

COMPANIES' PERCEPTION OF CUBA HAS CHANGED, LAWYERS SAY

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Lawyers believe the US government's recent decision to ease trade relations with Cuba will have a significant impact on international companies' perception of the country as a place to do business.

Last month, the US Treasury Department and the US Commerce Department issued rules amending regulations relating to Cuban assets and exports. It followed US President Obama's announcement in December last year that there would be an overhaul of the US' embargo against Cuba.

Financial transactions and telecommunications services are two areas in which the new rules could have an impact, according to lawyers. "US banks and US branches and agencies of foreign banks will now be authorised under a general license to open correspondent accounts at Cuban financial institutions so that these institutions may process certain authorised funds transfer transactions," said Greenberg Traurig shareholder Kara M. Bombach. However, she added that US securities brokers do

not fall under the definition of a "depository institution" so remain prohibited from establishing correspondent account relationships with Cuban financial institutions.

Meanwhile, Baker & McKenzie partner Paul Burns said transactions that establish mechanisms to provide commercial telecommunications services in Cuba "or linking third countries and Cuba" are now generally authorised "as is the provision by persons subject to US jurisdiction of additional services incident to internet-based communications and related to certain exports/reexports of communication items."

However, Hermenegildo Altozano, partner at Bird & Bird in Madrid, argues that more important than the minor changes brought about by the new rules is the change in perception of Cuba as a place to do business.

"Very little has changed [with the new rules], but starting down this new path will mean it is difficult to go back – there is now an appetite for normalisation [of trade relations]," he said. "The perception of non-US companies of doing business in Cuba has changed." Altozano added that most big corporations – including those in Spain – would now see that it is possible to do business in Cuba without the reputational risk that may have existed previously.