

# Locke Lord QuickStudy: OFAC Issues New and Revised Venezuela-Related General Licenses and FAQs for Humanitarian Relief

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On January 9, 2023, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") issued Venezuela-related General License ("GL") 31B and amended FAQ 522, 547, 660, 679, and 680.

## GLs

GL 31B ("Certain Transactions Involving the IV Venezuelan National Assembly and Certain Other Persons") authorizes U.S. persons to engage in all transactions that are otherwise prohibited by Executive Order ("EO") 13884 ("Blocking Property of the Government of Venezuela") related to: (i) the IV Venezuelan National Assembly that was seated on January 5, 2016 ("IV National Assembly"); (ii) its Delegated Commission; (iii) any entity established by, or under the direction of, the IV National Assembly to exercise its mandate ("IV National Assembly Entity"); and (iv) persons appointed by, or whose appointment is retained by, the IV National Assembly, its Delegated Commission, or a IV National Assembly Entity.

Additionally, U.S. persons are authorized to engage in all transactions that are otherwise prohibited by EO 13850 ("Blocking Property of Additional Persons Contributing to the Situation in Venezuela"), as amended by EO 13857 ("Taking Additional Steps To Address the National Emergency With Respect to Venezuela"), involving any person appointed by, or whose appointment is retained by, the IV National Assembly, its Delegated Commission, or a IV National Assembly Entity to the board of directors or as an executive officer of a Government of Venezuelan entity.

However, GL 31B does not authorize transactions involving the Venezuelan National Constituent Assembly convened by Nicolas Maduro or the National Assembly seated on January 5, 2021.

## FAQs

FAQ 522 – If the democratically elected IV National Assembly approves a new debt issuance by the Government of Venezuela that EO 13808 ("Imposing Additional Sanctions With Respect to the Situation in Venezuela") would prohibit U.S. persons from dealing in, the United States would consider using licensing authority to allow U.S. persons to deal in the issuance.

FAQ 547 – U.S. persons are generally prohibited from engaging in transactions or dealings with persons named

on OFAC's SDN List, including dealing with a SDN in the context of efforts to restructure Venezuelan and Petroleos de Venezuela, S.A. ("PdVSA") debt. Provided there is no SDN involvement, Venezuela-related GL 3H authorizes U.S. persons to engage in all transactions related to bonds specified in the Annex to GL 3H, including participating in negotiations regarding such bonds. GL 3H does not authorize any transaction by a U.S. person or within the United States that involves the creation or subsequent dealing in new debt of PdVSA or debt otherwise of the Government of Venezuela with a maturity of greater than 90 days or 30 days, respectively, absent a license from OFAC. OFAC would consider license applications involving any such new debt or equity on a case-by-case basis, and base licensing determinations on the facts and circumstances of the particular application.

FAQ 660 – The path to sanctions relief for PdVSA and its subsidiaries is through the expeditious transfer of control of the company to a democratically elected government that is committed to taking concrete and meaningful actions to combat corruption, restore democracy, and respect human rights.

FAQ 679 – OFAC issued Venezuela-related GL 31B authorizing all transactions involving the IV National Assembly, its Delegated Commission, any IV National Assembly Entity, or involving any person appointed or designated by, or whose appointment or designation is retained by, the IV National Assembly, its Delegated Commission, or a IV National Assembly Entity, to act on behalf of the Government of Venezuela, including their respective members and staff, that are otherwise prohibited by EO 13884. The authorization also covers transactions prohibited by EO 13850, as amended, with respect to any person appointed or designated by, or whose appointment or designation is retained by, the IV National Assembly, its Delegated Commission, or an IV National Assembly Entity to the board of directors (including any ad hoc board of directors) or as an executive officer of a Government of Venezuela entity (including entities owned or controlled, directly or indirectly, by the Government of Venezuela).

FAQ 680 – Unless exempt or authorized by OFAC, all property and interests in property of persons meeting the definition of the "Government of Venezuela" (defined in section 6(d) of EO 13884) that are in, or come within, the United States or the possession or control of a U.S. person are blocked. Without authorization from OFAC, U.S. persons are generally prohibited from engaging in transactions with the Government of Venezuela, or persons in which the Government of Venezuela owns, directly or indirectly, a 50 percent or greater interest. 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 has issued several GLs that provide authorization for categories of persons blocked by EO 13884. GL 34A authorizes transactions with certain Government of Venezuela individuals, including United States citizens; permanent resident aliens of the United States; individuals who have a valid U.S. immigrant or nonimmigrant visa, other than individuals in the United States as part of Venezuela's mission to the United Nations; former employees and contractors of the Government of Venezuela; and current employees and contractors of the Government of Venezuela who provide health or education services in Venezuela, including at hospitals, schools, and universities. In addition, GL 22 authorizes certain transactions related to Venezuela's mission to the United Nations, and GL 31B provides authorization related to the IV National Assembly.

Note that persons meeting the definition of Government of Venezuela and persons that are owned, directly or indirectly, 50 percent or more by the Government of Venezuela are blocked pursuant to EO 13884, regardless of whether the person appears on the SDN List, unless exempt or authorized by OFAC. 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. For other types of 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.

## **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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