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Locke Lord QuickStudy: OFAC Issues Venezuela-Related ?General Licenses and FAQs

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On November 26, 2022, Venezuela's Maduro regime and the Unitary Platform agreed to resume negotiations relating to the resumption of certain trade. The outcome is to be a humanitarian agreement focused on education, health, food security, flood response and electrification programs that will benefit the Venezuelan people, and agreement on the continuation of talks focused on 2024. Following this announcement, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC")? issued General License ("GL") 41, GL 8K and FAQ 1098 and 1099.

GLs

GL 41 ("Authorizing Certain Transactions Related to Chevron Corporation's Joint Ventures in Venezuela") authorizes transactions ordinarily incident and necessary to the following activities related to the operation and management by Chevron Corporation or its subsidiaries ("Chevron") of its joint ventures (collectively, the "Chevron JVs") involving blocked Venezuelan state-owned oil company, Petróleos de Venezuela, S.A. ("PdVSA") or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest:

- Production and lifting of petroleum or petroleum products produced by the Chevron JVs, and any related maintenance, repair or servicing of the Chevron JVs;
- Sale to, exportation to, or importation into the U.S. of petroleum or petroleum products produced by the Chevron JVs provided that the petroleum and petroleum products produced by the Chevron JVs are first sold to Chevron;
- Ensuring the health or safety of personnel or the integrity of operations or assets of the Chevron JVs in Venezuela; and
- Purchase and importation into Venezuela of goods or inputs related to the activities described above, including diluents, condensates, petroleum or natural gas products, provided such goods or services are not of Iranian origin.

GL 41 does not permit the following:

- Payments of taxes or royalties to the Government of Venezuela;
- Payments of any dividends, including a dividend in kind, to PdVSA, or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest;
- The sale of petroleum or petroleum products produced by or through the Chevron JVs for the exportation to any jurisdiction other than the U.S.;
- Any transaction involving an entity located in Venezuela that is owned or controlled by an entity located in the Russian Federation;
- Any expansion of the Chevron JVs into new fields in Venezuela beyond what was in place on January 28, 2019;

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or

- Any transactions otherwise prohibited by the Venezuela Sanctions Regulations, 31 CFR Part 591 (the "VSR"), including transactions involving any person blocked pursuant to the VSR other than the blocked persons described in GL 41 or other OFAC authorizations.

It is important to note that while GL 41 authorizes certain activity related to Chevron's joint ventures in Venezuela, all other Venezuela-related sanctions remain in place. GL 41 automatically renews each month and is valid for 6 months from November 26, 2022 or the date of any subsequent renewal, whichever is later.

GL 8K ("Authorizing Transactions Involving Petróleos de Venezuela, S.A. (PdVSA) Necessary for the Limited Maintenance of Essential Operations in Venezuela or the Wind Down of Operations in Venezuela for Certain Entities") extends the authorization of all transactions and activities otherwise prohibited by Executive Order ("EO") 13850, as amended by EO 13857, or EO 13884 that are ordinarily incident and necessary to the limited maintenance of essential operations, contracts or other agreements, that (i) are for safety or the preservation of assets in Venezuela; (ii) involve PdVSA or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest; and (iii) were in effect prior to July 26, 2019, until May 26, 2023 for the following entities and their subsidiaries (collectively, the "Covered Entities"): Halliburton, Schlumberger Limited, Baker Hughes Holdings LLC and Weatherford International, Public Limited Company. Furthermore, GL 8K extends the wind down period for all transactions between PdVSA and Covered Entities until May 26, 2023. In response to the issuance of GL 41, OFAC removed Chevron from the Covered Entities list.

FAQs

FAQ 1098 – Venezuela GL 41 authorizes U.S. persons to provide goods or services for Chevron Corporation's ("Chevron") operation and management of its joint ventures ("JVs") in Venezuela provided that such goods and services are for certain activities related to the operation and management of Chevron JVs in Venezuela, as specified in GL 41. Such activities include, among others, the production and lifting of petroleum or petroleum products produced by the Chevron JVs; related maintenance, repair, or servicing of the Chevron JVs; sale of petroleum or petroleum products to the United States produced by the Chevron JVs, provided that the petroleum and petroleum products produced by the Chevron JVs are first sold to Chevron; the procurement and import into Venezuela of goods or other inputs for authorized activities; and the processing of payments by U.S. financial institutions related to the foregoing activities.

FAQ 1099 – Non-U.S. persons, including foreign financial institutions, generally do not risk exposure to U.S. sanctions for facilitating transactions or payments for or on behalf of, directly or indirectly, Chevron, its subsidiaries, joint ventures or contractors that are authorized pursuant to Venezuela GL 41. Non-U.S. persons generally do not risk exposure to U.S. blocking sanctions under the Venezuela Sanctions Regulations for engaging in transactions with blocked persons, where those transactions would not require a specific license if engaged in by a U.S. person.

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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