WINSTON & STRAWN LLP

CLIENT ALERT

U.S. Issues New Sanctions Targeting Financing for the Government of Venezuela and its State-Owned Enterprises

AUGUST 30, 2017

On August 24, 2017, the President issued an Executive Order aimed at increasing pressure on the Government of Venezuela through additional sanctions that impose restrictions on financing for Venezuela and its State-Owned Enterprises ("SOEs"). The measure comes as U.S. officials have increasingly criticized the political situation in Venezuela, which has led to a restructuring of the government, an economic crisis, and months of protests. These new measures follow a series of recently issued sanctions aimed at top Venezuelan government and business officials individually.

The key new restrictions applicable to U.S. individuals and entities are prohibitions on:

- Dealing in new equity or debt issued by Venezuela with a maturity greater than 30 days. This includes entities that are more than 50% owned or controlled by the Venezuelan Government.
- Dealing in new debt with a maturity greater than 90 days of Petroleos de Venezuela, S.A ("PdVSA"), a state-owned oil and natural gas company that generates a significant percentage of Venezuela's foreign revenue. As PdVSA is otherwise considered a Venezuelan SOE and therefore subject to the 30-day prohibition on new equity or debt, this allows dealings in longer-term debt (not equity) of PdVSA.
- Purchasing any securities from the Government of Venezuela, even if the securities are in an unrelated company. (New debt or equity meeting the applicable 30-day or 90-day restrictions is exempt from this prohibition.)
- Making dividend payments or other distributions to the Government of Venezuela from any entity owned or controlled by Venezuela.

While the sanctions took effect the next day (August 25) and have broad applicability to Venezuela's debt and its ability to restructure that debt, several exceptions were also made. The Department of the Treasury's Office of Foreign Assets Control ("OFAC"), which is responsible for enforcing the sanctions, issued four general licenses ("GL") to authorize certain types of transactions.

- GL 1 authorizes a 30-day wind-down period, ending on September 24 for pre-existing agreements that would be prohibited by the sanctions. Reports of certain actions taken to wind-down pre-existing agreements must be sent to OFAC within 10 days.

- GL 2 authorizes U.S. persons to continue to deal in new debt, equity, and other securities of PdVSA's U.S. subsidiary, CITGO Holding, Inc.
- GL 3 authorizes transactions relating to a specific list of authorized bonds (available here), as well as all transactions related to bonds issued before August 24, 2017, if they were issued by U.S. entities of the Venezuelan government, such as CITGO.
- GL 4 allows U.S. persons to participate in financing that would be otherwise prohibited for transactions involving the export from the U.S. or by a U.S. person of agricultural commodities, medicine, medical devices, or such devices' replacement components.

Impact on Business

- Businesses should increase their diligence with respect to transactions involving Venezuelan entities. 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 the Government of Venezuela under these prohibitions.
- Businesses that have direct or indirect financial ties to Venezuelan government bonds, equities, or securities will need to evaluate their transactions to ensure they do not violate the new prohibitions.
- Purchasers of securities in any company should be diligent to ensure that the securities are not indirectly sold by the Government of Venezuela.
- Businesses that deal in debt, equity, provide credit, or sell goods on terms allowing payment after delivery should review their agreement terms with Venezuelan entities to ensure that transactions going forward are in line with the new timing restrictions for debt and equity.

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