

carried over to be used by the nonlife group.

(v) Example 5. P owns all of the stock of S1 and of L1. On January 1, 2017, L1 purchases all of the stock of L2. For 2021, the group elects under section 1504(c)(2) to file a consolidated return. For 2021, L1 is an eligible corporation under paragraph (b)(12) of this section but L2 is ineligible. Thus, L1 but not L2 is a member for 2021. For 2021, L2 sustains a net operating loss, which cannot be carried back (see section 172(b)). For 2021, L2 is treated under paragraph (d)(6) of this section as a member of a controlled group of corporations under section 1563 with P, S, and L1. For 2022, L2 is eligible and is included on the group's consolidated return. L2's net operating loss for 2021 that may be carried to 2022 is not treated under paragraph (b)(11) of this section as having been sustained in a separate return limitation year for purposes of computing consolidated LICTI of the L1-L2 life subgroup for 2022. Furthermore, the portion of L2's net operating loss not used under paragraph (g)(2) of this section against life subgroup income in 2022 may be included in offsettable life consolidated net operating loss under paragraph (j)(2) and (h)(3)(i) of this section that reduces in 2022 nonlife consolidated taxable income (subject to the limitation in section 172(a)) because L2's loss in 2021 was not sustained in a separate return limitation year under paragraph (j)(2) and (h)(3)(ix)(A) of this section or in a separate return year (2021) when an election was in effect under neither section 1504(c)(2) nor section 243(b)(3).

(n) Effective/applicability dates. The rules of this section apply to taxable years beginning after December 31, 2020. However, a taxpayer may choose to apply the rules of this section to taxable years beginning on or before December 31, 2020. If a taxpayer makes the choice described in the previous sentence, the taxpayer must apply those rules in their entirety and consistently with the provisions of subchapter L of the Internal Revenue Code applicable to the years at issue.

- **Par. 5.** Section 1.1503(d)-4 is amended by:
  - 1. In paragraph (c)(3)(iii)(B), removing the period and adding in its place a semi-colon.
  - 2. In paragraph (c)(3)(iv), removing the period and adding in its place “; and”.
  - 3. Adding paragraph (c)(3)(v).  
The addition reads as follows:

**§ 1.1503(d)-4 Domestic use limitation and related operating rules.**

\* \* \* \* \*

(c) \* \* \*

(3) \* \* \*

(v) The SRLY limitation is applied without regard to § 1.1502-21(c)(1)(i)(E) (section 172(a) limitation applicable to a SRLY member).

\* \* \* \* \*

■ **Par. 6.** Section 1.1503(d)-8 is amended by adding paragraph (b)(8) to read as follows:

**§ 1.1503(d)-8 Effective dates.**

\* \* \* \* \*

(b) \* \* \*

(8) *Rule providing that SRLY limitation applies without regard to § 1.1502-21(c)(1)(i)(E).* Section 1.1503(d)-4(c)(3)(v) applies to any period to which § 1.1502-21(c)(1)(i)(E) applies.

**Sunita Lough,**  
*Deputy Commissioner for Services and Enforcement.*  
Approved: September 29, 2020.  
**David J. Kautter,**  
*Assistant Secretary of the Treasury (Tax Policy).*  
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**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 portions of the President's foreign policy toward Cuba to deny the Cuban government access to funds in connection with remittances to Cuba.

**DATES:** This rule is effective November 26, 2020.

**FOR FURTHER INFORMATION CONTACT:** OFAC: Assistant Director for Licensing, 202-622-2480, Assistant Director for Regulatory Affairs, 202-622-4855, or Assistant Director for Sanctions Compliance & Evaluation, 202-622-2490.

**SUPPLEMENTARY INFORMATION:**

**Electronic Availability**

This document and additional information concerning OFAC are

available on OFAC's website ([www.treasury.gov/ofac](http://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 various authorities, including the Trading With the Enemy Act (50 U.S.C. 4301-41). OFAC has amended the Regulations on numerous occasions, including to implement the President's foreign policy toward Cuba as set forth in National Security Presidential Memorandum-5, "Strengthening the Policy of the United States Toward Cuba," signed by the President on June 16, 2017.

Today, OFAC, in consultation with the State Department, is taking additional action to implement the Administration's foreign policy toward Cuba, as set forth in more detail below. This rule provides for a 30-day implementation period before it is effective in order to allow for technical implementation of these additional restrictions.

*Restrictions on Certain Remittance-Related Transactions To and From Cuba*

OFAC is amending the Regulations to remove from the scope of certain remittance-related general authorizations any transactions involving entities or subsidiaries identified on the Cuba Restricted List, as maintained by the State Department and published in the **Federal Register**. This action is intended to restrict such entities' and subsidiaries' access to funds obtained in connection with remittance-related activities, including in their role as intermediaries or in their receipt of fees or commissions from processing remittance transactions. Specifically, OFAC is amending three general licenses in Subpart E of the Regulations to exclude from the scope of such authorizations any transaction involving any entity or subentity identified on the Cuba Restricted List: (i) § 515.570, which relates to remittances from persons subject to U.S. jurisdiction or from blocked accounts; (ii) § 515.572(a)(3), which relates to the provision of remittance forwarding services; and (iii) § 515.587, which relates to remittances from Cuban nationals to persons subject to U.S. jurisdiction. OFAC is also amending § 515.421, which provides interpretative guidance with respect to transactions ordinarily incident to a licensed transaction, to make clear that a transaction relating to the collection, forwarding, or receipt of remittances involving any entity or subentity

identified on the Cuba Restricted List is not authorized as an ordinarily incident transaction where the terms of the general or specific license expressly exclude any such transactions. Because the amendments to §§ 515.570, 515.572(a)(3), and 515.587 expressly exclude these remittance-related transactions involving any entity or subentity on the Cuba Restricted List, upon the effective date of this rule, such transactions will not be authorized as ordinarily incident to licensed transactions under those provisions. OFAC is also adding a clarifying note in § 515.209 consistent with the amended § 515.421.

### 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, as well as the provisions of Executive Order 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–12) 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 § 515.572 of this part. Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information are covered 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, Banks, Banking, Blocking of assets, Cuba, Export, Financial transactions, Remittances, Reporting and recordkeeping requirements.

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 follows:

## 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); 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. 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 B—Prohibitions

- 2. Amend § 515.209 as follows:
  - a. Redesignate Note to § 515.209 as Note 1 to § 515.209.
  - b. Add new Note 2 to § 515.209.
    - The addition reads as follows:

#### § 515.209 Restrictions on direct financial transactions with certain entities and subentities.

\* \* \* \* \*

**Note 2 to § 515.209:** A transaction relating to the collection, forwarding, or receipt of remittances involving an entity or subentity identified on the Cuba Restricted List is not authorized as a transaction ordinarily incident to a licensed transaction where the terms of the applicable general or specific license expressly exclude any such transactions. See §§ 515.570, 515.572(a)(3), and 515.587.

### Subpart D—Interpretations

- 3. Amend § 515.421 as follows:
  - a. In paragraph (a)(5), remove “or” at the end of the paragraph.
  - b. In paragraph (a)(6), remove the period at the end of the paragraph and add in its place “; or”.
  - c. Add paragraph (a)(7).
    - The addition reads as follows:

#### § 515.421 Transactions ordinarily incident to a licensed transaction.

(a) \* \* \*  
 (7) A transaction relating to the collection, forwarding, or receipt of remittances involving any entity or subentity identified on the Cuba Restricted List, as published in the **Federal Register** and maintained by the State Department and available at <https://www.state.gov/cuba-sanctions/cuba-restricted-list/>, where the terms of the applicable general or specific license expressly exclude any such transactions.

\* \* \* \* \*

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

- 4. Amend § 515.570 as follows:
  - a. Redesignate paragraph (j) as paragraph (k).
  - b. Add new paragraph (j).
    - The addition reads as follows:

#### § 515.570 Remittances.

\* \* \* \* \*

(j) *Remittance transactions with entities or subentities on the Cuba Restricted List prohibited.* Nothing in paragraphs (a) through (i) authorizes a transaction relating to the collection, forwarding, or receipt of remittances involving any entity or subentity identified on the Cuba Restricted List, as published in the **Federal Register** and maintained by the State Department and available at <https://www.state.gov/cuba-sanctions/cuba-restricted-list/>.

\* \* \* \* \*

- 5. In § 515.572 amend paragraph (a)(3) by adding a sentence at the end of the paragraph to read as follows:

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

(a) \* \* \*

(3) \* \* \* Nothing in this paragraph (a)(3) authorizes a transaction relating to the collection, forwarding, or receipt of remittances involving any entity or subentity identified on the Cuba Restricted List, as published in the **Federal Register** and maintained by the State Department and available at <https://www.state.gov/cuba-sanctions/cuba-restricted-list/>.

\* \* \* \* \*

- 6. Amend § 515.587 by adding a sentence at the end of the section to read as follows:

#### § 515.587 Remittances from Cuban nationals to persons subject to U.S. jurisdiction.

\* \* \* Nothing in this paragraph authorizes a transaction relating to the collection, forwarding, or receipt of remittances involving any entity or subentity identified on the Cuba Restricted List, as published in the **Federal Register** and maintained by the State Department and available at <https://www.state.gov/cuba-sanctions/cuba-restricted-list/>.

\* \* \* \* \*

Dated: October 22, 2020.

**Andrea Gacki,**

*Director, Office of Foreign Assets Control.*

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