



POLICY ALERT // FEBRUARY 4, 2019

Venezuela Developments Underline Sanctions' Complexity, Converging Risks

Throughout January 2019, international diplomatic and economic pressure on Venezuela's Maduro regime has continued to increase, and the rapidly evolving situation – especially the dual claims to leadership of the government – presents increasingly complicated challenges for financial institutions and investors. The United States and several other countries recognized Venezuelan opposition leader Juan Guaidó as Venezuela's "interim president" and announced new sanctions targeting Venezuelan corruption and the oil sector.^{1,2,3,4}

- ▶ On January 23, Canada and many Latin American nations joined the United States in recognizing Guaidó.^{5,6} Likewise, on January 31, the European Parliament voted to recognize Guaidó as the interim president.⁷
- ▶ On January 28, the United States designated Venezuelan oil parastatal Petróleos de Venezuela, S.A. (PDVSA) while licensing certain transactions related to PDVSA, its U.S.-incorporated subsidiary Citgo, and other Venezuelan entities.⁸
- ▶ These new measures target PDVSA and Venezuela's key oil-related revenue stream, but provide the interim government with access to certain Venezuelan government accounts held in the United States. These measures are part of a larger effort to limit the Maduro regime's ability to access funds, while legitimizing and supporting the Guaidó regime.

These latest developments and financial measures are part of a sustained campaign by several nations to pressure the Venezuelan regime on democracy, corruption, and human rights.^{9,10}

- ▶ On January 8, the United States designated seven individuals and 23 entities for their role in a corrupt foreign exchange scheme that generated billions of dollars in illicit proceeds.^{11,12} The United States previously identified the oil and exchange house sectors as sources of corrupt proceeds.¹³
- ▶ Members of the United Nations Security Council have drawn a direct connection between the political and humanitarian situations in Venezuela, and U.S. sanctions explicitly connect the Venezuelan government's corruption, theft, and concealment of wealth, with the suffering of the Venezuelan people.^{14,15,16}



- ▶ More broadly, corruption and human rights have become an increasing focus of sanctions in the United States, Canada, the EU, and the UK, in the Venezuela context and in other sanctions programs.^{17,18,19,20,21,22,23}

A Multi-Pronged Campaign

The overlap between the January 8 U.S. designations and judicial enforcement actions in the United States and Europe illustrate how prosecutions play a complementary role in a multi-pronged pressure campaign. Such investigations also underscore the growing enforcement scrutiny surrounding illicit Venezuelan financial transactions, assets, and networks. Over the last few years, there have been several high-profile prosecutions of former Venezuelan officials in the United States on charges of corruption, money laundering, and conspiracy, including for allegedly embezzling funds from PDVSA. Two participants in the foreign exchange scheme at the center of the U.S. designations announced on January 8 faced related charges in U.S. courts in 2018. As of early 2019, two additional participants in this scheme were under house arrest in Spain.^{37,38,39}

The United States is taking actions that aim to strike a balance between sustaining pressure on Venezuela and limiting negative impacts on the humanitarian situation in Venezuela and on U.S. companies. Although the United States on January 25, 2019, issued an Executive Order to ensure that blocking orders pursuant to its previous sanctions targeting the Maduro regime remained in force despite the U.S. recognition of Guaidó, financial institutions holding blocked funds belonging to the Venezuelan government should be prepared for requests from the United States to create a channel to allow the interim government access to these funds.^{24,25,26}

- ▶ The U.S. designation of PDVSA in particular is an important escalation that, according to administration officials, will freeze about \$7 billion in PDVSA's funds. Prior to this action, the administration had seemingly been reluctant to designate PDVSA or otherwise significantly restrict Venezuela's ability to export petroleum because of concerns about the impact on oil markets and U.S. companies. The PDVSA designation makes clear that the administration is increasingly willing to put significant pressure on Venezuela's primary source of revenue.
- ▶ At the same time, the administration took action to limit the negative consequences of the PDVSA designation on oil markets and U.S. companies. The Treasury Department issued a number of general licenses along with the January 28, 2019, action to limit these consequences. In particular, Treasury



issued a license allowing PDVSA's U.S. subsidiary, Citgo, to continue purchasing and importing petroleum and petroleum products from Venezuela, as long as the payments for these goods are made into blocked accounts in the United States. On February 1, Treasury also issued a number of Frequently Asked Questions (FAQs) to provide additional clarity to the designation and licenses. This approach appears designed to ensure limited impact on U.S. oil markets and companies while preventing the Maduro regime from benefiting from the sale of oil.

- ▶ The U.S. State Department on January 25, 2019, certified the authority of Venezuela's interim President Guaidó to receive and control certain property in Venezuelan government and central banks accounts at the Federal Reserve and U.S. insured banks,²⁷ and U.S. officials want to allow Guaidó to control Venezuela's oil revenues and gold reserves.²⁸ The mechanisms for providing Guaidó and the opposition-led National Assembly with access to funds, however, remain unclear.

The convergence of sanctions, money laundering, bribery, corruption, and human rights-related risks in jurisdictions such as Venezuela requires financial institutions and investors — including sovereign investors — to adopt an integrated approach to risk management. Financial institutions and investors aiming to prevent the “real risk” that bad actors will abuse their products and services or use their funding in a way that violates relevant laws and regulations — “regulatory risk” — also need to be increasingly cognizant of the reputational risks of becoming implicated in such activity, particularly as it relates to human rights abuses.

- ▶ In 2018, the U.S. Treasury issued an advisory to financial institutions about corrupt senior foreign political figures, their financial facilitators, and the way that they enable human rights abuses.²⁹ This advisory highlighted the need to adopt an expansive and integrated approach to compliance, combining an understanding of sanctions and screening mechanisms with oversight measures designed to monitor politically exposed persons (PEPs) and their potential facilitation networks and identify shell company activity.
- ▶ The involvement of facilitation networks that rely on non-designated individuals, non-PEPs, and networks of shell companies worldwide combine to make the threat global in nature for the financial and investor community, underscoring the need for comprehensive due diligence. Under its Venezuela and other corruption- and human rights-related authorities, the United States has sanctioned hundreds of individuals and entities across at least 30 jurisdictions, including jurisdictions that are the targets of global sanctions



and known financial secrecy havens, but also Western European jurisdictions often considered lower risk for money laundering.³⁰

- ▶ Comprehensive pre-onboarding or pre-investment sanctions exposure analysis and AML/CFT due diligence that addresses conduct-related risks can save financial institutions and investors from public backlash. During the past year, several financial institutions and investors have faced reputational and financial harm due to their associations with individuals and entities engaged in corruption and human rights abuses.^{31,32,33,34,35,36}



Endnotes

- 1 U.S. Department of the Treasury, "Statement by a Treasury Spokesperson on Venezuela," January 25, 2019, at <https://home.treasury.gov/news/press-releases/sm591>.
- 2 Wall Street Journal, "U.S. Recognizes Venezuelan Opposition Leader as Interim President," January 23, 2019, at <https://www.wsj.com/articles/tens-of-thousands-protest-venezuelan-president-maduro-11548264274>.
- 3 U.S. Department of the Treasury, "Treasury Sanctions Venezuela's State-Owned Oil Company Petroleos de Venezuela, S.A.," January 28, 2019 at <https://home.treasury.gov/news/press-releases/sm594>.
- 4 U.S. Department of the Treasury, "Treasury Targets Venezuela Currency Exchange Network Scheme Generating Billions of Dollars for Corrupt Regime Insiders," January 8, 2019, at <https://home.treasury.gov/news/press-releases/sm583>.
- 5 The United Nations, "UN political chief calls for dialogue to ease tensions in Venezuela; Security Council divided over path to end crisis," January 26, 2019, at <https://news.un.org/en/story/2019/01/1031382>.
- 6 Wall Street Journal, "U.S. Recognizes Venezuelan Opposition Leader as Interim President," January 23, 2019, at <https://www.wsj.com/articles/tens-of-thousands-protest-venezuelan-president-maduro-11548264274>.
- 7 Thomson Reuters, "Venezuela's Juan Guaido says special forces threatened family," January 31, 2019, at <https://www.cbc.ca/news/world/eu-vote-venezuela-guaido-1.5000036>.
- 8 U.S. Department of the Treasury, "Treasury Sanctions Venezuela's State-Owned Oil Company Petroleos de Venezuela, S.A.," January 28, 2019 at <https://home.treasury.gov/news/press-releases/sm594>.
- 9 Financial Integrity Network, "United States Ramps up Financial Pressure on Venezuela," August 28, 2017, at https://www.financialintegritynetwork.net/uploads/8/7/8/0/87802750/fin_policy_alert_-_venezuela_sanctions.pdf.
- 10 Financial Integrity Network, "Financial Net Tightening Around Venezuela's Maduro Regime," April 25, 2018, at https://www.financialintegritynetwork.net/uploads/8/7/8/0/87802750/2018.04.25_-_fin_client_alert_-_venezuela.pdf.
- 11 U.S. Department of the Treasury, "Treasury Targets Venezuela Currency Exchange Network Scheme Generating Billions of Dollars for Corrupt Regime Insiders," January 8, 2019, at <https://home.treasury.gov/news/press-releases/sm583>.
- 12 Wall Street Journal, "U.S. Targets Huge Currency Scheme in Venezuela Before Maduro Inauguration," January 8, 2019, at <https://www.wsj.com/articles/u-s-treasury-sanctions-alleged-2-4-billion-venezuelan-graft-network-11546959681>.
- 13 FinCEN, "Advisory on Widespread Political Corruption in Venezuela," September 20, 2017, at <https://www.fincen.gov/sites/default/files/advisory/2017-09-20/FinCEN%20Advisory%20FIN-2017-A006-508%20Compliant.pdf>.
- 14 The United Nations, "UN political chief calls for dialogue to ease tensions in Venezuela; Security Council divided over path to end crisis," January 26, 2019, at <https://news.un.org/en/story/2019/01/1031382>.
- 15 U.S. Department of the Treasury, "Treasury Targets Venezuela Currency Exchange Network Scheme Generating Billions of Dollars for Corrupt Regime Insiders," January 8, 2019, at <https://home.treasury.gov/news/press-releases/sm583>.
- 16 United Nations Human Rights Office of the High Commissioner, "Corruption and Human Rights," accessed January 22, 2019 at <https://www.ohchr.org/EN/Issues/CorruptionAndHR/Pages/CorruptionAndHRIndex.aspx>.
- 17 U.S. Department of Treasury, Global Magnitsky Sanctions, accessed January 22, 2018, at <https://www.treasury.gov/resource-center/sanctions/Programs/pages/glomag.aspx>.
- 18 Financial Integrity Network, "United States Issues First Global Magnitsky Sanctions" January 4, 2018, at https://www.financialintegritynetwork.net/uploads/8/7/8/0/87802750/fin_policy_alert_-_global_magnitsky__1_.pdf.
- 19 Government of Canada, Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), modified January 8, 2019 at <https://laws-lois.justice.gc.ca/eng/acts/J-2.3/FullText.html>.



- 20 Government of Canada, "Consolidated Canadian Autonomous Sanctions List," last updated on November 29, 2018, at https://international.gc.ca/world-monde/international_relations-relations_internationales/sanctions/consolidated-consolide.aspx?lang=eng.
- 21 European Council on Foreign Relations, "The power of the blacklist: The European Parliament's proposed Magnitsky Act," July 19, 2018 at https://www.ecfr.eu/article/commentary_power_of_blacklist_european_parliament_magnitsky_act?utm_content=buffer24ea4&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer.
- 22 Transparency International EU, "EU sanctions for corruption – the fight back starts here," December 5, 2018, at <https://transparency.eu/eu-sanctions-for-corruption-the-fight-back-starts-here/>.
- 23 The Government of the United Kingdom, Sanctions and Anti-Money Laundering Act 2018, text amended as of January 15, 2019, at <http://www.legislation.gov.uk/ukpga/2018/13/data.pdf>.
- 24 Executive Order, "Taking Additional Steps to Address the National Emergency With Respect to Venezuela," January 25, 2019 at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/20190128_ven_eo.pdf.
- 25 U.S. Department of the Treasury, "Statement by a Treasury Spokesperson on Venezuela," January 25, 2019, at <https://home.treasury.gov/news/press-releases/sm591>.
- 26 Wall Street Journal, "U.S. Backing of Venezuelan Opposition Government Risks Putting State's Oil Money in Limbo," January 25, 2019, at <https://www.wsj.com/articles/u-s-backing-of-venezuela-opposition-government-risks-putting-states-oil-money-in-limbo-11548460424>.
- 27 U.S. Department of State Press Statement, Protecting Venezuela's Assets for the Benefit of Venezuelan People, January 29, 2019, at <https://www.state.gov/r/pa/prs/ps/2019/01/288634.htm>.
- 28 Wall Street Journal, "U.S. Backing of Venezuelan Opposition Government Risks Putting State's Oil Money in Limbo," January 25, 2019, at <https://www.wsj.com/articles/u-s-backing-of-venezuela-opposition-government-risks-putting-states-oil-money-in-limbo-11548460424>.
- 29 U.S. Department of Treasury FinCEN Advisory, "Advisory on Human Rights Abuses Enabled by Corrupt Senior Foreign Political Figures and their Financial Facilitators," June 12, 2018, at https://www.fincen.gov/sites/default/files/advisory/2018-07-03/PEP%20Facilitator%20Advisory_FINAL%20508%20updated.pdf.
- 30 U.S. Department of the Treasury, "2018 OFAC Recent Actions," undated, at <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/ofac-actions-2018.aspx>.
- 31 Bloomberg, "Goldman Says It's Learned From Venezuela 'Hunger Bonds' Backlash," March 15, 2018, at <https://www.bloomberg.com/news/articles/2018-03-15/goldman-says-it-s-learned-from-venezuela-hunger-bonds-backlash>.
- 32 IG Markets, "Glencore: risky business?" July 13, 2018, at <https://www.ig.com/au/news-and-trade-ideas/shares-news/glencore--risky-business--180713>.
- 33 Wall Street Journal, "Glencore's \$200 Million Predicament: How to Handle Payments to Individual Under U.S. Sanctions," February 20, 2018, at <https://www.wsj.com/articles/glencores-200-million-predicament-how-to-handle-payments-to-individual-under-u-s-sanctions-1519163836>.
- 34 Wall Street Journal, "Glencore Under Probe Over Congo Payments," July 27, 2017, at https://www.wsj.com/articles/glencore-under-probe-over-congo-payments-1501184279?mod=article_inline.
- 35 Wall Street Journal, "Glencore to Resume Payments to Sanctioned Billionaire Gertler," June 15, 2018, at <https://www.wsj.com/articles/glencore-to-resume-payments-to-israeli-billionaire-gertler-despite-u-s-sanctions-1529052213>.
- 36 Financial Times, "Banks are right to shun Venezuela hunger bonds: Credit Suisse's ban reflects both reputational and legal risks," August 11, 2017, at <https://www.ft.com/content/0490f1e8-7e83-11e7-ab01-a13271d1ee9c>.
- 37 U.S. Department of the Treasury, "Treasury Targets Venezuela Currency Exchange Network Scheme Generating Billions of Dollars for Corrupt Regime Insiders," January 8, 2019, at <https://home.treasury.gov/news/press-releases/sm583>.



- 38 The United States Department of Justice, "Former Venezuelan National Treasurer Sentenced to 10 Years in Prison for Money Laundering Conspiracy Involving Over \$1 Billion in Bribes," November 27, 2018, at <https://www.justice.gov/opa/pr/former-venezuelan-national-treasurer-sentenced-10-years-prison-money-laundering-conspiracy>.
- 39 The United States Department of Justice, "Venezuelan Billionaire News Network Owner, Former Venezuelan National Treasurer and Former Owner of Dominican Republic Bank Charged in Money Laundering Conspiracy Involving Over \$1 Billion in Bribes," November 20, 2018, at <https://www.justice.gov/opa/pr/venezuelan-billionaire-news-network-owner-former-venezuelan-national-treasurer-and-former>.