

# New Cuba Sanctions Raise Risks For Foreign Banks, Cos.

## WRITTEN BY

Peter E. Jeydel | Charlene C. Goldfield

---

*This article was originally published on [Law360](#) and is republished here with permission as it originally appeared on May 14, 2026.*

On May 1, President Trump issued Executive Order No. 14404 imposing secondary sanctions on Cuba.<sup>[1]</sup>

This is the first ever Cuba-specific secondary sanctions order issued under the authority of the International Emergency Economic Powers Act, or IEEPA, building on the never used and legally dubious Jan. 29 executive order that threatened to impose so-called secondary tariffs on countries supplying oil to Cuba.<sup>[2]</sup>

The Cuba embargo has been in place for many decades, and has long had broad extraterritorial reach, applying both to U.S. persons and non-U.S. entities “owned or controlled” by U.S. persons.

Moreover, the Helms Burton statute has stood for several decades as another type of threat to non-U.S. persons operating in Cuba, potentially subjecting them to lawsuits in the U.S. and visa/travel bans for trafficking in confiscated property.

Furthermore, U.S. export controls have applied to transactions by non-U.S. persons involving products subject to U.S. jurisdiction.

The order is completely different and is a new type of risk altogether for business in Cuba by non-U.S. persons. It is similar to the U.S. secondary sanctions programs targeting Iran, Russia and other declared “adversaries.”

It authorizes the U.S. Department of the Treasury’s Office of Foreign Assets Control and the U.S. Department of State to impose sanctions on a wide range of non-U.S. persons, even when there is no U.S. nexus at all. It specifically authorizes secondary sanctions on foreign financial institutions, or FFIs.

Some would say there have been long-standing secondary sanctions in place on Cuba under OFAC’s Cuban Assets Control Regulations, or CACR. But historically there was very limited use of that authority against non-Cuban entities, as it focuses on persons owned or controlled by or acting “for or on behalf of” the Cuban government and Cuban “nationals.”

This CACR authority is not a typical secondary sanctions program focused on third-country actors. For example, Netherlands Caribbean Bank NV, a Cuban joint venture of ING Bank NV, was sanctioned under the CACR in

2006, and Canada-based Cobalt Refinery Co. Inc. was hit with these sanctions in 1995 in light of its affiliations with joint ventures and partnerships with Cuban entities.

But for the most part the CACR has been used to impose sanctions on actors in Cuba, as well as setting out the embargo's core prohibitions and carveouts.

For third-country (i.e., non-U.S., non-Cuban) companies and FFIs, the order heightens U.S. sanctions risk by introducing broad, IEEPA-based secondary sanctions on Cuba for the first time ever.

The order does not, however, alter or invalidate any existing OFAC licenses, including both general licenses and specific licenses, issued under the CACR, or modify the embargo itself, including its statutory exemptions, e.g., for trade in "informational materials."

In fact, OFAC issued General License No. 1 on May 7 to authorize "all transactions prohibited by Executive Order 14404 ... to the extent such transactions are authorized or exempt under the [CACR], including transactions authorized by a general or specific license pursuant to the CACR."<sup>[3]</sup>

## **WHAT THE ORDER DOES**

The order authorizes OFAC and the State Department to add individuals or entities to OFAC's Specially Designated Nationals and Blocked Persons, or SDN, list (along with imposing visa/travel bans) for operating in the Cuban energy, defense, metals and mining, financial services, or security sectors; for being involved in serious human rights abuses or corruption in Cuba; current and former officials, board members, etc. of Cuban government entities or other entities blocked under the order; or adult family members of designated persons; or providing material support to the Cuban government or designated persons.

The order also directly targets parent companies and other owners of entities doing business with Cuba by applying to those that "own or control, directly or indirectly," any blocked persons under the order. These are common secondary sanctions triggers across various OFAC programs, except that directly and explicitly targeting family members and parent companies and owners is less common.

The order also authorizes the imposition of sanctions on any FFI that "has conducted or facilitated any significant transaction or transactions for or on behalf of" persons designated under the order. Potential sanctions measures against FFIs include designation on OFAC's SDN List or List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions.

The order does not automatically sanction any person, but rather sets out the authority for sanctions to be imposed at the policy discretion of the U.S. government.

## **WHAT'S HAPPENED SO FAR**

The first set of designations under the order came on May 7, when the State Department designated Grupo de Administracion Empresarial SA, or GAESA, as well as its executive president, along with Moa Nickel SA.<sup>[4]</sup>

The State Department described GAESA as a "military-controlled umbrella enterprise" at "the heart of Cuba's

kleptocratic communist system” that controls “an estimated 40 percent or more” of Cuba’s economy.

While GAESA was already an SDN under the CACR, and was also designated on the State Department’s Cuba Restricted List — among other things, limiting the availability of certain general licenses under the CACR — it is now also subject to secondary sanctions under the order.<sup>[5]</sup>

In good news, OFAC issued guidance essentially providing a one-month secondary sanctions wind down period (which, to be clear, does not provide any authorization under the CACR for persons subject to U.S. jurisdiction to interact with GAESA), stating that

the U.S. government does not intend to target foreign persons, including FFIs, pursuant to E.O. 14404 for engaging in transactions ordinarily incident and necessary to the wind down of transactions involving GAESA, or any entity in which GAESA owns, directly or indirectly, a 50 percent or greater interest, through June 5, 2026.<sup>[6]</sup>

For those that cannot meet that deadline, OFAC has signaled some willingness to consider issuing additional secondary sanctions comfort on a case-by-case basis.

But that same guidance provides the stark warning that “non-U.S. persons, including FFIs, should proceed with caution in any dealings with a party sanctioned under this authority. Actions to return assets to a sanctioned party or transfer them to another jurisdiction for potential use by the target could expose non-U.S. persons to significant sanctions risk.”

This underscores that the government will apply a strict lens in assessing whether this leniency policy will apply to activity that generates benefits for GAESA or its subsidiaries.

The State Department described the other entity sanctioned on May 7, Moa Nickel, as “a joint venture between Sherritt International Corporation and the Cuban state-owned La Compania General de Niquel” that benefits “the regime at the expense of the Cuban people” and “profits from assets that were originally expropriated by the Cuban regime from U.S. persons and corporations.”

There is no secondary sanctions wind-down period for dealings with Moa Nickel.

## **IMPACT ON NON-U.S. COMPANIES AND FFIS**

In practical terms, the order creates direct secondary sanctions exposure for non-U.S. companies doing business with Cuba, or even outside Cuba with GAESA (or its subsidiaries or executive president) or Moa Nickel entities, including FFIs that provide banking, trade finance, payment or other services.

Under the pre-existing Cuba sanctions program, a third-country bank, for example, may have been able to manage its U.S. sanctions risk adequately by avoiding U.S. dollar clearing, transactions involving products subject to U.S. export controls jurisdiction, and other U.S. touchpoints, along with maintaining an assessment that it was not “owned or controlled” by U.S. persons.

Under the new order, secondary sanctions risk will lurk for most types of third country business with Cuba, even when conducted entirely offshore and without a U.S. nexus.

FFIs and other non-U.S. companies that have traditionally operated outside OFAC's reach under the CACR should act quickly to identify and assess any new U.S. sanctions risks associated with their Cuba business, whether any clients, suppliers or other partners may be at risk of designation, and whether their activity could be viewed as significant or material support from the U.S. government's perspective.

For example, companies with a purely humanitarian business in Cuba, e.g., food, medicine, etc., may be able to get comfortable about their exposure under the order, depending on the details of their business, such as the nature and extent of any benefits accruing to the Cuban government, any use of confiscated property, and the profiles of their local partners.

## TAKEAWAYS

Much of the practical impact of the order will depend on how aggressively the U.S. government chooses to deploy this new authority.

The designations of GAESA, its executive president and Moa Nickel are not a surprising first move. Both of these companies have long been a focus of skeptics of the Cuban government.

So there is not yet much to read in these tea leaves, and the key question today is whether the U.S. government will next begin to target less high-profile participants in the Cuban economy, particularly multinationals, and other local Cuban enterprises and government bodies that may act as their partners.

Those at highest risk are those:

- Operating in any of the five targeted sectors: (1) energy, (2) defense, (3) metals and mining, (4) financial services and (5) security;
- In partnerships with the Cuban government that generate significant foreign currency revenues for the government, e.g., tourism and export-oriented businesses; and
- Using so-called confiscated property as part of their business in Cuba.

The order is a bold move by the Trump administration toward a more expansive Cuba sanctions architecture that can directly affect non-U.S. companies and FFIs. Those with potential exposure under the order should reevaluate their U.S. sanctions risk assessment and reconsider any potential mitigating measures.

---

[1] <https://ofac.treasury.gov/media/935581/download?inline>.

[2] <https://www.govinfo.gov/content/pkg/FR-2026-02-03/pdf/2026-02250.pdf>.

[3] <https://ofac.treasury.gov/media/935571/download?inline>.

[4] <https://www.state.gov/releases/office-of-the-spokesperson/2026/05/u-s-sanctions-target-cubas-military-regime-elites>.

[5] <https://www.state.gov/division-for-counter-threat-finance-and-sanctions/cuba-restricted-list>.

[6] <https://ofac.treasury.gov/faqs/added/2026-05-07>.

## **RELATED INDUSTRIES + PRACTICES**

- [Sanctions + Trade Controls](#)