

Market Bulletin

LLOYD'S

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FROM: Regulatory Officer, Regulatory Division
LOCATION: G5/86
EXTENSION: 6278
DATE: 7 August 2002
REFERENCE: Y2852
SUBJECT: RE – US SANCTIONS – CUBA
SUBJECT AREA(S):
ATTACHMENTS: LLG&M ADVICE RE CUBA
ACTION POINTS: **Compliance Officers to note and advise appropriate staff.**
DEADLINE: **Immediate**

This Market Bulletin acts as a reminder to all agencies and syndicates who have either US capital providers or have US citizens as members of staff of their obligations regarding the sanctions regime that the US Government continues to apply.

Please find attached, advice provided by LeBouef Lamb Greene & MacRae regarding the application of the US sanctions regime against Cuba and its implications for the Lloyd's Market for your ease of reference. This advice was originally included in the document entitled "Memorandum for Lloyd's market – US Sanctions Legislation and Related EU and UN Legislation" which was issued in July 1999 and should be read in conjunction with the general advice contained in that document.

Further information regarding the US sanctions regime against Cuba can be found on the web-site of the US Treasury web-site for their Office of Foreign Assets Control at, <http://www.treas.gov/offices/enforcement/ofac/sanctions/index.html>

Should you have any further questions in this regard please contact Mark Etté, Regulatory Liaison, Lloyd's extension 6278.

This Bulletin is being sent to all Lloyd's Active Underwriters, Managing Agents, Members' Agents and Lloyd's Brokers.

Mark Etté
Regulatory Liaison
Regulatory Division

CUBA

1 THE CUBAN ASSETS CONTROL REGULATIONS

Authorised under The Trading with the Enemy Act 1017 (“**TWEA**”), OFAC issued the US Cuban Assets Control Regulations (the “**Regulations**”) in 1963. Under the Regulations, “**Persons subject to the jurisdiction of the United States**” cannot, except as specifically authorised by the Secretary of the Treasury, trade with or invest in Cuba under any circumstances.

1.1 This term includes:

- (a) Any individual, wheresoever located, who is a citizen or resident of the United States;
- (b) any person within the United States;
- (c) any corporation organized under the laws of the United States; and
- (d) any corporation, partnership, or association, wheresoever organized or doing business, that is owned or controlled by persons specified in paragraph (a) or (c) above (e.g. corporate Names or managing agents).

1.2 In turn, the term “**person within the United States**” includes:

- (a) any person, wheresoever located, who is a resident of the United States;
- (b) any person actually within the United States;
- (c) any corporation organised under the laws of the United States; and
- (d) any partnership, association, corporation, or other organisation, wheresoever organised, or doing business, which is owned or controlled by any person in (a), (b) or (c) above (e.g. corporate Names or managing agents).

1.3 Corporate Names or managing agents that are subsidiaries of a US parent corporation are “persons subject to the jurisdiction of the United States”. Therefore, no such subsidiary, wheresoever located, is permitted to trade with Cuba.

"This paper does not seek to prescribe an all-encompassing response to the operating difficulties that U.S. sanctions will create for the Lloyd's market, as no such single solution exists. Rather, this paper is intended to help identify business activities that are most likely to implicate various sanctions regimes and will provide some indication of possible steps to reduce risks. This paper cannot and should not substitute for independent legal advice in respect of any business decisions Underwriters may take that are affected by international sanctions regimes."

LEBOEUF, LAMB, GREENE & MACRAE, June 2001

2 SPECIALLY DESIGNATED NATIONALS

Extreme care should also be taken not to engage in any business with a partnership, association or corporation which is owned or controlled directly or indirectly by a **“Specially Designated National”**. This term includes the Cuban government or any person determined by the US Secretary of the Treasury to be a specially designated national.

3 PENALTIES

Criminal penalties for violating the sanctions range up to 10 years in prison, US\$1 million in corporate fines and US\$250,000 in individual fines. Civil penalties up to US\$55,000 per violation may also be imposed.

4 IMPACT ON LLOYD’S

- 4.1 Individual US citizens who are Names at Lloyd’s should not be directly involved in the provision of insurance in Cuba. US citizen Names may wish to evaluate their passive participation in syndicates writing such risks.
- 4.2 No US person, including a corporate Name that is a subsidiary of a US parent, wheresoever located, is permitted to trade with Cuba.
- 4.3 US citizens who are active underwriters or officers or employees of managing agencies should not be involved, even indirectly, in any transaction related to Cuba.
- 4.4 See LeBoeuf’s Part I (Overview) for a more detailed discussion of the implications of US sanctions for Lloyd’s entities.

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