
President Trump Signs Executive Order Blocking the Property of the Venezuelan Government

AUGUST 7, 2019

On August 5, 2019, President Donald Trump signed Executive Order 13884, [Executive Order Blocking Property of the Government of Venezuela](#) (EO 13884). EO 13884 is designed to further increase pressure on the Nicolás Maduro regime by blocking all property and property interests of the Government of Venezuela under US jurisdiction, and by authorizing the Treasury Department to sanction additional persons who have assisted or supported the Government of Venezuela, including through the provision of goods or services. Sec. 10 of EO 13884 makes it effective as of 9:00 a.m. ET on August 5, 2019, approximately 12 hours before news of its issuance leaked from the White House.

EO 13884 will have far-reaching impact, effectively precluding any financial or commercial dealings by US individuals or companies, directly or indirectly, with the Government of Venezuela or any political subdivision, agency or instrumentality thereof, including the Central Bank of Venezuela and Petróleos de Venezuela, S.A. (PdVSA), unless authorized by a general or specific license (including a newly issued authorization for the wind-down of preexisting contracts with the Government of Venezuela, by September 4, 2019). US persons will now also be required to block and report any Government of Venezuela property or property interest within their possession or control.

Indeed, EO 13884 relies on a definition for the term “Government of Venezuela” that is especially broad. Under Sec. 6(d) of EO 13884, the term “Government of Venezuela” includes not only the state and Government of Venezuela, but also (i) any political subdivision, agency or instrumentality there, including the Central Bank of Venezuela and PdVSA; (ii) any person owned or controlled, directly or indirectly, by the foregoing; and (iii) 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. By its terms this broad definition, which mirrors the definition of “Government of Venezuela” in Executive Orders 13692, 13808, 13827, 13835 and 13850, as amended by Executive Order 13857 (January 25, 2019) and for which the US Department of the Treasury’s Office of Foreign Assets Control (OFAC) has yet to issue any clarifying guidance, demands robust screening and compliance due diligence. A private business owned by a former official of the Maduro regime, for example, may effectively be a blocked person.

As discussed further below, the United States has also issued new authorizations designed to recognize or reinforce the legitimacy of Interim President Juan Guaidó while it simultaneously attempts to completely cut off Nicolás Maduro and his regime from the US economy.

But the US Department of the Treasury, which is responsible for implementing the new sanctions, has [issued a statement](#) emphasizing its commitment “to ensuring the unfettered flow of humanitarian aid to the people of Venezuela,” and urging the international community “to fully utilize humanitarian exemptions to ensure that food and supplies continue to flow to Venezuelans suffering from Maduro’s man-made economic crisis.” We summarize, below, newly issued guidance on the availability of such exemptions.

General Licenses

On August 6, 2019, OFAC amended 12 preexisting general licenses and issued [13 new general licenses](#). The amendments to the 12 preexisting general licenses primarily incorporate EO 13884 by reference into general licenses that had authorized certain activities already prohibited under preexisting sanctions authorities. For example, the preexisting General License 7B, which had authorized activities of PDV Holding, Inc. (PDVH), and CITGO Holding, Inc. (CITGO) that were otherwise prohibited under prior executive orders, has been amended as General License 7C so that such activities remain permissible notwithstanding the new blocking sanctions against the Government of Venezuela under EO 13884. In a few cases, OFAC has expanded the scope of the preexisting general licenses. OFAC has issued a new General License 2A that authorizes certain otherwise prohibited transactions involving PDVH (expanding on the preexisting authorization under General License 2 that had applied only to certain transactions involving CITGO). OFAC has also replaced General Licenses 15A and 16A with General Licenses 15B and 16B to authorize certain otherwise prohibited transactions with Banco del Tesoro, C.A. Banco Universal (Banco del Tesoro) (expanding on the preexisting authorization for certain transactions involving other Venezuelan banks).

The new general licenses, which contain conditions on their use that are not identified here and that should be reviewed carefully with sanctions counsel prior to reliance on them by any individual or company, include:

Authorization	Scope
<i>General License 21</i>	Authorizes US financial institutions to debit Government of Venezuela accounts that are held at that financial institution in payment or reimbursement for normal service charges.
	Authorizes the provision of goods or services to

<i>General License 22</i>	Venezuela's mission to the United Nations, and payment for such goods and services.
<i>General License 23</i>	Authorizes US depository institutions, US-registered brokers or dealers in securities, and US-registered money transmitters to process funds transfers involving the Government of Venezuela that are necessary for the official business of third-country diplomatic or consular missions in Venezuela.
<i>General License 24</i>	Authorizes transactions involving the Government of Venezuela that are incident to the receipt and transmission of telecommunications, and transactions of common carriers involving the Government of Venezuela that are incident to the receipt or transmission of mail and packages between the United States and Venezuela.
<i>General License 25</i>	Authorizes exports and reexports of services, software, hardware and technology incident to the exchange of communications over the internet, to or involving the Government of Venezuela.
<i>General License 26</i>	Authorizes the provision and receipt of nonscheduled emergency medical services and, with certain limitations imposed by preexisting US sanctions against Venezuela, the provision of medical services involving the Government of Venezuela more generally.

<i>General License 27</i>	Authorizes certain transactions in connection with the protection of intellectual property rights in the United States or Venezuela.
<i>General License 28</i>	Authorizes transactions and activities that are ordinarily incident and necessary to wind down existing operations, contracts or other agreements with the Government of Venezuela. This authorization is currently set to expire at 12:01 a.m. ET on September 4, 2019. It does not authorize debits to Government of Venezuela accounts at US financial institutions.
<i>General License 29</i>	Authorizes certain transactions that are ordinarily incident and necessary to specified activities by nongovernmental organizations in Venezuela including, for example, activities to support humanitarian projects, democracy building, education, noncommercial development projects and environmental protection.
<i>General License 30</i>	Authorizes transactions and activities that are ordinarily incident and necessary to the operation or use of Venezuelan ports and airports (not including the export or reexport of diluents, directly or indirectly, to Venezuela).
	Authorizes US persons to engage in all transactions with the Venezuelan National Assembly and Interim President Juan Gerardo Guaidó Márquez,

<i>General License 31</i>	their respective staffs, designees and representatives. US persons are also authorized to engage in all transactions involving Guaidó-appointed directors or executive officers of Venezuelan state-owned entities.
<i>General License 32</i>	Authorizes US persons who reside in Venezuela to engage in transactions ordinarily incident and necessary to their personal maintenance in the country (e.g., housing expenses, acquisition of goods and services for personal use, and payment of taxes).
<i>General License 33</i>	Authorizes the receipt of, and payment of charges for, services rendered involving the Government of Venezuela in connection with overflights of Venezuela or emergency landings in Venezuela by US-registered aircraft or aircraft owned or controlled by, or chartered to, persons subject to US jurisdiction.

OFAC FAQs

OFAC has also issued [five new and revised Frequently Asked Questions \(FAQs\)](#).

In FAQ #665, OFAC clarifies that it “is committed to ensuring that humanitarian assistance and non-commercial, personal remittances can flow to the people of Venezuela.” It notes the several amendments it has made to preexisting general licenses that are designed to reflect these policies, such as those authorizing personal remittances; exports of humanitarian items such as agricultural commodities, medicine and medical devices; and the activities of international organizations such as the United Nations and the International Committee of the Red Cross.

In FAQ #672, OFAC reiterates that exports or reexports of diluents such as crude oil and naphtha to Venezuela remain prohibited because “the transportation and exportation of Venezuelan petroleum [are] a primary source of revenue for the illegitimate and corrupt Maduro regime.”

In FAQ #679, OFAC affirms the US government’s support for Interim President Guaidó and

describes the scope of the newly issued General License 31.

In FAQ #680, OFAC affirms that the blocking sanctions imposed by EO 13884 require that “[w]ithout authorization from OFAC, U.S. persons are generally prohibited from engaging in transactions with the Government of Venezuela” or with entities owned 50 percent or more, directly or indirectly, by the Government of Venezuela. While EO 13884 does not prohibit US persons from engaging in transactions involving Venezuela per se, US persons must ensure that their activities in Venezuela do not involve any blocked persons and are not otherwise prohibited by preexisting sanctions (unless authorized by general or specific license). OFAC specifically states that it “expects financial institutions to conduct due diligence on their own direct customers (including, for example, their ownership structure) to confirm that those customers are not persons whose property and interests in property are blocked.” In instances where the financial institution is merely an intermediary but fails to block a transaction involving a target of US sanctions, “OFAC will consider the totality of the circumstances surrounding the bank’s processing of the transaction to determine what, if any, regulatory response is appropriate.”

Finally, in FAQ #681, OFAC clarifies that General License 28 does not extend the wind-down periods that have already expired vis-à-vis PdVSA, the Central Bank of Venezuela and other blocked Venezuelan persons.

Guidance on Humanitarian Assistance and Support to the Venezuelan People

OFAC has also issued Guidance Related to the Provision of Humanitarian Assistance and Support to the Venezuelan People, which provides an overview of the authorizations for exports of food, agricultural commodities, medicine, medical devices and other humanitarian items; personal, noncommercial remittances; the work of international and nongovernmental organizations; the receipt and transmission of telecommunications and mail; and the provision and receipt of medical services. The guidance also restates OFAC’s “long-standing, favorable specific licensing policy supporting the provision of humanitarian assistance.”

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US financial institutions and all US persons should now view Venezuela—if they had not already—as a high-risk jurisdiction demanding high levels of due diligence and careful strategic judgment. While commercial and financial dealings in or with Venezuela are not prohibited per se, the challenges associated with such dealings are greater than ever before. We encourage companies to assess their exposure to EO 13884 and consider what steps are needed to proceed in accordance with the requirements of US sanctions.

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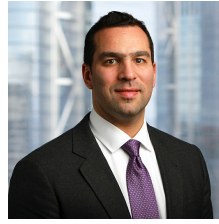


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