

**ZUCKERT, SCOUTT &  
RASENBERGER, L.L.P.**

[NEWS ON EXPORT AND FOREIGN ASSET CONTROLS](#)

2009

(Last updated: December 31, 2009)

By Lonnie Anne Pera

<u>DATE</u>	<u>CITATION</u>	<u>DESCRIPTION</u>
11/23/09	74 Fed. Reg. 61030	The Office of Foreign Assets Control (“OFAC”) amended the Sudanese Sanctions Regulations and the Iranian Transaction Regulations to update the requirements for obtaining one year specific licenses to export agricultural commodities, medicines, and medical devices to Sudan and Iran. OFAC clarified that it might take longer to process these applications. In the Sudanese Sanctions Regulations, OFAC also inserted a general license for exportation and reexportation of these items to the Specified Areas of Sudan.
11/23/09	74 Fed. Reg. 61036	OFAC amended the Global Terrorism Sanctions Regulations to clarify the criteria for designating persons. One criterion is satisfied when a U.S. person assists in, sponsors, or provides financial material or technological support for acts of terrorism. This amended regulation defines the term “financial, material, or technological support” as providing any property whatsoever (tangible or intangible) in support of terrorism.
11/09/09	74 Fed. Reg. 57593	OFAC issued the Economic Sanctions Enforcement Guidelines, which advise how OFAC will evaluate enforcement matters and determine penalty amounts. These Guidelines apply to all current OFAC sanctions programs.

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09/17/09	GAO-09-951RC	The Government Accounting Office issued a report on the September 2009 regulatory changes to the U.S. sanctions program against Cuba. The report determined that the President has authority to make these and other changes. The report further noted that the President (a) can suspend the “embargo” if he determines that a transition government is in power and (b) must end the “embargo” when a democratically elected Cuban government comes into power.
09/09/09	74 Fed. Reg. 46361	OFAC amended the Sudanese Sanctions Regulations to establish a general license. This general license authorizes the exportation and reexportation of agricultural products, medicines, and medical supplies to the specified areas of Sudan, provided that such transactions do not involve the Government of Sudan and do not relate to the petroleum or petrochemical industries in Sudan.
09/08/09	74 Fed. Reg. 46000	OFAC amended the Cuban Assets Control Regulation to implement the President’s April 13, 2009 policy. The amended regulations became effective on September 3, 2009. They: <b>(1)</b> establish a general license for U.S. persons, and persons who share a common dwelling with them, to visit close relatives in Cuba (a) who are Cuban nationals or (b) who are non-Cuban nationals that work in the U.S. Interests Section; <b>(2)</b> define “close relatives” as persons within three degrees of a family relationship; <b>(3)</b> remove the frequency limitation on family visits and allow generally licensed U.S. persons to visit close relatives as often as they need; <b>(4)</b> remove the limitation on the stay in Cuba for family visits; <b>(5)</b> remove the \$50 per diem limitation on family visits and subject U.S. close relatives to the same per diem limitation that applies to all other licensed travelers (currently \$179 per day); <b>(6)</b> remove the \$500 limitation on fees paid to the Cuban government for transportation related services; <b>(7)</b> remove all limitations on the amount and frequency of remittances to close relatives in Cuba; <b>(8)</b> allow licensed travelers to carry up to \$3,000 in remittances to close relatives in Cuba; <b>(9)</b> increase the amount of emigration remittances from \$1,000 total to \$2,000 total; <b>(10)</b> permit

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	(continued)	<p>remittances to be paid by close relatives from inherited blocked accounts in U.S. banks; <b>(11)</b> establish a new general license authorizing U.S. banks to send remittances to Cuba; <b>(12)</b> authorize U.S. telecommunications providers to enter into agreements to establish fiber-optic cable and satellite telecommunications facilities that link the U.S. and Cuba; <b>(13)</b> authorize U.S. telecommunications providers to enter into roaming service agreements with Cuban providers; <b>(14)</b> authorize U.S. satellite radio and television providers to provide services to customers in Cuba; <b>(15)</b> authorize U.S. persons to pay U.S. and third country providers for telecommunications, satellite radio and television services to individuals in Cuba; <b>(16)</b> establish a new general license authorizing U.S. telecommunications providers to travel to participate in professional meetings for the purpose of commercially marketing, negotiating the sale of, or performing contracts for telecommunications services; <b>(17)</b> establish a general license authorizing U.S. telecommunications providers to travel to market, sell, or deliver items that are consistent with DOC licensing policy; and <b>(18)</b> establish general licenses authorizing U.S. distributors and producers to travel to market, sell, or deliver agricultural or medical items that are consistent with DOC licensing policy.</p>
09/08/09	74 Fed. Reg. 45985	<p>The Bureau of Industry &amp; Security (“BIS”) amended the Export Administration Regulations (“EAR”) to implement the President’s April 13, 2009 policy. The amended regulations became effective on September 3, 2009. DOC amended License Exception GFT to <b>(1)</b> expand the items that may be included in gift parcels exported to Cuba; <b>(2)</b> remove the requirement that the donee must be an immediate family member; <b>(3)</b> permit the donor to send a gift parcel to any individual who is not a prohibited Cuban government official or Communist Party member or to any charitable, educational, or religious organization that is not administered or controlled by the Cuban government (“Prohibited Donees”); <b>(4)</b> increase the total value of all non-food items included in the gift parcel to \$800. BIS also amended License Exception BAG to remove the 44 pound limitation on</p>

**ZUCKERT, SCOUTT & RASENBERGER L.L.P.**

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	(continued)	baggage temporarily exported to Cuba. (Licensed travelers cannot leave baggage (and the contents) in Cuba but must return the baggage to the U.S.) BIS, moreover, established a new License Exception CCD, which authorizes U.S. persons to donate and export consumer communication devices that are widely available for retail purchase and commonly used to exchange information and facilitate interpersonal communications. License Exception CCD only applies to Cuba and only permits donations to individuals who are not Prohibited Donees. There are no limitations on value or frequency of CCD shipments. BIS also revised the licensing policy for telecommunications exports.
09/08/09	74 Fed. Reg. 45990	BIS amended the EAR to clarify that the licensing requirements apply to transfers (in-country) to persons listed on the Entity List.
08/06/09	<a href="http://www.ustreas.gov/offices/enforcement/ofac/civpen/penalties/08062009.pdf">http://www.ustreas.gov/offices/enforcement/ofac/civpen/penalties/08062009.pdf</a>	OFAC and BIS announced that they have jointly reached a settlement with DPWN Holdings (USA), Inc. (formerly known as DHL Holdings *USA), Inc.) and DHL Express (USA), Inc. DHL agreed to pay \$9,444,744 in civil penalties and to form external audits for allegedly exporting goods to Iran, Syria and Sudan without U.S. government authorization. This matter was not processed under the new civil penalty rules (which became law on March 11, 2009).
07/23/09	74 Fed. Reg. 36397	OFAC amended the Iranian Transactions Regulations to revise the definition of "Iranian accounts." Under the amended regulations, this term means (a) the accounts of persons who are ordinarily resident in Iran (except when they are not located in Iran) and (b) the accounts of the Government of Iran maintains on the books of U.S. financial institutions or U.S. brokers or securities dealers.

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07/02/09	74 Fed. Reg. 31620	BIS amended the EAR to add validated end-users (“VEUs”) in India and to specify eligible items for exportation/reexportation to these VEUs under a license exception.
06/10/09	74 Fed. Reg. 27433	OFAC amended the Sudanese Sanctions Regulations to expand the general license that authorizes certain imports for diplomatic or official purposes. The diplomatic mission of the Government of Sudan may import goods or services into the United States, provided that certain conditions are met. One condition is that the imports must be for official business of the mission or for personal use of mission employees. The amended regulations also permit the Government of the Southern Sudan to import certain goods or services into the United States that have transited or transhipped through nonexempt areas in Sudan.
05/28/09	74 Fed. Reg. 25431	OFAC published the Darfur Sanctions Regulations (part 546) in response to Executive Order 13400. These regulations prohibit U.S. persons from engaging in transactions with nationals, who are designated as threatening the peace process in Darfur. The regulations also block property in which designated nationals have an interest (direct or indirect).
05/28/09	74 Fed. Reg. 25439	OFAC published the Democratic Republic of the Congo Sanctions Regulations (part 547) in response to Executive Order 13413. These regulations prohibit U.S. persons from engaging in transactions with nationals, who are designated as threatening the stability of the Democratic Republic of the Congo. The regulations also block property in which designated nationals have an interest (either direct or indirect).
04/13/09	<a href="http://www.whitehouse.gov/the_press_office/Fact-Sheet-Reaching-out-to-the-Cuban-people/">http://www.whitehouse.gov/the_press_office/Fact-Sheet-Reaching-out-to-the-Cuban-people/</a>	President Barack Obama announced changes in U.S. policy relating to Cuba. The President directed DOS, OFAC, and DOC to: <b>(1)</b> lift all restrictions on family travel; <b>(2)</b> remove all restrictions on remittances to family members in Cuba; <b>(3)</b> authorize U.S. telecommunications providers to enter into agreements to

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	(continued)	establish fiber-optic cable and satellite telecommunications facilities that link the U.S. and Cuba; <b>(4)</b> license U.S. telecommunications providers to enter into roaming service agreements with Cuban providers; <b>(5)</b> license U.S. satellite radio and television providers to provide services to customers in Cuba; <b>(6)</b> license U.S. persons to pay U.S. and third country providers for telecommunications, satellite radio and television services that are provided to individuals in Cuba; <b>(7)</b> authorize the donation of consumer telecommunications devices without a license; and <b>(8)</b> expand the items that may be included in gift parcels.
04/13/09	74 Fed. Reg. 16763	OFAC published the Persons Contributing to the Conflict in Côte d'Ivoire Regulations (part 543) in response to Executive Order 13396. These regulations prohibit U.S. persons from engaging in transactions with nationals, who are designated as threatening peace in Côte d'Ivoire. The regulations also block property in which designated nationals have an interest (direct or indirect).
04/13/09	74 Fed. Reg. 16771	OFAC published the Weapons of Mass Destruction Proliferators Sanctions Regulations (part 544) in response to Executive Order 13382. These regulations are separate from and in addition to the Weapons of Mass Destruction Trade Control Regulations (part 539). Under part 544, U.S. persons are prohibited from engaging in transactions with nationals, who are designated as engaging or attempting to engage in activities or transactions that materially contribute to the proliferation of weapons of mass destruction. The regulations also block property in which these designated nationals have an interest.

**ZUCKERT, SCOTT & RASENBERGER L.L.P.**

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03/11/09	<a href="http://www.ustreas.gov/ofices/enforcement/ofac/prgrams/cuba/omni_guide.pdf">http://www.ustreas.gov/ofices/enforcement/ofac/prgrams/cuba/omni_guide.pdf</a> ; <a href="http://www.ustreas.gov/ofices/enforcement/ofac/prgrams/cuba/gl_omni2009.pdf">http://www.ustreas.gov/ofices/enforcement/ofac/prgrams/cuba/gl_omni2009.pdf</a>	<p>OFAC issued a general license and guidance to implement the Omnibus Appropriations Act. The general license was similar to the one that existed prior to June 16, 2004; it authorized U.S. persons to visit close relatives in Cuba one time every twelve months. The general license changed the definition of “close relatives” to the same definition that existed prior to June 16, 2004. In the guidance, OFAC stated that it would establish a general license for agricultural/medical travel. OFAC also stated that the cash in advance requirement would not change for the sale of agricultural products to Cuba.</p>
03/11/09	Pub. L. No. 111-8	<p>The President signed the Omnibus Appropriations Act, 2009. This Act had three important provisions that related to travel to Cuba: (a) it prohibited OFAC from using appropriated funds to administer and enforce the June 16, 2004 restrictions on travel to visit family in Cuba, (b) it required that OFAC issue a general license authorizing travel to market, sell, and deliver U.S. agricultural and medical goods to Cuba, and (c) it prohibited OFAC from using appropriated funds to administer or enforce the February 25, 2005 amendment to section 515.533, which set forth the “cash in advance” requirement for agricultural exports to Cuba.</p>
01/15/09	74 Fed. Reg. 2355	<p>BIS amended the EAR to establish a new licensing requirement for reexports to Iran of items classified under ten Export Control Classification Numbers (“ECCNs”). The amended EAR also imposes a licensing requirement upon parties who are designated as proliferators of weapons of mass destruction.</p>
01/08/09	74 Fed. Reg. 770	<p>BIS amended the Export Administration Regulations (“EAR”) to expand the export and reexport licensing requirements to additional Specially Designated Nationals of Burma.</p>

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