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United States Eases Sanctions on Venezuelan Oil and Gas, Gold, and Securities

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On October 18, 2023, following the signing of an electoral roadmap between Venezuela's opposition and the regime of President Nicolás Maduro, the Biden administration announced a major relaxation of U.S. sanctions on Venezuela. The broad package of measures—which eases restrictions on Venezuela's oil and gas sector, gold sector, and secondary trading in certain Government of Venezuela securities—represents a seismic shift from the "maximum pressure" campaign that since 2019 has prohibited virtually all U.S. nexus dealings involving key sectors of Venezuela's energy-driven economy. From a policy perspective, such incremental, and in some cases time-limited, sanctions relief appears calculated to incentivize the Maduro regime to take concrete steps toward the restoration of Venezuelan democracy with an eye toward holding a free and fair presidential election late next year.

Notably, most U.S. sanctions on Venezuela, including a prohibition on most U.S. nexus transactions involving the Government of Venezuela, remain in effect. Moreover, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") has indicated that the continued availability of even partial sanctions relief is contingent upon the Maduro regime meeting its commitments under the country's electoral roadmap, as well as with respect to individuals wrongfully detained in Venezuela. If the Maduro regime reneges on those commitments, OFAC reserves the right to amend or revoke existing licenses at any time. Those limitations notwithstanding, by authorizing a wide range of transactions involving Venezuela's crucial oil and gas sector, the Biden administration has unveiled the most economically consequential easing of restrictions on Caracas since the advent of the Venezuela sanctions program—and opened the door to possible further sanctions relief in the months ahead.

Oil and Gas Sector

Among the measures announced in October 2023, the most impactful is Venezuela General License ("GL") 44 which authorizes U.S. persons, until April 18, 2024, to engage in all transactions related to oil or gas sector operations in Venezuela, including transactions involving state-owned oil giant ***Petróleos de Venezuela, S.A. ("PdVSA")***, subject to certain conditions. Crucially, that general license sets forth a non-exhaustive list of authorized activities that includes: (1) the production, lifting, sale, and exportation of oil or gas from Venezuela, and the provision of related goods and services; (2) 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; as well as (4) delivery of oil and gas from Venezuela to creditors of the Government of Venezuela, including creditors of PdVSA entities, for the purpose of debt repayment.

The limitations included in GL 44 are relatively modest in scope. For example, that license expressly does not authorize transactions involving certain blocked Venezuelan financial institutions; transactions involving certain Russian-owned or -controlled entities; or transactions involving "new" debt that are unrelated to the payment of invoices or the

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delivery of oil and gas to the Government of Venezuela's creditors. The license also excludes from its authorizations transactions involving Venezuela's digital currency, known as the petro; dealings in debts owed *to* the Government of Venezuela; and the unblocking of property—which, as a practical matter, prevents the Maduro regime from accessing its holdings of cash and securities in the United States, which remain frozen.

Although GL 44 on its face is limited to an initial period of six months, with the possibility that it could at a later date be renewed if the Maduro regime delivers on its electoral promises, the license nevertheless marks the most substantial easing of U.S. sanctions on Venezuela to date.

Under the Trump administration, the United States during 2019 sharply escalated restrictions on Venezuela by imposing blocking sanctions on numerous substantial enterprises, including the state-owned oil company PdVSA, the state-owned gold mining company, the country's central bank, and ultimately the entirety of the Government of Venezuela. Expanding on those earlier measures, the United States sought to further restrict the Maduro regime's access to energy revenue by on multiple occasions in 2020 designating non-U.S. parties, including shipping companies and vessels, to OFAC's Specially Designated Nationals and Blocked Persons ("SDN") List for engaging in dealings involving Venezuelan-origin oil.

With the notable exception of a general license issued in November 2022 that authorizes certain specified transactions related to the operation and management by one named U.S. energy company of its joint ventures in Venezuela involving PdVSA, the United States had until this month continued to maintain sanctions pressure on Venezuela's oil and gas sector. With the issuance of GL 44, U.S. persons and non-U.S. persons can potentially engage in a wide variety of U.S. nexus transactions involving Venezuela's oil and gas sector, including exporting Venezuelan crude, investing in new energy projects, and recovering sums owed by the Government of Venezuela and PdVSA entities—including old, new, and future debts incurred in covered activities—through payments in the form of Venezuelan-origin petroleum and petroleum products.

Gold Sector

In addition to easing sanctions on Venezuelan oil and gas, the Biden administration further broadened the Maduro regime's access to potential sources of hard currency by easing sanctions on Venezuela's gold sector. In particular, OFAC issued a general license that authorizes, without any time limitation, most U.S. nexus transactions involving Venezuela's state-owned gold mining company, ***CVG Compania General de Mineria de Venezuela CA ("Minerven")***, and its majority-owned entities. Underscoring the apparent U.S. policy interest in permitting such gold-related transactions to proceed, that license authorizes U.S. persons to engage in dealings involving Minerven entities, including with the involvement of certain blocked Venezuelan financial institutions, namely the Banco Central de Venezuela or the prominent commercial lender ***Banco de Venezuela SA Banco Universal***.

Concurrent with the issuance of that license, OFAC published guidance indicating that non-U.S. persons no longer risk becoming designated to an OFAC restricted party list such as the SDN List solely for operating in the gold sector of the Venezuelan economy. Taken together, these measures suggest a willingness on the part of the current U.S. administration to allow the Maduro regime to monetize Venezuela's considerable natural resources.

Government of Venezuela and PdVSA Securities

Finally, in a key development for investors and financial institutions, the measures announced in October 2023 extend beyond Venezuela's extractive industries to include an easing of sanctions on secondary trading in certain securities issued by the Government of Venezuela or PdVSA.

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Since August 2017, in an effort to limit the Maduro regime's access to long-term financing, the United States has restricted U.S. persons from dealing in certain Venezuelan sovereign bonds, plus certain debt of, and equity in, PdVSA entities. During that period, OFAC issued and repeatedly extended a pair of general licenses that until this month authorized U.S. persons to engage in all transactions related to certain specified Government of Venezuela or PdVSA securities, subject to the condition that any divestment or transfer of such securities had to be to a *non-U.S. person*. On October 18, 2023, OFAC further amended those two licenses by issuing GL 3I and GL 9H, which presently authorize U.S. persons to both sell and purchase such securities—thereby permitting secondary trading in specified Venezuelan sovereign bonds and specified PdVSA debt and equity.

Although the Biden administration has substantially expanded the circumstances under which U.S. persons can deal in financial instruments issued by the Government of Venezuela, two key limitations remain. Prospective investors should be mindful that, except as separately authorized by OFAC, secondary market transactions involving specified Government of Venezuela or PdVSA securities generally cannot involve blocked persons (e.g., selling such securities to, or purchasing such securities from, an SDN). Further, U.S. persons continue to be prohibited from participating in the primary market for newly issued Government of Venezuela or PdVSA securities.

Next Steps Between Washington and Caracas

In short, the recent easing of U.S. sanctions on Venezuela is noteworthy both for its breadth and for the fact that much of the relief extended to Caracas rests on a promise by the Maduro regime to in the future take further steps toward the restoration of Venezuelan democracy. As it remains to be seen whether the Maduro regime will ultimately hold up its end of the bargain, a further easing of U.S. sanctions on Venezuela appears unlikely, at least in the near term. However, in the event that the Maduro regime indeed takes concrete steps toward holding free and fair elections—such as lifting a ban on certain opposition candidates holding public office, allowing opposition candidates reasonable access to state-run media outlets, and permitting international observers to monitor the casting and counting of ballots—it is not out of the question that the United States could next year further ease certain remaining sanctions on Venezuelan financial institutions, Venezuelan financial instruments, or conceivably the Government of Venezuela itself.

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