

CLIENT ALERT

President Trump Expands U.S. Sanctions on Venezuela to Prohibit Certain Financial Transactions Involving the Government of Venezuela

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AUTHORS

David Mortlock | Priya R. Aiyar | Noman A. Goheer

On August 24, 2017, President Trump issued an [Executive Order](#) (“E.O.”) imposing new economic sanctions on Venezuela. The E.O., “Imposing Additional Sanctions With Respect to the Situation in Venezuela,” prohibits certain transactions by U.S. persons or within the United States involving debt and equity of the Government of Venezuela, payment of dividends to the Government of Venezuela, and securities held by the Government of Venezuela.

Background

The new E.O. builds on sanctions previously issued by the United States in July 2015 when the U.S. government began targeted, list-based sanctions on Venezuela under E.O. 13692, which implemented and expanded upon the Venezuela Defense of Human Rights and Civil Society Act signed by President Obama on December 18, 2014. E.O. 13692 designated seven individuals as Specially Designated Nationals and Blocked Persons (“SDNs”), and authorized additional designations of former officials of the Government of Venezuela and others undermining democracy in Venezuela.

Due to the recent political turmoil in Venezuela, the U.S. Department of the Treasury, Office of Foreign Assets Control (“OFAC”) made additional designations pursuant to E.O. 13692 of eight members of Venezuela’s Supreme Court of Justice on May 18, 2017. On July 26, 2017, OFAC designated an additional 13 officials of Venezuela’s government, military, and state oil company Petroleos de Venezuela, S.A. (“PdVSA”) based on their participation in Venezuelan President Nicolás Maduro’s plans to elect a controversial new congress, the National Constituent Assembly. Finally, OFAC designated President Maduro himself as an SDN on July 31, 2017.

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Executive Order Prohibitions

The E.O. prohibits all transactions related to, the provision of financing for, and other dealings by a United States person or entity within the United States in the following:

1. New debt with a maturity of more than 90 days of PdVSA. “New debt” is defined as debt issued on or after August 25, 2017, when the order became effective, and includes bonds, loans, extensions of credit, loan guarantees, letters of credit, drafts, bankers acceptances, discount notes or bills, or commercial paper.
2. New debt with a maturity of more than 30 days, or new equity, of the Government of Venezuela, other than debt of PdVSA. The Government of Venezuela is defined broadly in the E.O. as 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.
3. Bonds issued by the Government of Venezuela prior to August 25, 2017.
4. Dividend payments or other distributions of profits to the Government of Venezuela from any entity owned or controlled, directly or indirectly, by the Government of Venezuela.
5. The purchase, directly or indirectly, of securities from the Government of Venezuela, other than securities qualifying as new debt with a maturity of less than or equal to 90 or 30 days that are carved out by the provisions described above. OFAC’s Frequently Asked Questions add that the new sanctions “prohibit[] U.S. persons from purchasing any securities—including equity securities issued by a non-sanctioned party—from the Government of Venezuela.”

U.S. persons are defined as: (1) entities organized under U.S. law and their foreign branches; (2) U.S. nationals and U.S. permanent residents, wherever located; and (3) any person physically present in the United States.

General Licenses

OFAC also issued four general licenses in accordance with the E.O., authorizing the following activities for U.S. persons:

1. General License 1 (“GL1”): Authorizes transactions through September 24, 2017 ordinarily incident and necessary to wind down activities in connection with contracts or other agreements in effect prior to August 25, 2017. U.S. persons relying on this General License are required to submit a detailed report to OFAC within 10 business days of the transaction that includes the parties involved, value of the transactions, and dates of the transactions. Failure to submit the report could result in penalties by OFAC.

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2. General License 2 (“GL2”): Authorizes dealings in debt and the purchase of securities from the Government of Venezuela otherwise prohibited by the E.O., respectively, where the only Government of Venezuela entities involved are CITGO Holding, Inc. and any of its subsidiaries.
3. General License 3 (“GL3”): Authorizes transactions related to dealings in specific bonds enumerated in an [Annex](#) to the General License, or bonds issued prior to August 25, 2017 by U.S. person entities owned or controlled by the Government of Venezuela.
4. General License 4 (“GL4”): Authorizes transactions related to the provision of financing for and dealings in new debt related to the exportation or reexportation from the United States or by a U.S. person of agricultural commodities, medicine, medical devices, or replacement parts and components for medical devices to Venezuela, including sales to persons in third countries purchasing specifically for resale to Venezuela. Transactions must also comply with the licensing requirements of the Bureau of Industry and Security at the U.S. Department of Commerce under the Export Administration Regulations.

Implementation

Companies should ensure that their policies and procedures are up to date and take into account the new prohibitions imposed by the E.O. In addition to the prohibitions and potential liability for U.S. persons, non-U.S. persons also could face potential liability for exporting prohibited services from the United States or through a U.S. person.

Companies can take advantage of the “wind-down” period authorized by GL1 until September 24, 2017 in connection with contracts or other agreements in effect prior to August 25, 2017. However, the “wind-down” period does not apply to the distribution of dividends to the Government of Venezuela, the prohibition on which was effective August 25, 2017. U.S. persons participating in a transaction authorized by GL1 must file a detailed report with OFAC within 10 business days after the transaction takes place.

Notably, the sanctions do not restrict imports of crude oil into the United States. The restrictions also have stopped short of full blocking of the Government of Venezuela or PdVSA. Banks may still operate their accounts normally and continue the operation of correspondent banking accounts for transactions related to the oil industry in Venezuela. However, U.S. persons or entities exporting services from the United States to Venezuela should continue to ensure that all parties to their transactions are screened against the SDN List. Direct or indirect dealings by U.S. persons with SDNs, including those within the Government of Venezuela, remain generally prohibited.

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If you have any questions regarding this client alert, please contact the following attorneys or the attorney with whom you regularly work.

David Mortlock

202 303 1136

dmortlock@willkie.com

Priya R. Aiyar

202 303 1189

paiyar@willkie.com

Noman A. Goheer

202 303 1295

ngoheer@willkie.com

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