

CUBAN TELECOMS AND RENEWABLES SECTORS ‘OFFER OPPORTUNITIES FOR US INVESTORS’

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Hunton & Williams partner Gustavo J. Membiela says the US has ‘loosened’ its Cuban embargo in relation to telecoms while there is a ‘policy of approval’ in relation to renewable energy

It is been almost a year since President Obama and President Castro announced that the US and Cuba would re-establish formal diplomatic relations. The US has removed Cuba from the list of state sponsors of terrorism, the embassies were formally reopened in each country's respective capital, and the stream of businessmen, politicians and celebrities landing in Havana is never-ending. For US investors, not much has changed.

“While most foreign investors see Cuba as an attractive market with a widening portfolio of business opportunities, US-based investors are very much subject to the embargo laws,” says Gustavo J.

Membiela, partner in the Cuba practice group at Hunton & Williams. "What has changed now is that there are more opportunities to seek and win approval from the US regulators in certain key areas."

Membiela adds: "Telecoms is one of those areas where the embargo has been loosened, so to speak. Also, the US government has a general policy of approval in matters of environmental protection, including renewable energy. This means that renewables are another area of possible growth in Cuba for US investors even without the full-scale lifting of the embargo. Coincidentally, Cuba's most recent investment opportunities portfolio unveiled several interesting projects in renewables. "

One area where uncertainty remains is banking. Membiela says: "US banks remain wary and reluctant to support Cuba-related transactions. Because of the current risk profile of Cuba and the embargo, banks see the market as risky and costly despite the US regulatory changes to increase the number of transactions."

Indeed, under financial regulations outlined by the US Office of Foreign Assets Control, US-based banks are allowed to open correspondent accounts in Cuban banks and travellers are permitted to use credit and debit cards on the island. However, in practice, only Stonegate, a commercial bank from Florida, has established a correspondent banking deal with a Cuban counterpart, and its debit cards can be used at select Cuba locations.

Another area where foreign investors need to tread carefully is anti-bribery compliance. "As a foreign company set on doing business in Cuba, you really need to think about the risk exposure of such a country and have a strong compliance programme," Membiela points out. "While most companies will have a compliance policy, Cuba presents other challenges as most of the economy and resources are state-owned. As a result, the likelihood of dealing with government officials with median earnings that are on the low side is much higher, and so is the exposure to risk of people falling into prohibited transactions. "

With regard to the future for Cuba, Membiela says: "The path forward is to follow what they've intended to do, that is making the country even more attractive to foreign investment. The country wants and needs this investment so steps are being taken constantly to build up its potential attractiveness to foreign investors."