

UNITED STATES EASES SANCTIONS ON VENEZUELA

Date: 19 October 2023

US Policy and Regulatory Alert

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The United States eased certain economic sanctions against Venezuela on 18 October 2023 in response to the signing of an electoral roadmap agreement between the Maduro regime and Venezuela's Unitary Platform. Under this agreement, the Venezuelan government must: (1) allow the opposition to choose its own candidate according to its internal rules; (2) accept international electoral observers; and (3) allow media outlets access to elections. In response, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) issued the following general licenses (GLs), which provide targeted sanctions relief and pave the way for future sanctions relief, particularly for Venezuela's energy sector, provided political reforms meet the expectations of the Biden administration.

NEW AUTHORIZATION FOR OIL AND GAS OPERATIONS IN VENEZUELA

Under GL 44, US persons are authorized to engage in transactions "related to oil or gas sector operations in Venezuela," including transactions with Petróleos de Venezuela, S.A. (PdVSA). This new authority is significant because it opens the door to US oil and gas companies investing in Venezuela's deteriorated energy infrastructure—a necessary step if Venezuelan energy supplies are to be opened up to the global market in the long term by future sanctions relief. GL 44 also permits oil and gas to be swapped for debt held by US creditors of the Venezuela government.

The transactions authorized under GL 44 include those related to the following:

1. Production, lifting, sale, and exportation of oil or gas from Venezuela, and provision of related goods and services;
2. 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; and
4. Delivery of oil and gas from Venezuela to creditors of the government of Venezuela (including PdVSA) for the purpose of debt repayment.

GL 44 expires at 12:01 AM EST on 18 April 2024, and may be revoked prior to that date if the Maduro regime fails to meet its reform commitments. GL 44 may be renewed if US authorities determine that Venezuela has met its commitments under the electoral roadmap and with respect to those who are wrongfully detained.

It is important to note that GL 44 does not authorize any of the following:

5. Transactions with blocked financial institutions, other than Banco Central de Venezuela or Banco de Venezuela SA Banco Universal;
6. Provision of goods, services, or investment involving entities in Venezuela owned or controlled by, or a joint venture with, any entity owned or controlled by a Russian entity;
7. Transactions related to oil or gas investments by Russian parties;
8. Transactions prohibited by subsections I(a)(i)–(iii) or I(b) of E.O. 13808 (involving certain debt and securities transactions), apart from the invoice payments and deliveries authorized in GL 43.
9. Transactions prohibited by E.O. 13827 (involving digital currencies) or E.O. 13835 (involving certain debt transactions);
10. The unblocking of blocked property; or
11. Exports and re-exports that require authority from the Department of Commerce's Bureau of Industry and Security.

OTHER AUTHORIZATIONS

OFAC also issued several other general licenses authorizing the following:

State-Owned Gold Company

Under GL 43, US persons are authorized to engaged in all transactions involving Venezuela's state-owned gold sector company, CVG Compania General de Minería de Venezuela CA (Minerven), or any entity owned 50% or more by Minerven. OFAC imposed blocking sanctions on Minerven in 2019 due to the use of illicit gold to support the Maduro regime. GL 43 does not have an expiration date but, as with all general licenses, it can be revoked by OFAC. Parties found to operate corruptly in Venezuela's gold sector will still be subject to blocking sanctions under E.O. 13850.

Transactions with Conviasa for Repatriation

Under GL 45, OFAC authorized transactions involving the Venezuelan airline Consorcio Venezolano de Industrias Aeronáuticas y Servicios Aéreos, S.A. (Conviasa) for the repatriation of Venezuelan nationals from non-US jurisdictions in the Western Hemisphere to Venezuela. Conviasa has been blocked since 2019 for transporting corrupt officials.

Certain Bonds

GL 3I authorizes US persons to provide financing and conduct other dealings in the bonds specified in the Annex to GL 3I (GL 3I Bonds). For example, US persons can receive and process interest or principal payments and act as custodians for US and non-US persons' holdings with regard to GL 3I Bonds. Under GL 3I, US persons are no longer subject to the restriction that any divestment of holdings in GL 3I Bonds must be to non-US persons.

Certain Securities

GL 5M, which replaces GL 5L, authorizes certain transactions related to PdVSA's 2020 8.5% Bond, but not until or after 18 January 2024. OFAC also issued GL 9H, replacing GL 9G, authorizing certain transactions related to

securities issued prior to 25 August 2017 of PdVSA and entities owned 50% or more directly or indirectly by PdVSA. Under GL 9H, US persons are no longer subject to the restriction that any divestment of holdings in PdVSA securities must be to non-US persons.

CONCLUSION

Although the GLs issued by OFAC provide significant sanctions relief for Venezuela, these measures are targeted, leaving most restrictions in place. Notably, the government of Venezuela remains blocked, including any political subdivision, agency, or instrumentality of the government (e.g., PdVSA and the Central Bank of Venezuela), as well as any entity owned or controlled by the government and any member of the Maduro regime. Accordingly, most transactions involving the government of Venezuela remain prohibited unless authorized by a general or specific license.

We will continue to track and provide updates on continuing developments to the Venezuelan sanctions regime. If you have any questions regarding the issues discussed in this alert, please contact our International Trade team.

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