ALBRIGHT STONEBRIDGE GROUP

UPDATE ON U.S.-CUBA POLICY AND REGULATIONS

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- On November 8, the U.S. Departments of Commerce, State, and Treasury announced regulations that formally implement President Donald Trump's policy directive on Cuba announced in June 2017. The regulations, which will come into effect on November 9, will broaden some restrictions on business activities, but most activities authorized during the Obama administration remain in place.

- The two most significant changes are the prohibition on U.S. persons and companies from doing business with a specified list of entities controlled by the Cuban military and new limits on "people-to-people" travel. The restrictions mainly target Cuban companies affiliated with four major holding companies and two ministries. Some of the sectors impacted include tourism, financial services, defense, consumer goods, real estate, and advertising. Notably, however, entities affiliated with the Ministry of Tourism are not listed, enabling most travel companies to continue operating in Cuba. Additionally, the Department of State's guidelines state that, unlike in other sanctions cases, entities owned or controlled by listed entities are not subject to the restrictions unless they are also explicitly listed. (See "Cuba Restricted List" here).

- Americans interested in "people-to-people" exchanges will no longer be allowed to travel individually, and instead be required to travel as a part of a group under the auspices of an authorized sponsoring organization. This additional hurdle will likely put a damper on U.S. travel to the island, though it may also create opportunities for group travel operators or cruise companies (See Treasury Department OFAC Amendments and Commerce Department BIS Amendments for more information).

- The regulatory changes come amidst heightened tensions in the bilateral relationship. In light of mysterious health illnesses, the U.S. government recalled all non-essential personnel from its embassy in Havana and required the Cuban Embassy to remove nearly 60 percent of its diplomatic corps in Washington, DC in October. It also voted against a U.N. resolution in November condemning the U.S. economic embargo, reversing the Obama administration decision to abstain for the first-time last year.

- Despite these developments, many U.S. companies can continue to flourish or pursue business interests in Cuba. Travel to Cuba has increased significantly in the last couple years (although there are signs of a slowing following reports of illnesses affecting U.S. diplomats and confusion over U.S. restrictions), and Cuban officials continue to signal their openness to U.S. businesses. As the Cuban economy sputters, and Venezuela largess declines, Cuba is seeking to diversify its business partners and increase foreign investment. Companies who continue to pursue opportunities in Cuba patiently may be at an advantage in the long term.

- President Raul Castro will retire as head of state in February 2018, marking the beginning of an expected transfer of power to the next generation of party leadership. Most observers believe First Vice President Miguel Diaz-Canel will succeed Castro, though neither Castro nor other Cuban leaders have publicly signaled who might be chosen. While there are differences over the pace of reform within Cuba, the next leader is expected to maintain the commitment to increased commercial engagement with the United States consistent with Cuban development goals.

ASG's Latin America Practice has extensive experience helping clients navigate markets across Latin America. For questions or to arrange a follow-up conversation please contact Karen Poreh.
