

## US Expands Venezuela Sanctions: Three Key Questions Answered

### *New restrictions prohibit dealings between US persons and the Government of Venezuela.*

On August 5, 2019, President Trump issued [Executive Order \(E.O.\) 13884](#), entitled “Blocking the Property of the Government of Venezuela.” The E.O. blocks all property and interests in property of the Government of Venezuela that come into the possession or control of United States persons and prohibits US persons from dealing in any such property. While previous sanctions targeted certain elements of the Government of Venezuela, including President Maduro, the Central Bank of Venezuela, and the state-owned oil company *Petróleos de Venezuela, S.A. (PdVSA)*, the new sanctions extend prohibitions to the entire government and all state-owned or -controlled entities.

Contrary to some initial press accounts, this action is not a complete embargo of Venezuela, and dealings with parties unaffiliated with the Government of Venezuela (and who are not otherwise the target of sanctions) are generally not restricted. Moreover, simultaneous with the issuance of E.O. 13884, the US Department of the Treasury’s Office of Foreign Assets Control (OFAC) released [13 new general licenses](#) and amended [12 existing general licenses](#), authorizing certain limited categories of dealings with the Government of Venezuela.

This *Client Alert* addresses three key questions regarding these developments.

### **1. Is Venezuela now subject to a total embargo?**

No. Contrary to some early public reporting, E.O. 13884 does not impose an “embargo” on Venezuela similar to the embargoes the United States maintains against certain other countries and territories (*i.e.*, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine). US persons are not prohibited from transacting with private parties in Venezuela, provided such dealings do not involve the Government of Venezuela or sanctioned persons (or any property in which such sanctioned parties have an interest). OFAC’s guidance (see [FAQ 519](#)) notes that no OFAC authorization is required for US persons to export or reexport items to Venezuela “provided that the transactions do not involve sanctioned individuals or entities or certain prohibited activities” and the item does not require an export license from the US Commerce Department or another export agency.

Indeed, certain of the new and amended general licenses expressly allow ongoing activities — including import and export trade — with Venezuela (see, e.g., [General License 30](#), which authorizes transactions

ordinarily incident to the operations or use of ports and airports in Venezuela involving the Government of Venezuela).

## 2. If not an embargo, what does this mean?

E.O. 13884 blocks all property and interests in property of the Government of Venezuela currently in the United States or within the possession or control of a US person, or that comes into the United States or possession or control of a US person. Notably, OFAC takes the position that entities that are owned 50% or more, individually or in the aggregate, by one or more sanctioned parties will themselves be treated as blocked by operation of law.

As a consequence, US persons doing business in Venezuela must now take steps to ensure against any interests of the Government of Venezuela in the business. US persons will also face additional challenges and scrutiny from financial institutions with respect to payments to and from Venezuela.

Nonetheless, certain OFAC authorizations provide limited relief from the sanctions. For example:

- [General License No. 28](#) authorizes, through September 4, 2019, certain limited activities that are necessary to the wind-down of operations, contracts, or agreements that involve the Government of Venezuela and that were in effect prior to August 5, 2019. However, OFAC expressly excludes certain entities from this authorization, including PdVSA and Banco Central de Venezuela (BCV), both of which were subject to US sanctions prior to August 5.
- [General License No. 31](#) permits certain transactions with the opposition-controlled Venezuelan National Assembly, and the Interim President of Venezuela, Juan Gerardo Guaidó, including individuals designated or appointed by Interim President Guaidó to act on behalf of the Government of Venezuela.
- [General License No. 20A](#) expressly authorizes certain international organizations, such as the United Nations and the International Committee of the Red Cross, to engage in certain otherwise prohibited activities, including those involving BCV or the Government of Venezuela. Indeed, OFAC maintains that the Venezuelan people are not the target of the recent sanctions and that E.O. 13884 is not intended to inhibit humanitarian activities. See [FAQ 665](#).

## 3. Do non-US persons face sanctions risks if they deal with Venezuela?

Yes. E.O. 13884 authorizes OFAC to add to the SDN List persons determined to have “materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of” parties added to the SDN List under the order. To date, OFAC has not added persons to the SDN List pursuant to the order. However, before President Trump issued E.O. 13884, OFAC took action under similar authorities by adding to the SDN List a number of companies in Greece, Italy, Liberia, and the Marshall Islands for allegedly operating in the oil sector of the Venezuelan economy.

To the extent that OFAC exercises its authority under E.O. 13884 to designate officials, agents, or instrumentalities of the Government of Venezuela, non-US persons would risk becoming the target of sanctions if they deal with the listed persons. White House national security adviser John Bolton [recently warned](#) foreign supporters of the Maduro regime about the reach of US sanctions, emphasizing the warning to China and Russia in particular.

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