



## VENEZUELA: U.S. SANCTIONS

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### BACKGROUND

U.S. sanctions in relation to Venezuela comprise of the following:

- *Blocking Sanctions on State Owned Entities* – prohibiting U.S. persons (and non-U.S. persons using U.S. dollars) from engaging in transactions with entities owned by the Venezuelan Government (even if not designated as a Specially Designated National (“**SDN**”)).
  - Unless an exemption applies (e.g. [Venezuela General License 30A](#) - Authorizing Certain Transactions Necessary to Port and Airport Operations)
- *Blocking Sanctions on SDNs* – designation of large numbers of Venezuelan individuals and entities as SDNs, prohibiting (barring an exemption) the involvement of U.S. persons / U.S. dollars in transactions with such persons (or persons owned by at least 50% by such SDNs).
- *New Debt Restrictions* – prohibiting the provision of new debt (created on or after August 25, 2017) to certain Venezuelan state-owned entities, including loans and extension of credit.
- *Bond Trading Restrictions* – prohibiting the primary market trade of Venezuelan bonds.
  - [General License 3I](#) and [General License 9H](#) has removed the secondary market trading bans on purchases of certain Venezuelan sovereign bonds and pre-2017 bonds or equity issued by PdVSA.
- *Targeted Sectors* – creating sanctions exposure to persons determined to be “operating in” the gold, defense and security, financial, and oil sectors of the Venezuelan economy.
  - [General License 44](#) temporarily authorizes (currently through April 18, 2023) transactions that are related to oil and gas sector operations in Venezuela, including those ordinarily incident and necessary financial transactions with certain blocked Venezuelan banks related to the oil and gas sector, specifically including transactions involving PdVSA, subject to certain conditions we address below.
    - This license will be renewed only if Venezuela meets its commitments under the electoral roadmap as well as other commitments with respect to those who are wrongfully detained.
  - [General License 43](#) authorizes certain transactions involving the Venezuelan state-owned mining company CVG Compania General de Minería de Venezuela CA.
    - The U.S. government currently does not intend to sanction any person solely for legitimate operations in the gold sector of the Venezuelan economy.

## **LEGAL FRAMEWORK**

The Venezuela-related Sanctions program represents the implementation of multiple legal authorities. Some of these authorities are in the form of an executive order (“**EO**”) issued by the President. Other authorities are statutes passed by Congress. These authorities are further codified by the Office of Foreign Assets Control (“**OFAC**”) in its regulations which are published in the Code of Federal Regulations (“**CFR**”).

### **Executive Orders**

- [13884](#) - Blocking Property of the Government of Venezuela (August 5, 2019)
- [13857](#) - Taking Additional Steps to Address the National Emergency With Respect to Venezuela (January 25, 2019)
- [13850](#) - Blocking Property of Additional Persons Contributing to the Situation in Venezuela (November 1, 2018)
- [13835](#) - Prohibiting Certain Additional Transactions with Respect to Venezuela (May 21, 2018)
- [13827](#) - Taking Additional Steps to Address the Situation in Venezuela (March 19, 2018)
- [13808](#) - Imposing Additional Sanctions with Respect to the Situation in Venezuela (August 24, 2017)
- [13692](#) - Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela (March 8, 2015).

### **Determinations**

- [Determination Pursuant to Executive Order 13850 of November 1, 2018, as Amended](#) (Effective date - May 9, 2019) - Defense and Security Sector
- [Determination Pursuant to Executive Order 13850 of November 1, 2018, as Amended](#) (Effective date - March 22, 2019) - Financial Sector
- [Determination Pursuant to Executive Order 13850 of November 1, 2018, as Amended](#) (Effective date - January 28, 2019) - Oil Sector

### **Code of Federal Regulations**

- [31 CFR Part 591](#) - Venezuela Sanctions Regulations

## **APPLICATION: TO WHOM DO THE U.S. SANCTIONS APPLY?**

The U.S. sanctions regime primarily applies to “U.S. persons,” which means any United States citizen, permanent resident alien (*i.e.* Green Card holder), entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person physically in the United States (even temporarily). 31 CFR § 591.312. Barring an applicable general or specific license, the primary restrictions on U.S. persons include transacting with an SDN or a Venezuelan state-owned entity (even if not an SDN). These restrictions also extend to non-U.S. persons if U.S. dollars are used.

Even where there is no U.S. nexus in a transaction (U.S. persons or U.S. dollars), OFAC has the theoretical capability to pursue secondary sanctions on non-U.S. persons if it determines the non-U.S. person has provided “material support” to the SDN. There is no trigger threshold for what constitutes “material.” In addition, OFAC may pursue secondary sanctions if it determines the non-U.S. person to be “operating in” the prohibited sectors of the Venezuelan economy (subject to any applicable general or specific licenses).

## **OVERVIEW OF U.S. SANCTIONS**

Unlike the comprehensive sanctions (*i.e.* embargoes) that the United States has imposed against Iran, Syria, Cuba, North Korea, and the Crimea/Donetsk/Luhansk regions of Ukraine, the U.S. sanctions against Venezuela, while extensive, are more targeted. The OFAC Venezuela program is focused on the Government of Venezuela and state-owned companies rather than private enterprises or citizens. Therefore, most commercial transactions involving Venezuelan individuals and companies remain legal, even for U.S. persons.

For the purposes of the Venezuela sanctions, it is usually sufficient to screen for SDN or state ownership, and refrain from involving U.S. persons or U.S. dollars in such transactions. While the SDN List is readily available on the OFAC website, the state ownership requires checks at a deeper level. This is because, the “Government of Venezuela” is defined broadly to mean “[t]he state and Government of Venezuela, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Venezuela and PdVSA, 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 the Maduro regime.”

### ***Blocking Sanctions on the Government of Venezuela / State-Owned Entities***

On August 5, 2019, pursuant to EO 13884, the United States imposed blocking sanctions on the Government of Venezuela prohibiting U.S. persons from engaging in any transaction with the Government of Venezuela and entities it owns by 50% or more. Non-U.S. persons also cannot use U.S. dollars in transactions involving such entities owned by the Venezuelan state. This applies regardless of whether the state-owned entity is on the SDN List.

Even barring U.S. nexus, OFAC has the discretion to pursue secondary sanctions on a non-U.S. person determined to have “materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of” the blocked person. Practically, this means that carrying cargo to / from a blocked state-owned entity could create sanctions exposure for non-U.S. persons.

Please note that certain exemptions may be available, which are addressed in the General Licenses section further down in this document.

### ***Blocking Sanctions on SDNs***

As with the Venezuelan Government owned entities, barring an applicable exemption, U.S. persons are prohibited from engaging in virtually any transaction with an SDN. The property and interests in property of SDNs that are in the possession or control of U.S. persons or in the U.S. must be blocked or frozen (that is to say they may not be transferred, paid, exported, withdrawn or otherwise dealt in) and reported to OFAC. U.S. dollars also cannot be used in transactions involving an SDN (or an entity that is 50% owned by an SDN or multiple SDNs).

## ***Petróleos de Venezuela, S.A. (PdVSA)***

PdVSA is both a state-owned entity and an SDN. Practically, this means that U.S. persons / U.S. dollars normally cannot be involved in transactions involving PdVSA (or an entity it 50%-owns), unless the general license applies. In addition, even barring U.S. nexus, OFAC may pursue secondary sanctions if it determines the non-U.S. person has “materially supported” PDVSA outside the context of the general license.

## **GENERAL LICENSES**

On October 18, 2023, the United States significantly relaxed sanctions vis-à-vis Venezuelan oil and gas transactions. Most pertinent was the issuance of:

- [Venezuela General License 44](#) - Authorizing Transactions Related to Oil or Gas Sector Operations in Venezuela

GL 44 suspends Venezuela-related sanctions applicable to most oil and gas sector operations in Venezuela, including the sale of oil and gas from Venezuela to the United States and other jurisdictions, as well as the payment of taxes, royalties, costs, fees, dividends, and profits related to oil and gas sector operations or transactions involving PdVSA or any entity in which PdVSA owns a 50% or greater interest.

GL 44 provides a non-exhaustive list of transactions covered by the authorization, including:

1. The production, lifting, sale, and exportation of oil or gas from Venezuela, and provision of related goods and services
2. The payment of invoices for goods or services related to oil or gas sector operations in Venezuela
3. New investment in oil or gas sector operations in Venezuela
4. The delivery of oil and gas from Venezuela to creditors of the Government of Venezuela, including creditors of PdVSA entities, for the purposes of debt repayment.

**Note:** While these authorizations are addressed to “U.S. persons,” it is well established OFAC policy that authorizations issued for U.S. persons are also deemed to extend to non-U.S. persons as long as they comply with the license conditions. Therefore, non-U.S. operators would also be able to benefit from these authorizations to the extent their activities comply with GL 44.

While GL 44 provides broad relief to oil and gas sector operations in Venezuela, several key prohibitions remain in place:

- **Designated financial institutions.** GL 44 *does not authorize* any transactions involving any financial institution blocked pursuant to EO 13850 *other than* Banco Central de Venezuela or Banco de Venezuela SA Banco Universal.
- **Russia-related operations.** GL 44 *does not authorize* the provision of goods or services to, or new investment in, an entity located in Venezuela that is owned or controlled by, or in a joint venture with, an entity located in the Russian Federation. In addition, GL 44 *does not authorize* any transactions related to new investment in oil or gas sector operations in Venezuela by a person located in Russia or any entity owned

or controlled by a person located in the Russia.

- **Certain financial restrictions in EO 13808.** Transactions prohibited by subsections 1(a)(i) – (iii) or 1(b) of EO 13808,<sup>1</sup> *other than* the payment of invoices for goods or services related to oil or gas sector operations in Venezuela, or the delivery of oil and gas for the purpose of debt repayment to creditors, are *still prohibited*.
  - Accordingly, “new debt” transactions, such as the provision of loans to PdVSA, that are not for the payment of invoices or repayment of debt through delivery of oil or gas, are *not authorized* by GL 44. See [FAQ 553](#) for a definition of “new debt” under EO 13808 and [FAQ 511](#) for examples of debt and equity
- **Transactions prohibited by EOs 13827 and 13835.** GL 44 *does not authorize* any transactions prohibited by EO 13827 (relating to certain virtual assets issued by, for, or on behalf of the Government of Venezuela) or EO 13835 (relating to debt that is owed to the Government of Venezuela, as well as certain transactions involving any equity interest in any entity in which the Government of Venezuela has a 50% or greater ownership interest).
- **Blocked property.** GL 44 *does not authorize* the unblocking of any property blocked pursuant to the Venezuela Sanctions Regulations (“**VSR**”). Accordingly, all property blocked pursuant to the VSR in the United States, or in the possession or control of a U.S. person, as of October 18, 2023, *will remain blocked* unless separately authorized.
- **Blocked persons.** Transactions involving any person blocked pursuant to a sanctions authority other than the VSR are *not authorized* pursuant to GL 44.

For further detail on what has changed vis-à-vis the U.S. Venezuela sanctions on October 18, 2023, please consult the “[Frequently Asked Questions Related to the Suspension of Certain U.S. Sanctions with Respect to Venezuela on October 18, 2023](#)” guidance document or contact the Reed Smith sanctions team with any specific legal queries.

The full list of General Licenses may be accessed through the [OFAC Venezuela program page](#). For convenience, besides GL 44, other pertinent General Licenses (old and new) include:

- [Venezuela General License 3I](#) - Authorizing Transactions Related to, Provision of Financing for, and Other Dealings in Certain Bonds
- [Venezuela General License 4C](#) - Authorizing Certain New Debt Transactions and Other Transactions Involving Certain Blocked Persons Related to the Exportation or Reexportation of Agricultural Commodities, Medicine, Medical Devices, Replacement Parts and Components, or Software Updates

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<sup>1</sup> These subsection 1 prohibitions of EO 13808 state that (a) all transactions related to, provision of financing for, and other dealings in the following by a U.S. person or within the United States are prohibited: (i) new debt with a maturity of greater than 90 days of PdVSA; (ii) new debt with a maturity of greater than 30 days, or new equity, of the Government of Venezuela, other than debt of PdVSA covered by subsection (a)(i); and (iii) bonds issued by the Government of Venezuela prior to August 24, 2017; and that (b) the purchase, directly or indirectly, by a U.S. person, or within the United States, 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 as covered by subsection (a)(i) or (a)(ii), respectively, is prohibited.

- [Venezuela General License 5M](#) - Authorizing Certain Transactions Related to the Petróleos de Venezuela, S.A. 2020 8.5 Percent Bond on or After January 18, 2024.
- [Venezuela General License 7C](#) - Authorizing Certain Activities Involving PDV Holding, Inc. and CITGO Holding, Inc.
- [Venezuela General License 8L](#) - Authorizing Transactions Involving Petróleos de Venezuela, S.A. (PdVSA) Necessary for the Limited Maintenance of Essential Operations in Venezuela or the Wind Down of Operations in Venezuela for Certain Entities
- [Venezuela General License 9H](#) - Authorizing Transactions Related to Dealings in Certain Securities
- [Venezuela General License 15C](#) - Authorizing Transactions Involving Certain Banks for Certain Entities
- [Venezuela General License 30A](#) - Authorizing Certain Transactions Necessary to Port and Airport Operations
- [Venezuela General License 39B](#) - Authorizing Certain Activities to Respond to the Coronavirus Disease 2019 (COVID-19)
- [Venezuela General License 40B](#) - Authorizing Certain Transactions Involving the Exportation or Reexportation of Liquefied Petroleum Gas to Venezuela
- [Venezuela General License 41](#) - Authorizing Certain Transactions Related to Chevron Corporation's Joint Ventures in Venezuela
- [Venezuela General License 42](#) - Authorizing Certain Transactions Related to the Negotiation of Certain Settlement Agreements with the IV Venezuelan National Assembly and Certain Other Persons
- [Venezuela General License 43](#) - Authorizing Transactions Involving CVG Compania General de Minería de Venezuela CA
- [Venezuela General License 45](#) - Authorizing Certain Repatriation Transactions Involving Consorcio Venezolano de Industrias Aeronáuticas y Servicios Aéreos, S.A.

The General Licenses discussed in this section have varying expiration dates. Therefore, you should carefully review the general license prior to undertaking a transaction in reliance upon it. Please especially note that GL 44 concerning the oil and gas sector has only been issued for six months, and is set to expire April 18, 2024 unless the U.S. Government decides to extend it.

## **EXPORT CONTROLS**

### ***Commercial & Dual-Use Items***

The U.S. regime controls the export, re-export or in-country transfer of U.S.-origin commercial and dual-use items through the Export Administration Regulations (“**EAR**”). There are extensive export control restrictions on Venezuela.

A license from the U.S. Department of Commerce Bureau of Industry and Security (“**BIS**”) will be

required if a U.S.-origin item is being shipped to Venezuela that is found in one of the [Commerce Control List](#) (“**CCL**”) categories. Please note in this regard that a foreign-produced item that incorporates (by value) more than 25% U.S.-origin controlled content will be considered “U.S. origin” as a whole and will likewise trigger the BIS license requirement.

Exemptions apply. The BIS license requirement will generally not be triggered in the shipment of items designated as EAR99 (*i.e.* those not found on the CCL) and items that are found on the CCL but are only controlled for anti-terrorism (AT) or crime control (CC Column 2) reasons.

### **Military/Defense Articles**

Venezuela is categorized as a Section 126.1 country in the International Traffic in Arms Regulations (“**ITAR**”). Practically, this means that the exports of U.S. defense articles and services to Venezuela are prohibited and license applications will be evaluated by the State Department Directorate of Defense Trade Controls (“**DDTC**”) subject to a policy of denial.

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