

Locke Lord QuickStudy: OFAC Issues FAQs and General License ?to Clarify Venezuela Sanctions

Locke Lord LLP

WRITTEN BY

Ryan Last

On May 1, 2023, the U.S. Department of the Treasury’s Office of Foreign Assets Control (“OFAC”) issued a new [General License \(“GL”\) 42](#), issued three new FAQs ([FAQ 1123](#), [FAQ 1124](#), and [FAQ 1125](#)), and amended existing [FAQ 808](#) pursuant to the [Venezuela Sanctions Regulations](#), 31 CFR part 591 (“VSR”).

GL

New [GL 42](#) permits settlement negotiations and agreements with the IV Venezuelan National Assembly, its Delegated Commission, any IV National Assembly Entity, or any person appointed or designated by these entities regarding the debt of the Government of Venezuela, Petróleos de Venezuela, S.A. (“PdVSA”), or any entity in which PdVSA owns 50 percent or more interest (subject to specific prohibitions set forth in the VSR). In summary, GL 42 creates a path for creditors of the Government of Venezuela or PdVSA to negotiate and settle their claims without violating U.S. sanctions. This opens a door for PdVSA creditors to resolve their claims while minimizing legal and financial risks.

FAQ

[FAQ 1123](#) – [FAQ 1123](#) provides clarification and additional guidance on the scope and limitations of [GL 42](#). The U.S. District Court for the District of Delaware has entered a Sale Procedures Order regarding certain shares in PDV Holding (“PDVH”) to satisfy a U.S. district court judgment against Venezuela. OFAC has stated it will not take enforcement actions against individuals or entities for participating in or complying with the preliminary steps outlined in the court’s Sale Procedures Order. However, an OFAC license will be required before any sale is executed, and the U.S. government will engage in due diligence about the identity of the potential purchaser and will consider relevant details of the proposed transaction. OFAC intends to implement policy favoring license applications in connection with the sale of the shares, but this policy is subject to reconsideration if U.S. foreign policy and national security interests materially change. The non-enforcement posture applies only to OFAC sanctions and does not relieve persons of obligations to comply with other regulatory requirements, reviews, or approvals necessary to finalize the sale.

[FAQ 1124](#) – [FAQ 1124](#) states that parties seeking to enforce bondholder rights to the CITGO shares serving as collateral for the PdVSA 2020 8.5 percent bond can take steps to preserve their ability to do so without facing enforcement action from OFAC. This non-enforcement policy applies to OFAC sanctions only and does not relieve persons of obligations to comply with any other applicable regulatory requirements, reviews, or approvals that may be necessary to finalize any sale. Parties who have negotiated a settlement agreement pursuant to [GL 42](#) will still

need to seek a specific license for entry into that agreement, as noted in FAQ 1125.

FAQ 1125 – FAQ 1125 provides that creditors of the Venezuelan government, PdVSA, or a PdVSA subsidiary, do not need an OFAC license to negotiate the settlement of claims related to the assets of the government or PdVSA, as long as the negotiations are with the IV National Assembly, its Delegated Commission, an IV National Assembly Entity, or a person appointed or designated by them. Settlement agreements relating to debt are included. [GL 42](#), however, does not authorize entry into settlement agreements without a specific license for entry into that agreement. OFAC indicated that specific licenses will only be granted after due diligence and this licensing policy may be revoked or modified at any time. GL 42 also does not authorize any transactions with persons blocked pursuant to the VSR other than those blocked persons enumerated in GL 42, unless separately authorized.

FAQ 808 – FAQ 808 clarifies that a specific license from OFAC is not required to initiate or continue U.S. legal proceedings against a person designated or blocked pursuant to the VSR. This means that parties can file a lawsuit in the U.S. court against such persons without seeking OFAC authorization. Additionally, creditors may file for writs of attachment without the need for OFAC authorization for matters involving property blocked under the VSR. However, it is important to note that a specific license from OFAC is required for the entry into a settlement agreement or for the enforcement of any lien, judgment, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property blocked pursuant to the VSR.

While Russia-related sanctions have certainly garnered significant attention, the direction of U.S. sanctions toward Venezuela has also been noteworthy. The U.S. has imposed a series of increasingly stringent sanctions on Venezuela in response to the political and economic situation in the country, targeting the government and key individuals, as well as the state-owned oil company, PdVSA. As the humanitarian situation in Venezuela has worsened, the U.S. has imposed more comprehensive sanctions targeting the country's oil industry, its key source of revenue. [GL 42](#) demonstrates the U.S. resolve and is intended to calibrate the U.S. sanctions policy towards Venezuela, balancing the need for pressure on the government with the desire to provide relief for creditors seeking to negotiate debt settlements.

Conclusion

This paper is intended as a guide only and is not a substitute for specific legal or tax advice. Please reach out to the authors for any specific questions. We expect to continue to monitor the topics addressed in this paper and provide future client updates when useful.

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