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# U.S. Strengthens Sanctions Targeting the Government of Venezuela

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**August 7, 2019** – On August 5, 2019, the Trump Administration intensified pressure on the administration of Nicolás Maduro by imposing broad economic sanctions against the Government of Venezuela, a move that could escalate existing tensions with Venezuela's supporters, Russia and China. In a late-night Executive Order, President Trump announced that all property, and interests in property, of the Government of Venezuela, including its agencies, instrumentalities, and any entity owned or controlled by the foregoing, that are within the jurisdiction of the United States would be blocked. The Order further suspended entry into the United States of sanctioned persons absent a determination from the Secretary of State. The Order also authorizes the Secretary of the Treasury to impose additional secondary sanctions on non-U.S. persons who materially support or provide goods or services to the Government of Venezuela.

**Background**

In January 2019, after months of economic turmoil and political unrest under Venezuelan President Nicolás Maduro, the United States formally recognized Juan Guaidó, the leader of the Venezuelan National Assembly, as the country's legitimate head of state. More than fifty nations followed suit, asserting that President Maduro's 2017 reelection was illegitimate and that Guaidó was the rightful interim president under the Venezuelan constitution.

The Trump Administration followed its recognition of Mr. Guaidó as interim president with sweeping sanctions on the Venezuelan government. The measures included designating Venezuela's state-run oil company, Petróleos de Venezuela, S.A. ("PdVSA"), as a Specially Designated National ("SDN"), thereby prohibiting U.S. persons from engaging in transactions with PdVSA, as well as transactions by non-U.S. persons conducted in U.S. dollars, unless otherwise authorized by the U.S. Department of Treasury, Office of Foreign Assets Control ("OFAC"). (We previously summarized the PdVSA SDN designation here.)

Despite the increasing U.S. pressure, President Maduro has refused to cede power. He retains the support of the Venezuelan military, and Russia, China, Iran, Cuba, and Turkey have continued their economic and diplomatic relationships with the regime.

**Sanctions Overview**

Through this new Executive Order, the Trump Administration has ratcheted up its efforts against the Maduro regime, asserting that further measures are necessary to combat "human rights abuses," "interference with freedom of expression," and "ongoing attempts to undermine Interim President Juan Guaidó and the Venezuelan National Assembly's exercise of legitimate authority in Venezuela."

However, contrary to initial press reports, the action does not create a comprehensive embargo against Venezuela (on the model of the U.S. sanctions against Iran) that would prevent U.S. persons from engaging in almost all transactions. Instead, the new measures focus on the Venezuelan government by blocking all property and interests in property of the government that are currently in the United States, will be brought into the United States, or come into the possession or control of a U.S. person. There is, however, an exception for humanitarian goods, such as food, clothing, and medicine. The Order applies regardless of contracts entered into, or licenses or permits granted, prior to the Order.

Further, the Order could have a broad impact outside of the United States by authorizing secondary sanctions against any party determined by OFAC to "have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of" the Government of Venezuela. U.S. National Security Advisor John Bolton warned the day after the Order, "We are sending a signal to third parties that want to do business with the Maduro regime: proceed with extreme caution. There is no need to risk your business interests with the United States for the purposes of profiting from a corrupt and dying regime."

In conjunction with the Order, OFAC also revised twelve existing general licenses ("GLs") and issued thirteen new GLs. Notably, GL 28 authorizes through 12:01 a.m. on September 4, 2019, transactions necessary to wind-down contracts with the Government of Venezuela. GL 31 also authorizes transactions with the Venezuelan National Assembly and the shadow government of Interim President Juan Guaidó, underscoring that the target of the action is the administration of Nicolás Maduro.

The GLs and related guidance make clear that the people of Venezuela are not the target of the sanctions. Specifically, OFAC released a document entitled "Guidance Related to the Provision of Humanitarian Assistance and Support to the Venezuelan People," which emphasized that "humanitarian assistance and activities to promote democracy are not the target of U.S. sanctions and are generally excepted from sanctions . . . " OFAC simultaneously issued four new Frequently Asked Questions (FAQs). FAQ 680 stresses that "U.S. persons are not prohibited from engaging in transactions involving the country or people of Venezuela, provided blocked persons or any conduct prohibited by any other Executive order imposing sanctions measures related to the situation in Venezuela, are not involved." OFAC also issued a number of GLs to authorize humanitarian transactions and transactions necessary for communications involving Venezuela, including new GLs 24 (telecommunications and common carriers), 25 (Internet communications), 26 (medical services), and 29 (broadly authorizing certain non-governmental organizations).

Further, U.S. persons in Venezuela are not targeted by the sanctions. Section 6(d) of the Order exempts from the definition of Government of Venezuela "any United States citizen, any permanent resident alien of the United States, any alien lawfully admitted to the United States, or any alien holding a valid United States visa." Further, GL 32 authorizes U.S. persons resident in Venezuela to engage in ordinary and necessary personal "maintenance" transactions, including "payment of housing expenses, acquisition of goods or services for personal use, payment of taxes or fees, and purchase or receipt of permits, licenses, or public utility services."

Such measures targeting an entire government have rarely been used by the United States, and there are many questions about how the restrictions and related authorizations will be interpreted and applied. As Bolton observed, "This is the first time in 30 years that [the U.S. is] imposing an asset freeze against a government in this hemisphere."

**Effect of the Sanctions**

There has been some confusion in the media over the breadth of the measures. Some reports have mischaracterized the Order as a "total embargo;" however, the scope of the Order is limited to property, and interests in property, of the Venezuelan government, its agencies, instrumentalities, and entities owned or controlled by these. Because many major Venezuelan government entities have already been designated as SDNs in earlier actions, including PdVSA and the Central Bank of Venezuela, the measures appear to be only an incremental expansion of the existing sanctions program.

More significantly, the Order creates a secondary sanctions regime for OFAC to designate non-U.S. parties who continue to do business with the Maduro government. While these secondary sanctions are most likely to target Cuban, Russian, and Chinese entities that continue to provide aid to the ailing regime, all non-U.S. persons engaging in transactions in the country should carefully assess whether those transactions could benefit the government. In particular, companies trading with Venezuela should conduct due diligence sufficient to ensure that their counterparties are not owned fifty percent or more by the Government of Venezuela, or are not otherwise controlled by the government. In addition, from a practical standpoint, although the sanctions only apply to Government of Venezuelan and related entities, the measures may cause financial institutions, insurers, freight forwarders and other companies – who often apply a heighted level of compliance going beyond the minimum required by OFAC – to avoid dealing with Venezuelan entities altogether.

The measures against Venezuela could also escalate existing tensions with Russia and China if the sanctions further restrict the countries' access to Venezuelan oil. Russia and China, which have continued to back the Maduro regime, currently import Venezuelan oil as part of a debt relief program. China is slated to continue receiving oil from Venezuela until 2021, so it stands to suffer substantial losses if it is unable to continue the shipments. This uncertainty comes in the midst of deteriorating relations between the United States and China due to the ongoing trade war, relations which suffered another blow this week when the Trump Administration labeled China a "currency manipulator."

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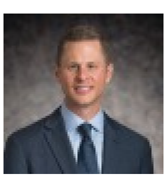

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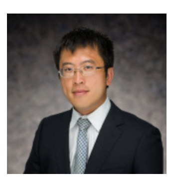

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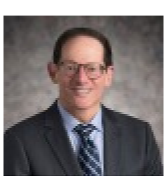

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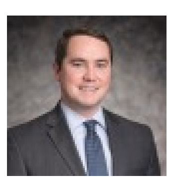

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