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Regulatory Alert:

U.S. Blocks Venezuelan Government Assets and Threatens Sanctions against Companies Doing Business with the Maduro Regime

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President Trump signed Executive Order 13844 on August 5th, escalating again the sanctions targeting the regime of Nicolas Maduro. This is the latest in a string of sanctions dating back to 2015. Key targets of the earlier sanctions have included Maduro personally, the state-owned oil company Petróleos de Venezuela, SA ("PDVSA"), the Central Bank of Venezuela and several other Venezuelan banks, and debt and securities of the Government of Venezuela ("GOV"). For descriptions of the previous sanctions, please see our alerts of September 1, 2017, November 5, 2018, and February 21, 2019.

Now, EO13884 "blocks" (freezes) all property interests of the GOV in the United States or in the possession or control of U.S. persons. This blocking prohibits virtually all dealings between the GOV and U.S. persons, except as authorized by licenses issued by the Office of Foreign Assets Control ("OFAC") of the U.S. Department of the Treasury. Moreover, the prohibitions extend to all entities 50% or more owned by the GOV, such as PDVSA and its subsidiaries (again), as well as agencies, instrumentalities, and political subdivisions of the GOV. Indeed, the GOV includes "any person who has acted or purported to act directly or indirectly for or on behalf of, any of the foregoing, including as a member of the Maduro regime." Executive Orders often empower OFAC to designate persons like these as "specially designated nationals and blocked persons" ("SDN's"), whose names are published on the SDN List, but EO13844 prohibits dealings with numerous persons who are not named as SDN's. This places a significant new due diligence obligation on U.S. businesses.

In principle, EO13884 targets only the GOV and it does not prohibit dealings with private persons in Venezuela. However, GOV-owned entities play a major role in the Venezuelan economy and even dealings with private persons in Venezuela will often involve the GOV or GOV-owned entities (e.g., taxes and state banks).

Recognizing the commercial significance of these sanctions against the GOV, OFAC has issued or updated 25 general licenses authorizing a variety of activities with the GOV. We caution you to review the licenses carefully and all their terms, conditions, and limitations before relying on any general license. Beyond the general licenses, OFAC also has the discretion to issue further specific licenses where consistent with U.S. policy.

EO13884 also threatens to name as an SDN any person anywhere in the world who is determined by OFAC:

(i) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person included on [the SDN List] whose property and interests in property are blocked pursuant to this order; or

(ii) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

This language pressures persons in third countries to adhere to the U.S. sanctions against the primary target. John Bolton, President Trump's national security advisor, encapsulated this view in a speech in Lima, by describing the new sanctions as "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." Some Administration officials have been quoted as identifying Cuban, Chinese, and Russian companies as main targets. The risk of SDN designation is not limited to these countries; for example, OFAC recently listed an Italian shipping company for operating in Venezuela's oil sector (an earlier trigger for designation) and then delisted the company when it pledged to leave Venezuela.

Please note all of the above references to GOV, PDVSA, or other blocked persons also include all of their 50% or more owned subsidiaries.