

Navigating Venezuela Sanctions: Addition of PdVSA to the SDN List and New General Licenses

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On Monday, January 28, the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") announced that it was adding Petróleos de Venezuela, S.A. ("PdVSA"), the Venezuelan state-owned oil and natural gas company, to the Specially Designated Nationals and Blocked Persons List ("SDN") pursuant to Executive Order 13850.¹ OFAC also announced the publication of eight new Venezuela-related general licenses and the amendment of Venezuela General License 3. These sanctions continue to develop. On February 11, OFAC announced the third amendment of General License 3 and the second amendment of one of the new general licenses, General License 9.

Companies holding debt connected to PdVSA must adjust to the complex requirements. Similarly, companies with operations in the oil and gas sector of Venezuela must carefully consider what channels are open for continuing (at least temporarily) or winding down their operations.

DESIGNATION OF PDVSA

PdVSA's designation means that any PdVSA property or interests in property that are or come within the United States, or within the possession or control of any U.S. person, are blocked and cannot be transferred, paid, exported, withdrawn, or otherwise dealt in. PdVSA was previously listed only under narrow sanctions that prohibited all transactions related to, provision of financing for, and other dealings by a U.S. person or within the United States of new debt of PdVSA with a maturity of greater than 90 days.

NEW AND AMENDED VENEZUELA-RELATED GENERAL LICENSES

In addition to designating PdVSA, OFAC also amended Venezuela General License 3 and published General Licenses 7 through 14. Below we have highlighted several key points from the general licenses. However, this is not intended to be a complete summary of all the details or requirements of each general license.

Transactions with PDVH, CITGO, and Nynas AB Authorized Until July 27: General Licenses 7 and 13

Transactions with PDV Holding, Inc. (“PDVH”), CITGO Holding, Inc. (“CITGO”), and Nynas AB and their respective subsidiaries are broadly authorized (although still subject to certain limitations) until July 27, 2019.

Specifically, **General License 7** authorizes all transactions and activities prohibited by Executive Order 13850 with respect to PDVH, CITGO, and any of their subsidiaries where the only PdVSA entities involved are PDVH, CITGO, or any of their subsidiaries. **General License 13** authorizes all transactions and activities prohibited by Executive Order 13850 where the only PdVSA entities involved are Nynas AB or any of its subsidiaries. Both authorizations are valid through 12:01 a.m. Eastern Daylight Time, July 27, 2019.

Dealing in Debt and Securities: General Licenses 3C and 9B

Under **General License 3C** all transactions related to, the provision of financing for, and other dealings in bonds specified in the Annex to the general license that would otherwise be prohibited by Executive Order 13808 (which prohibits certain transactions related to new debt, dividend payments or other distributions, and securities of the Government of Venezuela, including PdVSA) are authorized, provided that any divestment or transfer of, or facilitation of divestment or transfer of, any holdings in such bonds are to a non-U.S. person.

General License 3C also authorizes U.S. persons to engage in all transactions ordinarily incident and necessary to facilitating, clearing, and settling trades of holdings in bonds listed in the annex to the general license, as long as the trades were placed prior to 4:00 p.m. Eastern Standard Time on February 1, 2019. Furthermore, the general license authorizes all transactions and activities ordinarily incident and necessary to the wind down of financial contracts or other agreements that were entered into prior to 4:00 p.m. Eastern Standard Time on February 1, 2019, involving, or linked to, bonds listed in the annex to the general license. This wind down period lasts through 12:01 a.m., Eastern Standard Time, March 11, 2019.² Finally, it also authorizes all transactions related to, the provision of financing for, and other dealings in bonds that were issued both (i) prior to August 25, 2017, and (ii) by U.S. person entities owned or controlled, directly or indirectly, by the Government of Venezuela, other than Nynas AB, PDVH, CITGO, and any of their subsidiaries. (Note, transactions related to such bonds issued by Nynas AB, PDVH, and CITGO are covered in General License 9B as described below.)

General License 9B authorizes certain transactions otherwise prohibited by both Executive Order 13808 and Executive Order 13850. The general license authorizes all transactions and activities that are ordinarily incident and necessary to dealings in any debt (as well as the bonds listed on the Annex to General License 9B, promissory notes, and other receivables) of, or equity in, PdVSA or any PdVSA-controlled entity (together, “PdVSA securities”) issued prior to August 25, 2017, provided that any divestment or transfer of, or facilitation of divestment or transfer of, any holdings in such debts must be to a non-U.S. person, as long as that person is not blocked pursuant to Executive Order 13850. This authorization includes facilitating, clearing, and settling transactions to divest to a non-U.S. person PdVSA securities, including on behalf of U.S. persons.

General License 9B also specifically authorizes all transactions and activities that are ordinarily incident and necessary to 1) dealings in any bonds that were issued prior to August 25, 2017 by PDVH, CITGO, Nynas AB, and any of their subsidiaries; and 2) facilitating, clearing, and settling trades of holdings in the PdVSA securities, as long as such trades were placed prior to 4:00 p.m. Eastern Standard Time on January 28, 2019. Finally, through 12:01 a.m. Eastern Standard Time, March 11, 2019, General License 9B authorizes all transactions and activities ordinarily incident and necessary to the wind down of financial contracts or other agreements that were 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.

Maintenance and Winding Down Business Operations with PdVSA: General Licenses 11 and 12

General License 11 and **General License 12** authorize certain transactions and activities for the wind down of business operations that would otherwise be prohibited by Executive Order 13850.

General License 11 authorizes, until March 29, 2019, U.S. person employees and contractors of non-U.S. entities located in a country *other than the United States or Venezuela* to engage in all transactions and activities that are ordinarily incident and necessary to the maintenance or wind down of operations, contracts, or other agreements involving PdVSA or any PdVSA-controlled entity, as long as those business activities were in effect prior to January 28, 2019. General License 11 also allows, until March 29, 2019, U.S. financial institutions to reject, rather than block, funds transfers involving both PdVSA or PdVSA-owned entities and non-U.S. entities located in a country *other than the United States or Venezuela*. However, the funds transfers must originate and terminate outside the United States, neither the originator nor the beneficiary can be a U.S. person, and the funds cannot be destined for a blocked account on the books of a U.S. person.

General License 12 authorizes, until February 27, 2019, all 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, involving PdVSA or any PdVSA-controlled entity, as long as those transactions and activities were in effect prior to January 28, 2019.³

Importation of Petroleum and Petroleum Products: General License 12

General License 12 also authorizes, until April 28, 2019, all 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 any PdVSA-controlled entities. However, any payment to or for the direct or indirect benefit of a blocked person that is ordinarily incident and necessary to give effect to this authorization must be made into a blocked, interest-bearing account located in the United States, unless otherwise authorized.⁴

Authorization to Five Listed Companies: General License 8

General License 8 authorizes, until July 27, 2019, all transactions and activities ordinarily incident and necessary to operations in Venezuela involving PdVSA or any PdVSA-controlled entity that are otherwise prohibited by Executive Order 13850 for the following entities and their subsidiaries: Chevron Corporation; Halliburton; Schlumberger Limited; Baker Hughes, a GE company; and Weatherford International, a public limited company.⁵

As noted above, this summary highlights certain key authorizations and restrictions. Others are currently in place,⁶ and the Venezuelan sanctions continue to be fast-changing. Careful consideration should be given to any transactions involving PdVSA or other entities owned by the Venezuelan government.

Businesses should increase their diligence with respect to transactions involving PdVSA, including its subsidiaries with whom transactions are currently more broadly authorized (PDVH, Nynas AB, and CITGO). In part, this includes being mindful of the 50% rule, which would bring any entities 50% or more owned or controlled, directly or indirectly in the aggregate, by PdVSA under these prohibitions.

If you have any questions as you analyze the impact of these sanctions on your business operations, please contact one of the Winston attorneys below or your usual Winston contact.

¹ Executive Order 13850 targets persons designated by the Secretary of Treasury as contributing to the corruption of Venezuela's economy, the degradation of Venezuela's infrastructure and natural environment, and the neglect of the Venezuelan people's basic needs. The Executive Order blocks those

designated person property and interests in property that are in or come within the United States (or in the possession or control of a U.S. person).

² General License 3C excludes certain bonds issued by U.S. person entities owned or controlled, directly or indirectly, by Nynas AB, PDVH, CITGO, or any of their subsidiaries; this must be read in light of General Licenses 7 and 13, however, which are discussed above.

³ General License 11 and 12 state that they do not authorize any transactions or dealings with ALBA de Nicaragua ("ALBANISA") or any entity in which ALBANISA owns, directly or indirectly, a 50-percent or greater interest.

⁴ General License 12 states that it does not authorize the divestiture or transfer of any debt, equity, or other holdings in, to, or for the benefit of the blocked persons identified above; or exportation or reexportation of any diluents from the United States to Venezuela, PdVSA, or any PdVSA-controlled entity.

⁵ General License 8 states that it does not authorize the exportation or reexportation of diluents from the United States to Venezuela.

⁶ General License 10 authorizes U.S. persons in Venezuela to purchase from PdVSA or PdVSA-controlled entities refined petroleum products for personal, commercial, or humanitarian uses, but it does not allow the commercial resale, transfer, exportation, or reexportation of those products. [General License 14](#) authorizes all transactions that are for the conduct of the official business of the United States government by the government's employees, grantees, or contractors.

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