

U.S. moves toward (but stops short of) complete embargo on Venezuela

9 August 2019

On 5 August 2019 the Trump administration issued [Executive Order 13884](#) (the executive order) imposing sweeping sanctions against the government of Venezuela, including its agencies and instrumentalities as well as any entities owned or controlled by the Venezuelan government (collectively, the GOV). The executive order is effective immediately and bars all dealings with the GOV by U.S. persons, subject to certain exceptions discussed below, including a wind-down period lasting until the end of day on 3 September 2019.

The announcement of the executive order follows a series of economic measures taken by the Trump administration to increase economic pressure on the Maduro regime, as well as Venezuela's trading partners and financial supporters abroad. You can view our previous publications concerning Venezuela sanctions [here](#).

Summary

Given the nature of the economy in Venezuela and the involvement of state-owned enterprises, the impact on business is very broad. The new sanctions on GOV do not constitute a comprehensive embargo on the country; however, parties engaged in Venezuela-related business should thoroughly review their Venezuela-related activity to ensure that any continued business in Venezuela is authorized. Both U.S. and non-U.S. companies engaged in dealings with Venezuela, or considering investments in companies with Venezuela-related business, should take note of the newly imposed restrictions, update their compliance programs to reflect such changes, and continue to monitor for additional developments.

Should you have any questions regarding the new Venezuela sanctions, please do not hesitate to contact one of the members of the Hogan Lovells International Trade and Investment group identified on this alert.

Key changes to Venezuela sanctions program

The key changes implemented by the executive order include the following:

- The executive order freezes all assets of the GOV subject to U.S. jurisdiction and prohibits U.S. persons from engaging in activities with the GOV unless exempt or authorized by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). OFAC has issued a general license authorizing U.S. persons to engage in all activities and transactions

necessary and ordinarily incident to wind down of preexisting contracts and operations with the GOV so long as such activities are completed before 4 September 2019.

- The executive order authorizes the imposition of secondary sanctions on any person (including non-U.S. persons) found to have done one of the following:
 - "[M]aterially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of" any party designated by OFAC as a Specially Designated National (SDN) under this executive order (no such designations have been made to date).
 - "[A]cted or purported to act for or on behalf of, directly or indirectly," the GOV. As such, there is no broad exposure for non-U.S. persons who may be providing "material support" to the GOV but those who act on the GOV's behalf could face SDN designation.
- In conjunction with the executive order, OFAC issued new and amended existing general licenses, authorizing certain transactions that are otherwise targeted by prohibitions set forth in the executive order – we discuss these in further detail below.

While this announcement constitutes a major expansion of the Venezuela sanctions program, the United States has not imposed a comprehensive embargo against the entire country of Venezuela and all parties in it. Rather, these blocking sanctions only apply to the GOV, and certain previously permitted activities remain authorized.

It is important to note that the executive order does not prohibit transactions with privately owned entities in Venezuela that do not involve SDN banks or other SDNs. However, as a result of the executive order, conducting business in Venezuela will be even more difficult for both U.S. and non-U.S. parties, given the large role the GOV plays in many sectors of the Venezuelan economy. Moreover, given the broad scope of the executive order, many companies, such as banks, insurers, or logistics providers, may begin to treat Venezuela sanctions as being similarly comprehensive in scope as those targeting Cuba, Crimea, Iran, Syria, and North Korea. Therefore, even companies that can continue to lawfully do business in Venezuela may face numerous practical challenges.

As noted above, OFAC issued and amended a number of general licenses that authorize certain types of activities, including the wind-down of preexisting contracts or operations with the GOV (but NOT with previously designated SDNs). Key general licenses include:

- **General License 28:** Authorizes all transactions and activities prohibited by Executive Order 13884 that are ordinarily incident and necessary to the wind-down of operations, contracts, or other agreements involving the GOV that were in effect prior to 5 August 2019. This general license expires on 4 September 2019, so authorized activities have to be completed before that date. Please note that OFAC's guidance makes it clear that this wind-down does not extend the previously expired wind-down authorization for activities with *Petróleos de Venezuela, S.A. (PdVSA)*; this general license only provides authority for wind-down of activities with GOV entities that are not SDNs.
- **General License 4C:** Authorizes certain transactions involving GOV and certain SDN banks for the export or reexport of agricultural commodities, medicine, medical devices, replacement parts and components, and software updates for medical devices.

- **General License 30 and 33:** Authorize use of ports and airports in Venezuela, as well as payments for overflights of Venezuela or emergency landings in Venezuela by aircraft registered in the United States.
- **General License 25:** Authorizes the exportation of services, software, hardware, and technology incident to the exchange of communications over the internet, such as instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, blogging, web hosting, and domain name registration services.
- **General License 7C:** Continues to authorize all transactions involving CITGO Holding Inc. and PDV Holding Inc., including their subsidiaries (such as CITGO Petroleum Corp.) so long as PdVSA or its entities are not involved. Because this authorization is valid for 18 months since the issuance of this amended general license, the prior expiration date has been extended in practice. This remains an important authorization for these U.S. operations and both U.S. and non-U.S. businesses can transact with CITGO consistent with the terms of this authorization.

The relatively short validity period of several of these general licenses underscores the U.S. government's aim with these sanctions – to isolate the Maduro regime from its international supporters and the U.S. financial system, and to pressure the Maduro regime to cede power to the U.S.-recognized Interim President of Venezuela Juan Guaidó. A summary of the newly issued and amended general licenses is set forth below.

Newly issued general licenses

- **General License 21:** Permits U.S. financial institutions to conduct transactions involving normal service charges owed to it involving a blocked account.
- **General License 22:** Authorizes transactions in goods and services for Venezuela's mission to the United Nations, provided that the goods or services are for the conduct of official business of the mission and/or for personal use of mission staff members.
- **General License 23:** Permits financial institutions to process funds transfers related to official business of third-country diplomatic or consular missions in Venezuela.
- **General License 24:** Authorizes transactions involving the GOV incident to the receipt and transmission of telecommunications or mail and packages between the United States and Venezuela.
- **General License 25:** Authorizes the exportation or reexportation, including involving the GOV, of services, software, hardware, and technology incident to the exchange of communications over the internet.
- **General License 26:** Authorizes the provision and receipt of nonscheduled emergency medical services. For other medical services, this general license does not authorize activities involving SDNs targeted by prior orders.
- **General License 27:** Authorizes transactions related to patent, copyright, trademark, and other intellectual property (IP) protection in the United States or in Venezuela, and the payment of fees to the GOV or to the U.S. government, including retention of attorneys/representatives in the United States or in Venezuela in connection with such authorized IP activities.

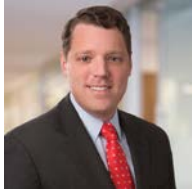
- **General License 28:** Authorizes transactions and activities necessary to the wind-down of preexisting operations involving the government of Venezuela before 4 September 2019, with no involvement of SDNs targeted by prior orders.
- **General License 29:** Authorizes nongovernmental organizations to engage in transactions relevant to certain activities in Venezuela, including humanitarian and environmental programs, democracy building, health care programs, and education, provided that no SDNs targeted by prior orders are involved.
- **General License 30:** Authorizes all transactions involving the GOV that are ordinarily incident and necessary to operations or use of ports and airports in Venezuela.
- **General License 31:** Authorizes all transactions involving the Venezuelan National Assembly and Interim President Juan Guaidó, including individuals appointed to act on behalf of the Guaidó government by the aforementioned persons, and individuals appointed by Guaidó to an international organization or as a board member or executive officer of a government of Venezuela entity.
- **General License 32:** Authorizes transactions that are ordinarily incident and necessary to the personal maintenance of U.S. citizens residing in Venezuela, including payment of housing expenses, acquisition of goods or services for personal use, payment of taxes or fees, and the purchase or receipt of permits, licenses, or public utility services.
- **General License 33:** Authorizes the receipt of, and payment of charges for, services rendered involving the GOV in connection with overflights of Venezuela or emergency landings in Venezuela by aircraft registered in the United States or owned or controlled by, or chartered to, persons subject to U.S. jurisdiction.

Amended general licenses

- **General License 2A:** Continues to authorize certain debt, equity, and securities transactions and activities where the only GOV entities involved are PDV Holding Inc., CITGO Holding Inc., or any of their subsidiaries (including CITGO).
- **General License 3F:** Continues to authorize transactions related to the divestment or transfer of certain GOV-issued bonds.
- **General License 4C:** Continues to authorize certain transactions ordinarily incident and necessary to the exportation or reexportation of agricultural commodities, medicine, medical devices, replacement parts and components, and software updates for medical devices.
- **General License 5:** Continues to authorize transactions related to the referenced bond.
- **General License 6:** Continues to authorize wind-down transactions related to Globovision Tele C.A. or Globovision Tele CA Corp. (through 8 January 2020).
- **General License 7C:** Continues to authorize all transactions involving CITGO Holding Inc. and PDV Holding Inc., including their subsidiaries so long as PdVSA or its entities are not involved.
- **General License 8C:** Continues to authorize five named companies to engage in transactions with PdVSA in Venezuela so long as no other SDNs are involved and there is no export of diluents to Venezuela. Unlike General License 7C, this one was not extended in validity upon amendment and continues to expire on 25 October 2019.

- **General License 9E:** Continues to authorize certain transactions involving PdVSA bonds, promissory notes or receivables as enumerated in that general license.
- **General License 10A:** Continues to authorize the purchase by U.S. persons in Venezuela of refined petroleum products for personal, commercial, or humanitarian uses from PdVSA or PdVSA-affiliated entities.
- **General License 13C:** Continues to authorize certain transactions involving Nynas AB or any of its subsidiaries, until 25 October 2019.
- **General License 15B:** Continues to authorize certain U.S. financial institutions and companies (e.g., MasterCard Inc., Visa Inc., American Express Co., Western Union Co., MoneyGram International) to engage in certain transactions with specified Venezuelan financial institutions (this authorization does not extend to dealings with BANDES).
- **General License 16B:** Continues to authorize transactions ordinarily incident and necessary to maintaining, operating, or closing accounts of U.S. persons in specified Venezuelan financial institutions, through 22 March 2020. General License 16B adds accounts in Banco del Tesoro to the list.
- **General License 18A:** Continues to authorize transactions ordinarily incident and necessary to maintain or operate Integración Administradora de Fondos de Ahorro Previsional, S.A.
- **General License 20A:** Continues to permit otherwise-prohibited transactions and activities for the official business of certain international organizations.

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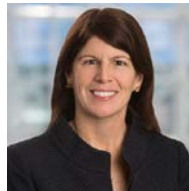
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