

# United States Expands Venezuela Sanctions, Targets PdVSA

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On January 28, 2019, the Department of the Treasury's Office of Foreign Assets Control (OFAC) designated Petróleos de Venezuela, S.A. (PdVSA) on the List of Specially Designated Nationals and Blocked Persons (SDN List). PdVSA is designated pursuant to Executive Order (E.O.) 13850 for operating in the oil sector of the Venezuelan economy.<sup>1</sup>

For parties designated on the SDN List such as PdVSA, all of their property and interests in property located in the United States or within the possession or control of a US person,<sup>2</sup> wherever located, are blocked and may not be dealt in. Any entity in which one or more SDNs directly or indirectly holds a 50% or greater ownership interest in the aggregate is itself deemed blocked by operation of law. US persons—including foreign branches of US companies—may not engage in any dealings, directly or indirectly, with blocked persons. Provision of goods, services, or support to blocked parties may be grounds for potential future designation.

OFAC has issued nine general licenses to mitigate the effects of the designation in specific circumstances set forth in each General License, two of which have been replaced and superseded by new licenses. These General Licenses also generally establish that transactions and activity otherwise prohibited by previous Venezuela-related Executive Orders continue to be prohibited. It is important, therefore, for companies to make sure they still consider the prior Executive Orders and OFAC guidance regarding Venezuela when they analyze the General Licenses to determine whether certain activity is permitted or prohibited.

Additionally, on January 25, 2019, President Trump signed E.O. 13857 entitled “Taking Additional Steps to Address the National Emergency with Respect to Venezuela” to expand the definition of the term “Government of Venezuela” to include persons that have acted, or have purported to act, on behalf of the Government of Venezuela, including members of the Maduro regime.<sup>3</sup>

The designation of PdVSA follows a determination by US Treasury Secretary Steven Mnuchin that persons operating in the oil sector of the Venezuelan economy may be subject to sanctions under E.O. 13850.<sup>4</sup> OFAC issued guidance stating that PdVSA may be delisted through “expeditious transfer of control to [US-recognized Interim President Juan Guaidó] or a subsequent, democratically elected government.”<sup>5</sup> OFAC has issued 13 Frequently Asked Questions (FAQs) and amended five of those FAQs in two stages in connection with the PdVSA designation and related general licenses.<sup>6</sup>

On January 29, 2019, the Department of State also announced that it certified the authority of Mr. Guaidó to receive and control certain property in accounts of the Government of Venezuela or the Central Bank of Venezuela held by the Federal Reserve Bank of New York or any other US-insured bank.<sup>7</sup>

## General Licenses

OFAC has issued nine General Licenses providing temporary relief from the new sanctions. Two of the General Licenses have been replaced and superseded by new General Licenses (GLs 3C and 9B), and OFAC has issued FAQs describing the scope of these amendments that modify the conditions under which certain transactions are authorized. The authorizations, as amended, are described in the chart below.

License	Authorizes	Expiration	Restrictions
GL 3C: Authorizing Transactions Related to, Provision of Financing for, and Other Dealings in Certain Bonds <sup>8</sup>	<p>Transactions related to, the provision of financing for, and other dealings in bonds (enumerated in an annex, the "GL 3C Bonds") that would otherwise be prohibited, provided any divestment or transfer of, or facilitation of divestment or transfer of holdings in such bonds is to a non-US person.<sup>9</sup> (absent authorization from OFAC).<sup>10</sup></p> <p>Transactions and activities ordinarily incident and necessary to the wind down of financial contracts or other agreements entered into prior to 4:00 p.m. eastern standard time on February 1, 2019, involving or linked to the GL 3C Bonds.<sup>11</sup></p> <p>Transactions related to, the provision of financing for, and other dealings in bonds issued both (i) prior to August 25, 2017 and (ii) by US person entities owned or controlled, directly or indirectly by the Government of Venezuela, <i>other than</i> Nynas AB, PDV Holding, Inc. (PDVH), CITGO, and any of their subsidiaries.<sup>12</sup></p>	Financial contracts wind down: March 3, 2019	<p>Does not authorize any transaction that is otherwise prohibited under pre-existing sanctions.</p> <p>Does not authorize US persons to purchase or invest in, or to facilitate the purchase of or investment in, directly or indirectly, bonds issued by the Government of Venezuela prior to August 25, 2017 (including the GL 3C Bonds), other than purchases of or investments in GL 3C Bonds ordinarily incident and necessary to the divestment or transfer of holdings in GL 3C Bonds.</p>

License	Authorizes	Expiration	Restrictions
<b>GL 7: Authorizing Certain Activities Involving PDV Holding, Inc. and CITGO Holding, Inc.<sup>13</sup></b>	<p>Activities involving PDVH, CITGO, and their subsidiaries where the only PdVSA entities involved are PDVH, CITGO, or their subsidiaries.</p> <p>PDVH, CITGO, and their subsidiaries to engage in all transactions ordinarily incident and necessary to the purchase and importation of petroleum and petroleum products from PdVSA and any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest.<sup>14</sup></p>	July 27, 2019  April 28, 2019	Does not authorize exportation or reexportation of goods, services, or technology by US persons or from the United States, to PdVSA or any entity owned 50% or greater, directly or indirectly by PdVSA other than PDVH, CITGO, and their subsidiaries.  Does not authorize such exports or reexports to other blocked persons.
<b>GL 8: Authorizing Transactions Involving PDVSA Prohibited by Executive Order 13850 for Certain Entities Operating in Venezuela<sup>15</sup></b>	Chevron Corporation, Halliburton, Schlumberger Limited, Baker Hughes (a GE Company), and Weatherford International PLC and their respective subsidiaries are authorized to carry out all transactions and activities ordinarily incident and necessary to operations in Venezuela involving PdVSA and any entity which PdVSA owns 50% or greater, directly or indirectly.	July 27, 2019	Does not authorize the exportation or reexportation of diluents from the United States to Venezuela.

License	Authorizes	Expiration	Restrictions
GL9B: Authorizing Transactions Related to Dealings in Certain Securities <sup>16</sup>	<p>Transactions and activities ordinarily incident and necessary to dealings in any debt (including, but not limited to, bonds enumerated in an annex)<sup>17</sup> or any equity in PdVSA or entities that PdVSA owns 50% or greater, directly or indirectly, issued prior to August 25, 2017 (collectively "PdVSA securities"), provided any divestment or transfer of, or facilitation therein, of holdings in such securities is to a non-US person<sup>18</sup> (absent authorization from OFAC).<sup>19</sup></p> <p>Transactions and activities ordinarily incident and necessary to the wind down of financial contracts or other agreements entered into prior to 4:00 p.m. eastern standard time on January 28, 2019, involving or linked to PdVSA securities issued prior to August 25, 2017.<sup>20</sup></p> <p>Transactions and activities ordinarily incident and necessary to dealings in bonds issued prior to August 25, 2017 by PDV Holdings, CITGO, Nynas AB, and their subsidiaries.<sup>21</sup></p>	<p>Wind down activities: March 11, 2019</p> <p>Others: None</p>	<p>Does not authorize US persons (i) to sell or to facilitate the sale of, PdVSA securities to, directly or indirectly, any blocked person, or (ii) to purchase or invest in, or to facilitate the purchase of or investment in, directly or indirectly, PdVSA securities, other than purchases of or investments in PdVSA securities (including settlement of purchases or sales pending on January 28, 2019) ordinarily incident and necessary to the divestment or transfer of holdings in PdVSA securities.</p>
<b>GL 10:</b> <b>Authorizing the Purchase in Venezuela of Gasoline from PDVSA<sup>22</sup></b>	<p>Purchase of refined petroleum products by US persons in Venezuela for personal, commercial, or humanitarian uses from PdVSA or entities that PdVSA owns 50% or greater, directly or indirectly.</p>	None	<p>Does not authorize the commercial resale, transfer, exportation, or reexportation of refined petroleum products.</p>

License	Authorizes	Expiration	Restrictions
<b>GL 11: Authorizing Certain Activities Necessary to Maintenance or Wind Down of Operations or Existing Contracts with PDVSA<sup>23</sup></b>	<p>Transactions and activities ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements involving PdVSA or entities that PdVSA owns 50% or greater, directly or indirectly, in effect prior to January 28, 2019, by US-person employees and contractors of non-US entities located outside of the US or Venezuela.</p> <p>US financial institutions to reject certain funds transfers involving both (1) PdVSA or entities that PdVSA owns 50% or greater, directly or indirectly, and (2) non-US entities located outside of the United States or Venezuela.<sup>24</sup></p>	March 29, 2019	Does not authorize any transactions or dealings with ALBA de Nicaragua (ALBANISA) or entities that ALBANISA owns 50% or greater, directly or indirectly.
<b>GL 12: Authorizing Certain Activities Necessary to Wind Down Operations or Existing Contracts with PDVSA<sup>25</sup></b>	<p>Transactions and activities that are ordinarily incident and necessary to the purchase and importation into the United States of petroleum and petroleum products from PdVSA or entities that PdVSA owns 50% or greater, directly or indirectly.</p> <p>Transactions and activities that are ordinarily incident and necessary to the wind down of operations, contracts, or other agreements—including the importation into the United States of goods, services, or technology not authorized above— involving PdVSA or entities that PdVSA owns 50% or greater, directly or indirectly that were in effect prior to January 28, 2019.</p>	April 28, 2019  February 27, 2019	Does not authorize:  (1) the divestiture or transfer of any debt, equity, or other holdings in, to, or for the benefit of PdVSA or entities that PdVSA owns 50% or greater, directly or indirectly;  (2) the exportation or reexportation of diluents from the United States to Venezuela, PdVSA, or entities that PdVSA owns 50% or greater, directly or indirectly; or  (3) any transactions or dealings with ALBANISA or entities that ALBANISA owns 50% or greater, directly or indirectly.

License	Authorizes	Expiration	Restrictions
<b>GL 13: Authorizing Certain Activities Involving Nynas AB<sup>26</sup></b>	Transactions and activities where the only PdVSA entities involved are Nynas AB or its subsidiaries. <sup>27</sup>	July 27, 2019	Does not authorize the export or reexport of goods, services, or technology, directly or indirectly, by US persons or from the United States to PdVSA, other than Nynas AB or its subsidiaries, or to any other blocked person.
<b>GL 14: Official Business of the United States Government<sup>28</sup></b>	Transactions that are for the conduct of the official business of the United States Government by employees, grantees, or the contractors thereof.	None	

## Venezuela Files WTO Challenge to US Sanctions Measures

On January 8, 2019, the World Trade Organization (WTO) announced that Venezuela initiated a dispute in the WTO against the United States regarding US sanctions measures targeting Venezuela by requesting dispute consultations on December 28, 2018.<sup>29</sup> The parties have 60 days from the date of the request to attempt to resolve the dispute before it will proceed to adjudication. In its request for consultations, Venezuela claims that measures imposed under certain US sanctions-related statutes, regulations, and Executive Orders relating to goods of Venezuelan origin, imports of gold from Venezuela, the liquidity of Venezuela's public debt, transactions in government-backed cryptocurrency, and the supply and consumption of services by certain Venezuelan nationals placed on the SDN List are coercive trade-restrictive measures in violation of the General Agreement on Tariffs and Trade 1994 (GATT) and the General Agreement on Trade in Services (GATS).<sup>30</sup> The dispute is currently in the consultation phase.<sup>31</sup>

Parties that conduct business with Venezuela should be aware of the US sanctions currently in place against Venezuela. Non-compliance could result in severe penalties for sanctions violations.

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<sup>1</sup> The OFAC designation announcement is available [here](#); E.O. 13850 was signed by President Trump on November 1, 2018, and is available [here](#).

<sup>2</sup> US person is defined to include US citizens and permanent resident aliens, wherever located, entities organized under US law (including foreign branches), and individuals and entities located in the United States.

<sup>3</sup> The Executive Order is available [here](#); OFAC published a new FAQ on this E.O., available [here](#).

<sup>4</sup> See OFAC press release, available [here](#).

<sup>5</sup> The press statement recognizing Juan Guaidó as interim President of Venezuela is available [here](#); FAQ 660 is available [here](#).

<sup>6</sup> The OFAC recent actions notices for these FAQs, issued January 31, February 1, and February 11 are available [here](#), [here](#) and [here](#). The 13 FAQs are [here](#) (#650 through #662). The five amended FAQs can be found [here](#) (#595), [here](#) (#648), [here](#) (#650), [here](#) (#661), and [here](#) (#662).

<sup>7</sup> The State Department's press statement is available [here](#).

<sup>8</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl3c.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl3c.pdf). GL 3C supersedes GL 3B. GL 3B, issued February 1, 2019, superseded GL 3A, which was issued on January 31, 2019. GL 3C keeps the changes that GL 3B and GL 3A implemented in superseding GL 3 of August 25, 2017, excluding Nynas AB, PDVH, CITGO Holding, Inc. and their subsidiaries from the authorization for dealings in bonds issued prior to August 24, 2017 by US entities owned or controlled by the Government of Venezuela. Dealings in bonds issued by Nynas AB, PDV Holdings, Inc., and CITGO are now provided for under GL 9B, discussed below.

<sup>9</sup> OFAC FAQ 650, available [here](#), articulates that if a US broker or financial institution involved in a transfer or divestment of such debt has knowledge or reason to know that the buyer is a US person, then the US broker or financial institution will be held responsible if it does not take appropriate steps to ensure the trade is not consummated (absent authorization from OFAC), and that OFAC will consider the totality of the circumstances surrounding the processing of an unauthorized transaction in determining what, if any, enforcement action to take.

<sup>10</sup> OFAC FAQ 662, available [here](#), articulates that GL 3C authorizes engaging in transactions related to the receipt and processing of interest or principal payments, and acting as a custodian for US and non-US persons' holdings in enumerated bonds, including acting as a custodian for a non-US person after that person has received enumerated bonds from a US person in a divestment transaction. It also includes all transactions ordinarily incident and necessary to facilitating, clearing, and settling trades of holdings in these bonds by US persons, provided such trades were placed prior to 4:00 p.m. eastern standard time on February 1, 2019.

<sup>11</sup> OFAC FAQ 662 also indicates this includes resolving the purchase and sale of securities, securities lending, repurchase agreements, and swaps, and derivative contracts in securities.

<sup>12</sup> OFAC FAQ 662 outlines what General License 3C authorizes with respect to Government of Venezuela debt, and the implications for US and non-US persons.

<sup>13</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl7.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl7.pdf).

<sup>14</sup> GL 7 requires that payments to or for the direct or indirect benefit of blocked persons other than PDVH, CITGO, and their subsidiaries that are ordinarily incident and necessary to give effect to authorized transactions be made into a blocked, interest-bearing account in the United States.

<sup>15</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl8.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl8.pdf).

<sup>16</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl9b.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl9b.pdf). GL 9B supersedes GL 9A of February 1, 2019, which superseded GL 9 "Authorizing Transactions Related to Dealings in Certain Debt," which was issued on January 28, 2019. GL 9B keeps the substantive amendments of GL 9A, which added language concerning equity and Executive Order 13850. It also amended the annex.

<sup>17</sup> See OFAC FAQ 651, available [here](#), that certain bonds previously included in the Annex to GL 3 are now in the Annex to GL 9B.

<sup>18</sup> OFAC FAQ 650, available [here](#), articulates that if a US broker or financial institution involved in a transfer or divestment of such debt or equity has knowledge or reason to know that the buyer is a US person, then the US broker or financial institution will be held responsible if it does not take appropriate steps to ensure the trade is not consummated (absent authorization from OFAC), and that OFAC will consider the totality

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of the circumstances surrounding the processing of an unauthorized transaction in determining what, if any, enforcement action to take.

<sup>19</sup> OFAC FAQ 661, available [here](#), clarifies GL 9B's authorizations with respect to PdVSA securities and the implications for US and non-US persons. This authorization includes facilitating, clearing, and settling transactions to divest to a non-US person, including on behalf of a US person (which includes engaging in transactions related to the receipt and processing of interest or principal payments, and acting as a custodian for US and non-US persons' holdings in PdVSA securities, including acting as a custodian for a non-US person after that person has received PdVSA securities from a US person in a divestment transaction). It also includes all transactions and activities ordinarily incident and necessary therein, provided trades were placed prior to 4:00 p.m. eastern standard time on January 28, 2019.

<sup>20</sup> OFAC FAQ 661 also indicates that this authorization allows the wind down of certain financial contracts and agreements entered into prior to the imposition of blocking sanctions on PdVSA that involve or are linked to PdVSA securities, including resolving the purchase and sale of securities, securities lending, repurchase agreements, and swaps and derivative contracts in securities.

<sup>21</sup> OFAQ FAQ 661 articulates that US persons may continue to hold their interests in PdVSA securities but are subject to certain restrictions concerning the sale of those interests on the secondary market. It clarifies that GL 9B does not generally authorize US persons to purchase or acquire new interests in PdVSA securities (absent authorization from OFAC) but that US persons may purchase or invest in PdVSA securities where such transactions are ordinarily incident and necessary to the divestment and transfer of holdings in PdVSA securities. Finally, non-US persons may continue dealing in PdVSA securities, but to the extent such transactions involve US persons or the US financial system the transactions must comply with GL 9B and may not involve unauthorized sales of such securities to US persons.

<sup>22</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl10.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl10.pdf).

<sup>23</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl11.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl11.pdf).

<sup>24</sup> GL 11 authorizes US financial institutions to reject fund transfers that originate and terminate outside the United States and for which neither the originator nor the beneficiary is a US person, and the funds are not destined for a blocked account on the books of a US person.

<sup>25</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl12.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl12.pdf). GL 12 requires that, except as authorized pursuant to GLs 7, 8, 11, and 13, payments to or for the direct or indirect benefit of blocked persons and their subsidiaries that are ordinarily incident and necessary to give effect to authorized transactions are made into a blocked, interest-bearing account in the United States.

<sup>26</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl13.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl13.pdf).

<sup>27</sup> GL 13 requires that, except as authorized by GL 11, any payment to or for the direct or indirect benefit of a blocked person other than Nynas AB or its subsidiaries that is ordinarily incident and necessary to give effect to transactions authorized above that come into the possession or control of a US person must be put into a blocked, interest-bearing account located in the United States.

<sup>28</sup> [https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gl14.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gl14.pdf).

<sup>29</sup> The WTO news alert is available [here](#).

<sup>30</sup> Further related WTO documents are available [here](#).

<sup>31</sup> DS574: United States – Measures relating to trade in goods and services, available [here](#).