

On August 5, 2019, President Trump signed a new Venezuela-related Executive Order (EO), which imposes additional sanctions on the government of Venezuela.

Sanctions Authorized

Specifically, **Section 1** of the new EO imposes "blocking sanctions" on the government of Venezuela, meaning that US persons are generally prohibited from dealing with the Venezuelan government and any person who is owned or controlled by the government. Further, all property and interests in property of persons meeting the definition of the government of Venezuela that are in, or come within, the US or the possession or control of a US person, are blocked.

The EO also authorizes the imposition of sanctions on any persons (US and non-US persons) determined by the US government to:

- Have materially assisted, sponsored or provided financial, material or technological support for, or goods or services to or in support of, any person sanctioned pursuant to the EO, or
- Be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person sanctioned pursuant to the EO

Section 3 of the EO makes clear that the Section 1 prohibitions on dealing with the government of Venezuela are broad and include:

- The making of any contribution or provision of funds, goods or services by, to or for the benefit of any person whose property and interests in property are blocked pursuant to this order, and
- The receipt of any contribution or provision of funds, goods or services from any such person

The term "Government of Venezuela" is similarly broad and includes the state and government of Venezuela, any political subdivision, agency or instrumentality thereof, including the Central Bank of Venezuela and PDVSA (both of which were previously designated to the SDN List), 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.

Exceptions

Although the sanctions imposed on the government of Venezuela are broad and far-reaching, US persons are authorized to engage in certain limited transactions. Notably, the following categories of transactions are generally exempt from the prohibitions established in the new EO:

- **Certain Transactions Necessary to Port and Airport Operations (GL 30).**
- **Telecommunications and Mail (GL 24).** Transactions involving the government of Venezuela incident to the receipt and transmission of telecommunications, mail and/or packages.
- **Wind Down Transactions (GL 28).** Until September 4, 2019, all transactions and activities that would otherwise be prohibited by the new EO that are ordinarily incident and necessary to wind down of operations, contracts or other agreements involving the government of Venezuela that were in effect prior to August 5, 2019. (Does not cover debits to an account of the government of Venezuela by a US financial institution.)
- **Transactions Involving the Venezuelan National Assembly, Interim President Juan Guaidó (GL 31).** Transactions involving (1) the Venezuelan National Assembly, including its members and staff, and any persons appointed or designated by the National Assembly to act on behalf of the government of Venezuela; (2) Interim President of Venezuela, Juan Guaidó, certain persons appointed by Guaidó and their respective staff; and (3) any person appointed by Guaidó to the board of directors (including any *ad hoc* board of directors) or appointed as an executive officer of a government of Venezuela entity (including entities owned or controlled, directly or indirectly, by the government of Venezuela) prohibited by E.O. 13850, as amended by E.O. 13857 of January 25, 2019 (i.e., PDVSA and the Central Bank of Venezuela).
- **Humanitarian Goods.** Consistent with long-standing US policy, the EO exempts transactions related to the "provision of articles such as food, clothing, and medicine intended to be used to relieve human suffering."
- **US Government Business.** Transactions related to the conduct of official US government business.
- **Previously Authorized Transactions.** Transactions that were previously authorized pursuant to a General License (GL) issued by the Treasury Department.
- **Exportation of Certain Services Software, Hardware and Technology Incident to the Exchange of Communications of the Internet (GL 25).** E.g., instant messaging, chat and email, social networking, sharing of photos and movies, web browsing, blogging, web hosting and domain name registration services are authorized.

- **Entries in Certain Accounts for Normal Service Charges and Payments and Transfers to Blocked Accounts in US Financial Institutions (GL 21).** US financial institutions may debit any account blocked held at that financial institution in payment or reimbursement for “normal service charges” owed it by the owner of that blocked account.
- **Personal Maintenance for US Persons Residing in Venezuela (GL 32).** US persons residing in Venezuela may engage in transactions involving the government of Venezuela that are ordinarily incident and necessary to their personal maintenance within Venezuela.
- **UN Mission (GL 22) and Other Diplomatic Funds Transfers (GL 23).** Certain goods or services in the US to Venezuela’s mission to the UN, as well as corresponding payments, are authorized, and US financial institutions may continue to process funds transfers that are necessary for the operating expenses or other official business of third-country diplomatic or consular missions in Venezuela.
- **Emergency and Other Medical Services (GL 26).**
- **Certain Transactions Related to Patents, Trademarks, and Copyrights (GL 27).**
- **Certain Transactions Involving NGOs (GL 29).**

Practical Impacts

In theory, a US company can continue to deal with non-governmental companies in Venezuela, and we do not believe the US will be inclined to sanction privately owned Venezuelan companies. Indeed, FAQ 680 issued by OFAC states in relevant part:

“U.S. persons are not prohibited from engaging in transactions involving the country or people of Venezuela, provided blocked persons or any conduct prohibited by any other Executive order imposing sanctions measures related to the situation in Venezuela, are not involved.”

As a practical matter, however, any dealings involving Venezuela are likely to become increasingly problematic. Even if transactions are not prohibited by US law, it is likely that financial institutions will increasingly reject and/or block Venezuela-related funds transfers.

US companies that are continuing to do business in Venezuela should conduct sufficient due diligence in order to ensure that they are not dealing with a sanctioned person. This includes confirming (1) the Venezuelan individual or entity is not listed on OFAC’s SDN List or part of the government of Venezuela as defined in the new EO; and (2) the Venezuelan entity is not owned or controlled by such persons.

Non-US companies are not subject to the prohibitions established by the new EO, but the EO also authorizes the imposition of sanctions against non-US companies that provide “material support” to the government of Venezuela. OFAC has already used that authority to impose sanctions against owners of vessels that transported crude oil from Venezuela to Cuba. In the future, the US could use this authority to sanction companies in other countries that are perceived to be supporting Maduro, e.g., Russia, China and Cuba. For these reasons, it is possible that even foreign financial institutions may refuse to process certain Venezuela-related transactions, particularly if the subject transactions involve the government of Venezuela or other Venezuela-related SDNs.

About Us

Our export controls and sanctions lawyers have the ability to provide advice on the shifting regulatory framework on both sides of the Atlantic. We have extensive experience in advising and representing a wide range of companies and financial institutions in Europe, the US and other jurisdictions on export control and sanctions from a multijurisdictional perspective. Our team is part of our overall International Trade Practice, providing a “one-stop shop” solution to global trade compliance through rapid, professional and tailored advice and compliance tools to fit your business needs and processes. Our Export Controls and Sanctions team stands ready to answer any question that you may have on this ruling.

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Contacts

Please feel free to contact one of the Trade Practitioners listed below, or you can reach our team at InternationalTradeCompliance@squirepb.com. Be sure to [subscribe](#) to *The Trade Practitioner* for our updates on this matter and other international trade topics in real time.

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