

CLIENT ALERT

All or Nothing? OFAC Adds PDVSA to the SDN List

Jan.30.2019

On January 28, 2019, the Department of the Treasury's Office of Foreign Assets Control (OFAC) designated Petróleos de Venezuela, S.A. (PdVSA) pursuant to Executive Order (E.O.) 13850 – “Blocking Property of Additional Persons Contributing to the Situation in Venezuela”. Further, OFAC amended General License 3, issued eight (8) new General Licenses, and published a new Frequently Asked Question (FAQ) on the new E.O. - “Taking Additional Steps to Address the National Emergency with Respect to Venezuela.” Additional FAQs are anticipated.

The sanctions designation and the corresponding general licenses appear modelled after sanctions programs designed to protect and preserve a jurisdiction's assets from kleptocratic or corrupt regimes for the next duly elected Administration – in this case, Interim President Juan Guaidó. Treasury Secretary Mnuchin's statement illustrates this point:

T[he] designation of PdVSA will help prevent further diverting of Venezuela's assets by Maduro and preserve these assets for the people of Venezuela. The path to sanctions relief for PdVSA is through the expeditious transfer of control to the Interim President or a subsequent, democratically elected government.

Similar programs include the Kuwait sanctions program and the current remaining sanctions in Iraq and Libya. As a result, the sanctions on PdVSA are accompanied by general licenses allowing U.S. Persons (individuals and entities) to wind down or maintain certain transactions—in some instances, by mandating that payments flow into interest bearing blocked (or “frozen”) accounts.

As detailed below, the response from Maduro was swift and tensions continue to escalate.

The Executive Order

The New E.O. - “Taking Additional Steps to Address the National Emergency with Respect to Venezuela”, amends the definition of the term “Government of Venezuela” to include PdVSA and “any person owned or controlled, directly or indirectly, by the foregoing, and any person who has acted or purported to act directly or indirectly for or on behalf of, any of the foregoing, including as a member of Nicolás Maduro's regime.” The new FAQ clarifies the addition and states that all existing Venezuela-related sanctions are still in effect.

The General Licenses

OFAC issued or updated the following General Licenses:

- General License 3a (“GL3a”) now authorizes transactions related to financing for and dealings in bonds identified in the Annex; and transactions related to the provision of financing for, and other dealings in bonds issued (a) before August 25, 2017 AND (b) by U.S. person entities owned or controlled by the Government of Venezuela. The authorizations

within GL3a do NOT include Nynas AB within their scope. Nynas AB, according to its [website](#), is a Swedish manufacturer of specialty naphthenic oils and bitumen products. The website also reports that PdVSA owns 50 percent of the shares in Nynas and maintains seats on the Board of Directors. Transactions relating to Nynas AB are addressed in General License 13 – summarized below.

- General License 7 (“GL7”) – “Authorizing Certain Activities with PDV Holding, Inc. and CITGO Holding, Inc.” The GL authorizes (a) through July 26, 2019, transactions involving PDVH, CITGO Holding Inc. or their subsidiaries; (b) through April 27, 2019, PDVH, CITGO Holding Inc. and their subsidiaries to engage in transactions ordinarily incident to the purchase and importation of petroleum and petroleum products from PdVSA. The General License mandates that any payments to PdVSA (other than to PDVH, CITGO Holding Inc.) must be to an interest bearing, blocked account. Further, the GL clarifies that it is not authorizing exports to PdVSA.
- General License 8 (“GL8”) – “Authorizing Transactions Involving Petróleos de Venezuela, S.A. (PdVSA) Prohibited by Executive Order 13850 for Certain Entities Operating in Venezuela”. General License 8 authorizes, through July 27, 2019, all transactions incident to the operations in Venezuela involving PdVSA or its subsidiaries involving: Chevron Corporation, Halliburton, Schlumberger Limited, Baker Hughes, and Weatherford International. Explicitly not authorized is the export of diluents to Venezuela.
- General License 9 (“GL9”) – “Authorizing Transactions Related to Dealings in Certain Debt.” GL 9 authorizes transactions ordinarily incident to dealings in debt of PdVSA (including bonds identified in the Annex) where the debt was issued before August 25, 2017 and providing that divestment is to a non-U.S. Person. The GL9 also authorizes bonds issued before August 25, 2017 for PDV Holdings Inc., CITGO HOLDINGS Inc, and Nynas AB.
- General License 10 (“GL10”) – “Authorizing the Purchase in Venezuela of Gasoline from Petróleos de Venezuela, S.A. (PdVSA).” GL10 authorizes U.S. Persons in Venezuela to purchase refined petroleum products for personal, commercial, or humanitarian uses from PdVSA and its subsidiaries. The GL explicitly does not authorize resale, transfer, exportation or reexportation of refined petroleum products.
- General License 11 (“GL11”) – “Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts with Petróleos de Venezuela, S.A. (PdVSA).” GL 11 authorizes, through March 28, 2019 (a) U.S. Person employees or contractures of non-U.S. entities located outside of the U.S. and Venezuela to engage in all transactions and activities that are necessary to the maintenance or wind down of operations, contracts, or other agreements involving PdVSA and its subsidiaries. It also authorizes, through March 28, 2019 (b) U.S. Financial institutions to reject funds transfers involving PdVSA and non-U.S. entities located outside of the U.S. or Venezuela. The GL explicitly stipulates it is not authorizing dealings with ALBA de Nicaragua (ALBANISA), an entity 51 percent owned by PdVSA.
- General License 12 (“GL12”) – “Authorizing Certain Activities Necessary to Wind Down of Operations or Existing Contracts with Petróleos de Venezuela, S.A. (PdVSA).” GL12 authorizes, through April 27, 2019, all transactions relating to the purchase and import into the United States of petroleum and petroleum products from PdVSA or its subsidiaries. Through February 27, 2019, GL12 also authorizes all transactions incident to the wind down of operations, contracts, or other agreements, including the import into the United States of goods, services, or technology involving PdVSA. A stipulation of these authorizations is that all funds owed to PdVSA must be paid into an interest bearing blocked account.
- General License 13 (“GL13”) – “Authorizing Certain Activities Involving Nynas AB.” GL13 authorizes, through July 26, 2019, all transactions involving Nynas AB.

- [General License 14](#) (“GL14”) – “Official Business of the United States Government.” GL14 authorizes official business transactions of the U.S. Government, its employees, grantees, and contractors.

State of Play:

Venezuela, since May 2018, has been facing a major constitutional crisis. In May 2018, Maduro secured another six-year term in an election widely rejected and viewed as illegitimate by the international community. On January 10, 2019, after Maduro attended his own “swearing in ceremony” for the 2019-2024 presidential period, the National Assembly of Venezuela—the only government institution chosen by vote and run by opposition majority—stated that there was the absence of a legitimately elected president in Venezuela. Led by its Head Juan Guaidó, the National Assembly alleged that Maduro was usurping the Executive Power and imposing a *de facto* government.

On January 11, Guaidó, invoking the [Venezuelan Constitution](#), announced that the legislature would temporarily assume the role of the Presidency of the Republic and call for new elections. Guaidó cited Articles 233, 333 and 350 Venezuela’s constitution, which grant presidential power to the head of the National Assembly when the presidential seat is vacant and give the Venezuelan people the right to disregard any authority or regime that violates human rights and democratic values and principles. Shortly after, Luis Almagro, Secretary General of the OAS, [welcomed](#) Guaidó as the interim President of Venezuela.

On January 23, Juan Guaidó was sworn in as the Interim President (“*Presidente Encargado*”) of Venezuela. On the same day, the U.S. Government and several governments in Latin America, including thirteen member countries of the [Lima Group](#), formally recognized Guaidó as the legitimate president of the country. France, Spain, Germany and other members of the EU also gave Maduro an ultimatum to call for new elections within eight days, stating that otherwise they would recognize Guaidó as president.

In response, Maduro demanded the [withdrawal of U.S. diplomats](#) from Venezuela within 72 hours—while at the same time ordering its diplomats in the U.S. to [return to Venezuela](#). The U.S. Government announced that it would keep its Embassy in Caracas open after recognizing Guaidó as Venezuela’s only head of State. Shortly after, the Venezuelan military attaché in Washington and other Venezuelan diplomats in the U.S. publicly recognized Guaidó as the legitimate Interim President of Venezuela.

As political tensions continued to heighten, the United Nations [Security Council](#) held an emergency session on January 26 to discuss the situation in Venezuela. However, the Security Council was unable to reach an agreement over the appropriate response to the crisis in Venezuela. Countries currently supporting Nicolas Maduro include Russia, China, Iran, Turkey, Cuba, Nicaragua, and Bolivia, among others.

On January 29, the Attorney General hand-picked by the Maduro Regime, Tarek William Saab, [stated on national television](#) that he was seeking probe against Guaidó alleging a staged *coup d’état*. On the same day, the—also hand-picked—Supreme Court of Justice imposed a travel ban on Guaidó, froze his bank accounts and opened a criminal investigation. In response, the [United States gave](#) Guaidó control over certain assets held by the Federal Reserve Bank of the Government and Central Bank of Venezuela.

The United States has made it clear that it will stand with Venezuela’s Interim President and will pursue harsh diplomatic actions such as the recently issued sanctions on PdVSA.

Recent OFAC-related Actions Leading up to the PdVSA Designation on January 28, 2019:

Leading up to the January 28 Executive Order and corresponding General Licenses, OFAC had taken other significant steps earlier in January. In particular, OFAC issued General License 6 and designated seven individuals, 23 entities, and one aircraft. Each action is summarized below.

On January 8, the Department of the Treasury's [Office of Foreign Assets Control](#) (OFAC) issued Venezuela-related [General License 6](#).

General License 6 ("GL6"), valid through January 7, 2020, allows all transactions ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements, including the importation of goods, services, or technology into the United States involving involving Globovision Tele C.A. or Globovision Tele CA, Corp., or any entity in which Globovision Tele C.A. or Globovision Tele CA, Corp. owns 50 or more percent. GL 6 explicitly prohibits any financial transaction that will directly or indirectly benefit a blocked person (*i.e.* An SDN); does not allow divestiture or transfer of equity or other holdings to the Globovision SDN entities; and prohibits the export of goods from the United States. As with the General Licenses issued on January 28, authorized payments to SDN must be made into a blocked, interest-bearing account. Finally, GL6 requires that U.S. Persons using its authorities file a report within ten days of the GL's expiration.

OFAC Frequently Asked Question

OFAC also published a new [Frequently Asked Question \(FAQ\)](#) explaining why OFAC is issuing General License 6 as well as clarifying the types of transactions allowed under the new Venezuela-related General License.

New SDN Designations – Venezuela related

In addition, on January 8, OFAC added seven individuals associated with Venezuela's Treasury and other government agencies to its Specially Designated Nationals (SDN) List pursuant to pre-existing authorities, as follows:

- Claudia Patricia Diaz Guillen – former head of the National Treasury Office and currently under house arrest in Spain.
- Leonardo Gonzalez Dellan – former figurehead of the Chavista Military and other political figures; former president of the Industrial Bank of Venezuela; and, former Treasurer of the National Treasury Office.
- Raul Gorrin Belisario – owner of Globovision news network and [previously charged](#) by the Department of Justice (DOJ) for money laundering.
- Maria Alexandra Perdomo Rosales – wife of Raul Gorrin Belisario.
- Gustavo Adolfo Perdomo Rosales – brother-in-law and business partner of Raul Gorrin Belisario.
- Mayela Antonina Tarascio-Perez – wife of Gustavo Adolfo Perdomo.
- Adrian Jose Velasquez Figueroa – former head of security under Chavez.

Further, OFAC added twenty-three entities associated with the recently designated individuals:

- Globovision Tele C.A.
- Globovision Tele CA, Corp.

- Seguros La Vitalicia
- Corpomedios GV Inversiones, C.A.
- Corpomedios LLC
- RIM Group Investments, Corp.
- RIM Group Investments I Corp.
- RIM Group Investments II Corp.
- RIM Group Investments III Corp.
- RIM Group Properties of New York, Corp.
- RIM Group Properties of New York II Corp.
- Magus Holdings USA, Corp.
- Magus Holding LLC
- Magus Holding II LLC
- Tindaya Properties Holding USA Corp.
- Tindaya Properties of New York, Corp.
- Tindaya Properties of New York II Corp.
- Posh 8 Dynamic Inc.
- Constello No. 1 Corporation
- Constello Inc.
- Windham Commercial Group Inc.
- Planet 2 Reaching Inc.
- Potrico Corp.

Finally, the following aircraft was added to OFAC's SDN List:

- N133JA

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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