

## US IMPOSES NEW FINANCIAL SANCTIONS ON THE GOVERNMENT OF VENEZUELA AND PDVSA

On August 24, 2017, President Trump issued an Executive Order (EO) *Imposing Additional Sanctions with Respect to the Situation in Venezuela*, which prohibits specified dealings by US persons or involving the US financial system with the Government of Venezuela and Petroleos de Venezuela, S.A. (PDVSA). This action was in response to President Maduro's decision to convene a special assembly to re-write the Venezuelan constitution and assume additional powers. The US Treasury Department's Office of Foreign Assets Control (OFAC) also issued four related general licenses (GLs) that, among other things, provide for the wind-down of existing contracts and authorize certain transactions, particularly with CITGO Holdings, Inc. (CITGO). According to OFAC, the purpose of the new prohibitions is to stop US persons from contributing to the Government of Venezuela's attempts to sell its assets "*for much less than they are worth at the expense of the Venezuelan people and using proceeds from these sales to enrich supporters of the regime.*"

This EO follows a series of OFAC designations over the last few months of current and former Venezuelan Government officials in response to the situation in Venezuela. The EO does not impose blocking or asset freezing requirements or an embargo on Venezuelan oil. However, it restricts the access of the Government of Venezuela and PDVSA to financing by prohibiting the involvement of US persons or the US financial system in "*transactions related to, provision of financing for, and other dealings in*":

- New debt of longer than 90 days of PDVSA;
- New debt of longer than 30 days of the Government of Venezuela (excluding PDVSA), and new equity for the Government of Venezuela;
- Venezuelan Government bonds issued prior to the effective date of the EO (August 25, 2017); and

- Dividend payments or other distribution of profits to the Government of Venezuela by any Government-owned or controlled entities.

The EO also prohibits purchases of securities of any kind, including securities issued by third parties, from the Venezuelan Government, directly or indirectly, by US persons or involving the US financial system. Securities qualifying as new debt of PDVSA or the Government of Venezuela below the respective 90 and 30 maturity thresholds would not be covered under this prohibition.

## **DEFINITIONS AND TRANSACTIONS UNDER THE EO**

The EO broadly defines the Government of Venezuela to include "*any political subdivision, agency or instrumentality thereof, including the Central Bank of Venezuela and PdVSA, and any person owned or controlled by, or acting for or on behalf of, the Government of Venezuela.*" OFAC's FAQs regarding the EO confirm that, per OFAC's "Fifty Percent Rule", the EO's prohibitions extend to entities 50% or more owned by the Government of Venezuela.

OFAC's FAQs define "debt" broadly to include "*bonds, loans, extensions of credit, loan guarantees, letters of credit, drafts, bankers acceptances, discount notes or bills, or commercial paper.*" The EO's prohibitions on new debt (i.e., issued on or after August 25, 2017) permit US persons who entered into financing agreements with PDVSA or the Government of Venezuela prior to the EO's effective date to process drawdowns and disbursements under such pre-existing debt agreements, so long as those terms were contractually agreed to prior to August 25, 2017 and not amended thereafter.

The FAQs also confirm that US financial institutions may continue to maintain correspondent accounts for and provide US dollar clearing for the Government of Venezuela, provided that the transactions do not relate to prohibited transactions under the EO.

## **THE RELATED GENERAL LICENSES**

OFAC has also issued four GL's under which US persons may engage in transactions that would otherwise be prohibited under the EO. These GL's are summarized in the table below:

General License	Summary of Authorized Transactions
GL1	Provides 30 days from the effective date of the EO to conduct otherwise prohibited transactions that are ordinarily incident and necessary to wind down agreements previously in effect. Transactions under this GL must be reported to OFAC within 10 business days.
GL2	Authorizes otherwise prohibited transactions provided that the only Government of Venezuela entities involved are CITGO and any of its subsidiaries.
GL3	Authorizes transactions related to bond dealings contained on the List of Authorized Venezuela-Related Bonds attached as "Annex to General License 3"
GL4	Authorizes otherwise prohibited transactions related to

the exportation or reexportation "*from the United States or by a US person, wherever located,*" of agricultural commodities, medicine, medical devices, or replacement parts and components.

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