

Locke Lord QuickStudy: OFAC Revokes Sanctions Suspension on Venezuela's Oil & Gas Sector, and Extends Prohibitions to Act on PdVSA 8.5% Bonds' CITGO Collateral

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An April 17, 2024, the U.S. Department of the Treasury's Office of Foreign Asset Control ("OFAC") issued General License ("GL") 44A_ ("Authorizing the Wind Down of Transactions Related to Oil or Gas Sector Operations in Venezuela") and a related document "Frequently Asked Questions Related to the Suspension of Certain U.S. Sanctions with Respect to Venezuela on October 18, 2023" ("FAQ"). By this GL, OFAC requires by May 31, 2024, the wind down of transactions involving Venezuela's state-owned energy company Petróleos de Venezuela, S.A. ("PdVSA") or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest (together, "PdVSA Entities") that were previously authorized under GL 44. OFAC actions are a result of the U.S. government's determination that the Maduro government is not fulfilling its obligations to uphold the peaceful restoration of democracy, ensure competitive elections, and safeguard the rights and freedoms of the Venezuelan people.

GL 44A, which replaces and supersedes GL 44, authorizes through May 31, 2024, all transactions prohibited by the Venezuela Sanctions Regulations, 31 CFR part 591 ("VSR") that are ordinarily incident and necessary to the wind down of any transactions related to oil or gas sector operations in Venezuela that were previously authorized by GL 44. Specifically, GL 44A requires the wind down of, among others, transactions that were previously authorized by GL 44: (1) the production, lifting, sale, and exportation of oil or gas from Venezuela, and provision of related goods and services; (2) the payment of invoices for goods or services related to oil or gas sector operations in Venezuela; (3) new investment in oil or gas sector operations in Venezuela; and (4) delivery of oil and gas from Venezuela to creditors of the Venezuelan government, including creditors of PdVSA Entities, for debt repayment. We note that in a wind down, companies are prohibited from increasing production (e.g., stock piling) or other activities that do not demonstrate a consistent reduction in activities.

GL 44A continues to prohibit transactions processed through blocked financial institutions other than transactions with Banco Central de Venezuela or Banco de Venezuela SA Banco Universal. GL 44A also continues to prohibit: (1) the provision of goods or services to, or new investment in, an entity located in Venezuela that is owned or controlled by, or a joint venture with, an entity located in Russia; (2) any transactions related to new investment in oil or gas sector operations in Venezuela by a person located in Russia or any entity owned or controlled by a person located in Russia; (3) any debt transactions, such as the provision of loans to PdVSA, that are not for the payment of invoices or repayment of debt through delivery of oil or gas; (4) transactions prohibited by Executive Order ("EO") 13827 (related to certain virtual assets issued by, for, or on behalf of the Venezuelan government)

or EO 13835 (related to debt that is owed to the Government of Venezuela, as well as certain transactions involving any equity interest in any entity in which the Government of Venezuela has a 50% or greater ownership interest); and (5) the unblocking of any property blocked pursuant to the VSR.

On April 15, 2024, OFAC issued GL 5O (“Authorizing Certain Transactions Related to the Petróleos de Venezuela, S.A. 2020 8.5 Percent Bonds”) pursuant to the VSR. GL 5O continues to delay until August 13, 2024, the ability of U.S. bondholders of PdVSA 2020 8.5% bonds (“PdVSA 8.5% Bonds”) to assert claims to receive CITGO shares that serve as collateral for the defaulted PdVSA 8.5% Bonds, unless expressly authorized by OFAC. Initially, EO 13835, later amended by EO 13857, prohibited such actions until July 19, 2018. The moratorium has been consistently extended since that time with the previous deadline being April 16, 2024. OFAC continues to maintain a positive stance on granting licenses to those seeking to negotiate restructuring or refinancing arrangements for payments owed to holders of PdVSA 7.5% Bonds.

FAQ

OFAC issued an amended FAQ to assist U.S. persons and non-U.S. persons in complying with GL 44A.

OFAC confirmed that entering into new business, including a new investment that was previously authorized under GL 44, will not be considered wind down activity. U.S. persons unable to complete transactions previously authorized by GL 44 before May 31, 2024 should seek guidance from OFAC. Non-U.S. persons may wind down transactions or activity without exposure to sanctions, provided that such wind down activity is consistent with the authorization under GL 44A. Similarly, non-U.S. persons unable to wind down such transactions or activity before May 31, 2024, are encouraged to seek guidance from OFAC.

If you seek to engage in transactions and activities previously authorized by GL 44, OFAC will consider specific license requests on a case-by-case basis. Other authorization related to Venezuela's oil or gas sector operations, such as GL 8M and GL 41, remain operative and are not affected by the revocation of GL 44. Thus, U.S. persons may continue to rely on other authorizations related to Venezuela's oil or gas sector operations in Venezuela, despite the issuance of GL 44A.

According to the U.S. government, Maduro and his representatives have obstructed the democratic opposition from registering their preferred candidate for the upcoming election. Consequently, OFAC has stated that it will continue to assess sanctions policy towards Venezuela in light of actions taken by Maduro and his representatives as the country approaches the July 28 election and to advance U.S. interests.

Given that OFAC will assess individual specific license requests linked to GL 44A on a case-by-case basis and considering the public declarations from the Biden Administration expressing a reluctance to revert to the stricter sanctions previously imposed on Venezuela, these specific license requests will be thoroughly evaluated. The U.S. government will likely persist in employing a strategy that combines incentives and deterrence toward Venezuela as the Venezuelan national elections in July 2024 draw nearer. We remain vigilant in monitoring this situation and will provide updates as the situation evolves.

For additional information, visit [Locke Lord's Economic Sanctions & Export Controls Resource Center](#).

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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