (SCP) authorize the export and reexport to Cuba of items intended to improve telecommunications and internet infrastructure and certain consumer communications items for use by eligible recipients. Both license exceptions specify the eligible items by description and Export Control Classification Number (ECCN) on the Commerce Control List (CCL).

- **Consumer Communications Devices:** Since 2009, License Exception Consumer Communications Devices (CCD) has authorized the export and reexport of certain commodities and software to eligible recipients in Cuba (Section 740.19 of the EAR). A list of the eligible items is located in Section 740.19(b) of the EAR. Eligible recipients

are individuals in Cuba, other than certain Cuban Government and Communist Party officials, and independent non-governmental organizations in Cuba. Organizations administered or controlled by the Cuban Government or the Cuban Communist Party, including schools and hospitals, are not eligible recipients. Items may include, but are not limited to, mobile phones, television and radio receivers, memory drives, network access controllers, modems, and consumer software. Note that there are some restrictions on reexports of foreign-produced commodities by U.S.-owned or -controlled entities in third countries.

- **Items in Support of the Cuban People:** Since 2015, License Exception Support for the Cuban People (SCP) (Section 740.21 of the EAR) has authorized the export and reexport of certain items to Cuba that are intended to improve the free flow of information. Items eligible for export and reexport to Cuba pursuant to License Exception SCP must be for certain specified end uses and end users and are limited to those designated as EAR99 (i.e., items subject to the EAR but not specified on the CCL or controlled on the CCL only for anti-terrorism reasons). In addition, this license exception allows for the export or reexport to Cuba of certain items for the creation and upgrade of telecommunications infrastructure to improve the free flow of information to, from, and among the Cuban people, including infrastructure that enables access to the internet and use of internet services. Certain items may be sold to Cuban government owned, operated, or controlled companies and corporations for telecommunications infrastructure creation and upgrades only. For infrastructure items that would be used to connect specific end users, those items may be used to connect individual Cubans or the Cuban private sector only (e.g., not Cuban government ministries or state-owned enterprises).

## **Additional Licensing**

### ***OFAC Specific Licenses***

For prohibited transactions not otherwise authorized by OFAC general licenses, OFAC considers specific license requests on a case-by-case basis and will prioritize license applications, compliance questions, and other requests that may concern internet freedom in Cuba. Consistent with U.S. foreign policy, OFAC has a favorable licensing posture towards specific license requests involving transactions that are ordinarily incident and necessary to ensure that the Cuban people have safe and secure access to the free flow of information on the internet. Please see OFAC's [License Application Page](#) for additional details regarding the specific licensing process.

### ***BIS Licenses***

If a transaction is not eligible for one of the license exceptions above, a license application may be submitted through the BIS [online portal, SNAP-R](#). A *general policy of approval* applies to license applications for telecommunications items and internet-related items intended to improve communications to, from, and among the Cuban people.

### **Additional Information**

For additional information, including the latest updates related to the Cuba sanctions program administered by OFAC, please refer to the Treasury Department's Cuba sanctions webpage available [here](#). If you have additional questions regarding the scope of requirements under the OFAC-administered Cuba sanctions program, or the applicability or scope of any related OFAC authorizations, please contact OFAC's Sanctions Compliance and Evaluation Division at (800) 540-6322 or (202) 622-2490, or by email at [OFAC\\_Feedback@treasury.gov](mailto:OFAC_Feedback@treasury.gov).

For additional information concerning export controls related to Cuba, please refer to BIS' webpage available [here](#). If you have questions regarding export control requirements for Cuba, please contact the BIS Foreign Policy Division at (202) 482-4254, or by email at [foreign.policy@bis.doc.gov](mailto:foreign.policy@bis.doc.gov).

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