

President Trump Signs Executive Order Blocking Property of the Government of Venezuela

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On August 5, 2019, the President of the United States, Donald J. Trump, signed an Executive Order (the “Order”) that adds to the existing sanctions against the Government of Venezuela and persons associated with “the continued usurpation of power by Nicolas Maduro and persons affiliated with him.”

The Order provides that any property of the “Government of Venezuela” (as defined in the Order) that may be located in the United States (now or in the future), or that may be in the possession of any U.S. person, “*may not be transferred, paid, exported, withdrawn, or otherwise dealt in.*”

The “Government of Venezuela” includes any of its political agencies or subdivisions, and also the Central Bank of Venezuela and *Petróleos de Venezuela, S.A.* (PdVSA), as well as any person that is owned, directly or indirectly, by said Government, “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.”

In essence, this Order amounts to a broad freeze against transactions with the “Government of Venezuela” (as defined in the Order), as it prohibits providing any funds, goods or services to, or for the benefit of any person whose property is blocked under the Order. It also prohibits the receipt of any contribution of funds, goods or services from such persons.

The scope of this new Order significantly increases the complexity of the Venezuela sanctions regime that has been developing since 2015, and careful consideration must be given to all facts and circumstances related to payments and other transactions that may involve property of, or participation by, blocked persons. The importance of compliance with the sanctions is illustrated in the following cautionary statement issued by OFAC as part of Revised FAQ’s released on August 6:

- As a general matter, OFAC expects financial institutions to conduct due diligence on their own direct customers (including, for example, their ownership structure) to confirm that those customers are not persons whose property and interests in property are blocked. With regard to other types of

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transactions where a financial institution is acting solely as an intermediary and fails to block transactions involving a sanctions target, OFAC will consider the totality of the circumstances surrounding the bank's processing of the transaction to determine what, if any, regulatory response is appropriate.

In connection with this Order, OFAC has revised several General Licenses issued under previous orders, and also added new General Licenses, notably a general authorization under General License 31 for transactions involving the Interim President of Venezuela, Juan Gerardo Guaidó Marquez, members of the Venezuelan National Assembly, and certain other persons associated with them.

OFAC has also published a "Guidance Related to the Provision of Humanitarian Assistance and Support to the Venezuelan People", addressing various types of transactions that are specifically authorized for humanitarian and other purposes.

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