

U.S. Imposes Comprehensive Sanctions Against Venezuela's Government, Second Round of Chemical Weapons-Related Sanctions Against Russia

August 8, 2019

International Trade Controls

On August 5, 2019, President Trump issued [Executive Order 13884](#) imposing comprehensive sanctions against the Government of Venezuela. Specifically, the Executive Order blocks all property and interests in property of the Government of Venezuela that are in or that come into the United States or the possession or control of a U.S. person. As a result, U.S. persons are prohibited from engaging in virtually any transactions or dealings with the Government of Venezuela without authorization from the Treasury Department's Office of Foreign Assets Control ("OFAC"). The "Government of Venezuela" is defined broadly to include any entity owned or controlled, directly or indirectly, by the government. The Executive Order also authorizes the imposition of secondary sanctions for dealings by non-U.S. persons with *certain* persons whose property is blocked pursuant to the Executive Order. According to the Trump Administration, the sanctions are designed to limit the Maduro regime's sources of revenue and preserve the country's assets for the Venezuelan people.

Relatedly, OFAC has issued new or revised general licenses ("GLs") authorizing U.S. persons to engage in certain activities that otherwise would be prohibited by the new Executive Order because they involve the Government of Venezuela, including entities owned or controlled by the Government of Venezuela, such as Petróleos de Venezuela, S.A. ("PdVSA"), PDV Holding, Inc., CITGO Holding, Inc., and Nynas AB, among others. For example, OFAC authorized transactions involving the Venezuelan National Assembly, Interim President of Venezuela Juan Gerardo Guaidó Marques, and any person Guaidó has appointed to act on behalf of his government. The United States also reaffirmed its commitment to humanitarian support for Venezuela in a new guidance document, [Guidance Related to the Provision of Humanitarian Assistance and Support to the Venezuelan People](#).

Importantly, in contrast to the comprehensive U.S. sanctions targeting Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine, the new sanctions do not prohibit dealings involving the country or people of Venezuela, provided that such dealings do not involve blocked persons (including the Government of Venezuela) or prohibited activities.

Separately, on August 2, 2019, the State Department [announced](#) the imposition of a second round of chemical weapons-related sanctions against Russia for its use of the "novichok" nerve agent in an assassination attempt in the United Kingdom in March 2018. Under these sanctions, the U.S. government will oppose the extension of loans or other assistance to Russia by

international financial institutions, and prohibit U.S. banks from participating in the primary market for non-ruble denominated Russian sovereign debt or making non-ruble-denominated loans to the Russian government. The sanctions also impose new restrictions on obtaining licensing to export to Russia “dual-use” items controlled under the Export Administration Regulations (“EAR”) for chemical and biological weapons proliferation reasons.

Background on Venezuela Sanctions

In May 2018, incumbent President Nicolás Maduro was declared the winner of the Venezuela presidential election, despite wide criticism and disputed results. On January 10, 2019, the National Assembly of Venezuela declared the election results invalid and named Juan Guaidó as interim president. On January 23, 2019, President Trump announced his recognition of Guaidó as the legitimate president of Venezuela, and the administration signaled a willingness to take further action—including the imposition of sanctions—to pressure Maduro to resign.

In the weeks and months that followed, the Trump Administration increased the sanctions it had previously imposed against Venezuela in 2017 and 2018 (which focused principally on restricting dealings in certain debt and equity of the government and government-owned or controlled entities). In particular, as discussed in our [January 29](#) and [April 25](#) alerts, the Trump Administration added to the U.S. List of Specially Designated Nationals and Blocked Persons (“SDN List”) certain Venezuela-related entities, including, most notably, PdVSA and the Central Bank of Venezuela.

The new sanctions announced this week supplement and expand upon these existing measures.

Comprehensive Sanctions Against the Government of Venezuela

On August 5, 2019, President Trump signed Executive Order 13884, “[Blocking Property of the Government of Venezuela](#),” which expands the sanctions against Venezuela to block all property and interests in property of the Government of Venezuela that are in, or come into, the United States or the possession or control of a U.S. person. Without OFAC authorization, such blocked property may not be transferred, paid, exported, withdrawn, or otherwise dealt in. Accordingly, unless exempt or authorized by OFAC, U.S. persons are prohibited from engaging in virtually any dealings with the Government of Venezuela, including providing or receiving any funds, goods, or services to or from the Government of Venezuela.

Additionally, non-U.S. persons could be exposed to property-blocking sanctions (and added to the SDN List) if the Secretary of the Treasury, in consultation with the Secretary of State, determines that such non-U.S. persons have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person designated on the SDN List whose property is blocked pursuant to Executive Order 13884. Such sanctions could be imposed even if the non-U.S. persons’ dealings were conducted entirely outside the United States and without any other U.S. nexus. Non-U.S. persons also could be exposed to property-blocking sanctions (and added to the SDN List) if they are determined to have acted or purported to act on behalf of, directly or indirectly, the Government of Venezuela (or any other person whose property is blocked pursuant to the Executive Order in the future).

The Executive Order defines the “Government of Venezuela” broadly to include “the state and Government of Venezuela, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Venezuela and Petróleos de Venezuela, S.A. (PdVSA), 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.” OFAC FAQ guidance, published concurrently with Executive Order 13884, affirms that the blocking sanctions also reach persons that are owned, directly or indirectly, 50% or more by the Government of Venezuela, even if such parties are not designated on the SDN List. [OFAC FAQ No. 680](#). Given the broad definition of the “Government of Venezuela,” noted above, the blocking sanctions likewise should reach persons that are otherwise *controlled* by the Government of Venezuela.

Although these new measures significantly broaden U.S. sanctions against Venezuela, they are less comprehensive than sanctions on Cuba, Iran, North Korea, Syria, or the Crimea region of Ukraine. U.S. persons are not prohibited from engaging in transactions involving the country or people of Venezuela, provided that such transactions do not involve blocked persons or prohibited conduct.

New and Revised General Licenses

In connection with Executive Order 13884, OFAC has amended 12 existing GLs and issued an additional 13 new GLs that authorize various transactions and activities that otherwise would be prohibited by the new Executive Order. For example, [GL 28](#) permits certain wind-down activities involving the Government of Venezuela until September 4, 2019. Other GLs permit humanitarian assistance activities in Venezuela (e.g., GLs [4C](#) and [29](#)), promote access to communications ([GL 24](#) and [GL 25](#)), and authorize dealings with the Venezuelan National Assembly and Interim President Guaidó, including any official, designee, or representative appointed by Guaidó to act on behalf of his government ([GL 31](#)).

The Venezuela-related GLs that were issued or amended in connection with Executive Order 13884 are summarized below. Further detail and additional licensing conditions can be found in the full text of the GLs on [OFAC's website](#):

- [GL 2A](#) and [GL 7C](#) authorize certain transactions and activities where the only Government of Venezuela entities involved are PDV Holding, Inc., CITGO Holding, Inc., and their subsidiaries. Similarly, [GL 13C](#) authorizes until October 25, 2019, certain transactions and activities where the only Government of Venezuela entities involved are Nynas AB or any of its subsidiaries.
- [GL 3F](#) authorizes dealings in specified Venezuelan-related bonds, known as “GL 3F Bonds,” and certain related transactions, subject to certain conditions. GL 3F further authorizes transactions related to other bonds, provided they were issued prior to August 25, 2017, by U.S. person entities that are owned or controlled, directly or indirectly, by the Government of Venezuela, *other than* Nynas AB, PDV Holding, Inc., CITGO Holding, Inc., and any of their subsidiaries.
- [GL 4C](#) authorizes certain transactions to support exports and reexports to Venezuela of agricultural commodities, medicine, medical devices, replacement parts and components for medical devices, or software updates for medical devices, subject to certain conditions.

- [GL 8C](#) authorizes Chevron Corporation, Halliburton, Schlumberger Limited, Baker Hughes, Weatherford International, and their subsidiaries to engage in certain activities until October 25, 2019, that are ordinarily incident and necessary to the maintenance of operations, contracts, or other agreements in Venezuela that were in effect prior to July 26, 2019, and that involve PdVSA or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest.
- [GL 9E](#) authorizes, subject to certain conditions, transactions and activities that are ordinarily incident and necessary to dealings in certain debt of and equity in PdVSA and entities owned 50% or more by PdVSA, issued prior to August 25, 2017. GL 9E further authorizes certain transactions and activities that are ordinarily incident and necessary to dealings in bonds issued prior to August 25, 2017, by PDV Holdings, Inc., CITGO Holdings, Inc., Nynas AB, or any of their subsidiaries.
- [GL 15B](#) and [GL 16B](#) authorize, until March 22, 2020, certain transactions involving a number of Venezuelan banks, including transactions by MasterCard, Visa, American Express, Western Union, and MoneyGram; the processing of noncommercial, personal remittances; and transactions incident to maintaining, operating, or closing accounts of U.S. persons held at those Venezuelan banks. Additionally, [GL 18A](#) authorizes certain transactions ordinarily incident and necessary to maintain or operate Integración Administradora de Fondos de Ahorro Previsional, S.A.
- [GL 20A](#) authorizes transactions for the official business of various international organizations, including the United Nations (“U.N.”), Red Cross, and Organization of American States, among others. [GL 22](#) and [GL 23](#) similarly permit certain transactions involving Venezuela's U.N. Mission in the United States and certain funds transfers necessary for the operating expenses or other official business of third-country diplomatic and consular missions in Venezuela.
- [GL 21](#) permits U.S. financial institutions to debit certain blocked accounts that they hold for payment or reimbursement of “normal service charges” owed to them by the owners of the blocked accounts.
- [GL 24](#) authorizes transactions involving the Government of Venezuela that are incident to the receipt and transmission of telecommunications, and transactions of common carriers involving the Government of Venezuela incident to the receipt or transmission of mail and packages between the United States and Venezuela.
- [GL 25](#) authorizes certain exports to or involving the Government of Venezuela of services, software, hardware, and technology that are incident to the exchange of communications over the Internet (e.g., e-mails, social networking, web browsing, etc.).
- [GL 26](#) authorizes the provision and receipt of certain medical services involving the Government of Venezuela.
- [GL 27](#) authorizes various activities related to registration, renewal, or protection of patents, trademarks, copyrights, or other forms of intellectual property protections in the United States or in Venezuela.
- [GL 28](#) authorizes transactions and activities that are ordinarily incident and necessary to the wind down of operations, contracts, or other agreements involving the Government of Venezuela that were in effect prior to August 5, 2019. This authorization expires on September 4, 2019.

- [GL 29](#) authorizes various activities involving the Government of Venezuela that are ordinarily incident and necessary to certain activities by non-governmental organizations. Such activities include, without limitation, humanitarian aid projects, democracy building, educational programs, non-commercial development initiatives directly benefiting the Venezuelan people (e.g., clean water assistance), and environmental protection projects.
- [GL 30](#) authorizes certain transactions and activities involving the Government of Venezuela that are ordinarily incident and necessary to operations or use of Venezuelan seaports and airports, subject to certain limitations. Relatedly, [GL 33](#) authorizes payment and receipt of fees associated with overflights of Venezuela or emergency landings in Venezuela by aircraft registered in the United States or owned or controlled by, or chartered to, persons subject to U.S. jurisdiction.
- [GL 31](#), as noted, authorizes transactions with or involving the Venezuelan National Assembly (including its members and staff); any persons appointed or designated by the National Assembly to act on behalf of the Government of Venezuela; Interim President Guaidó and anyone appointed by Guaidó to act on behalf of the Government of Venezuela, and their staffs; and 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, among others.
- [GL 32](#) authorizes U.S. persons residing in Venezuela to engage in transactions that are ordinarily incident and necessary to their personal maintenance, such as paying taxes or other government fees. Relatedly, [GL 10A](#) permits U.S. persons in Venezuela to purchase refined petroleum products from PdVSA, or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest, for personal, commercial, or humanitarian use, as well as to engage in certain related transactions involving the Government of Venezuela.

Russia Sanctions

The Trump Administration also has imposed a second round of sanctions against Russia pursuant to the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (“CBW Act”) in response to Russia’s use of the chemical nerve agent “novichock” in an assassination attempt in the United Kingdom in March 2018.

The CBW Act requires the imposition of sanctions against a foreign country determined to have used chemical or biological weapons in violation of international law or to have used lethal chemical or biological weapons against its nationals. On August 27, 2018, following the determination that Russia used chemical weapons in the UK attack, the United States imposed an initial round of CBW Act sanctions on Russia, which were partially waived by the State Department in the interests of national security. More information about these earlier sanctions and the CBW Act can be found in our August 30, 2018 [client alert](#).

On November 6, 2018, the Secretary of State determined that Russia had failed to provide reliable assurances that it would not engage in future chemical weapons attacks. Pursuant to the CBW Act, this determination mandated the imposition of a second round of sanctions.

On August 2, 2019, consistent with its statutory obligations, the [State Department selected](#) the following three measures out of a menu of six possible sanctions options under the CBW Act:

- Beginning on or around August 19, 2019, the United States will oppose the extension of any loan or financial or technical assistance to Russia by international financial institutions, such as the World Bank or International Monetary Fund.
- Pursuant to an implementing [Directive](#) issued by OFAC, U.S. banks will be prohibited from participating in the primary market for non-ruble denominated bonds issued by the Russian sovereign and lending non-ruble denominated funds to the Russian sovereign after August 26, 2019, unless licensed by OFAC. The term “Russian sovereign” is defined for these purposes to include any ministry, agency, or sovereign fund of the Russian Federation, including Russia’s Central Bank, National Wealth Fund, and Ministry of Finance. It does not include state-owned Russian enterprises. OFAC also has clarified in FAQ guidance that U.S. banks are not prohibited from participating in the secondary market for Russian sovereign debt. [OFAC FAQ No. 678](#).
- On or around August 19, 2019, the U.S. Commerce Department’s Bureau of Industry and Security (“BIS”) will be instituting a “presumption of denial” review policy for requests to license exports to state-owned or state-funded entities in Russia of items controlled under the EAR for chemical and biological weapons non-proliferation reasons. Although BIS has not yet released details of its plans for implementing this sanction, a State Department [Fact Sheet](#) states that “exceptions to Department of Commerce export licensing requirements will continue to be available for U.S. firms fulfilling existing contracts with Russian customers.” It adds that BIS will continue to consider approving on a case-by-case basis licenses to export to Russia items needed for commercial space flight activities, items needed for safe operation of commercial passenger aviation, items destined for commercial end-users in Russia for civil end-uses, and items destined for wholly owned subsidiaries of U.S. and other foreign companies in Russia, as well as licenses for “deemed” exports (i.e., the disclosure or release within the United States) of EAR-controlled technology or source code to Russian nationals working in the United States.

These new sanctions will remain in place for a minimum of 12 months. They can only be lifted if the Executive Branch determines and certifies to Congress that Russia has satisfied certain conditions under the CBW Act, including providing reliable assurances that it will not use chemical weapons in the future.

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Covington has deep experience advising clients on the legal, policy, and practical dimensions of U.S. sanctions. We will continue to monitor developments in this area, and we are well positioned to assist clients in understanding how these developments may affect their business operations.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our firm:

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