

Alert

Sanctions Update: Venezuela

April 4, 2019

On March 22, 2019, the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC") designated Banco de Desarrollo Economico y Social de Venezuela ("BANDES"), a Venezuelan state-owned and controlled bank, and four of its subsidiaries, including Banco Banes Uruguay S.A. ("Banes Uruguay"), Banco Bicentenario del Pueblo, de la Clase Obrera, Mujer y Comunias, Banco Universal C.A. ("Banco Bicentenario del Pueblo"), Banco de Venezuela S.A. Banco Universal ("Banco de Venezuela") and Banco Prodem S.A. ("Banco Prodem") to OFAC's Specially Designated Nationals ("SDN") List pursuant to Executive Order ("E.O.") 13850 as amended by E.O. 13857 of the Venezuelan sanctions program.¹ This designation follows a determination by Treasury Secretary Steven T. Mnuchin that "regime insiders" of the President of Venezuela, Nicolas Maduro Moros ("Maduro"), "have transformed BANDES and its subsidiaries into vehicles to move funds abroad in an attempt to prop up Maduro. Maduro and his enablers have distorted the original purpose of the bank, which was founded to help the economic and social well-being of the Venezuelan people, as part of a desperate attempt to hold onto power."² Concurrent with the new sanctions, OFAC amended one general license, issued four new general licenses and issued two Frequently Asked Questions ("FAQs").³

As a result of these new sanctions, all property and interests in property of BANDES, and of any entities that are owned, directly or indirectly, 50 percent or more by BANDES, that are in the United States or in the possession or control of U.S. persons are blocked and must be reported to OFAC. OFAC's regulations generally prohibit all dealings by U.S. persons or within (or transiting) the United States that involve any property or interests in property of blocked or designated persons.

The relevant OFAC General Licenses authorizing certain wind-down activity are as follows:

General License 4A. Replacing and superseding General License 4, General License 4A authorizes all transactions related to, the provision of financing for and other dealings in new debt involving Banco de Venezuela or Banco Bicentenario del Pueblo provided that the transactions and dealings are ordinarily incident and necessary to the exportation or reexportation of agricultural commodities, medicine, medicinal devices or replacement parts and components for medical devices, to Venezuela or to persons in third countries purchasing specifically for resale to Venezuela and provided that (i) the exportation or reexportation is licensed by, or otherwise authorized by, the U.S. Department of Commerce under the

¹ U.S. Department of the Treasury, "Venezuela-related Designations; Issuance of Venezuela-related General Licenses and Frequently Asked Questions" (March 22, 2019) available [here](#).

² U.S. Department of the Treasury, Press Release, "Treasury Sanctions BANDES, Venezuela's National Development Bank, and Subsidiaries, in Response to Illegal Arrest of Guaido Aide" (March 22, 2019), available [here](#).

³ FAQ Nos. 663 and 664.

Export Administration Regulations (“EAR”), or (ii) if not subject to EAR, the items to be exported or reexported are not listed under any multilateral export control regime.⁴

General License 15. General License 15 authorizes, through 12:01 a.m. on March 22, 2020, all transactions and activities that are ordinarily incident and necessary to the activities of MasterCard Incorporated, Visa Inc., American Express Company, Western Union Company, MoneyGram International and their subsidiaries, which involve Banco de Venezuela or Banco Bicentenario del Pueblo.⁵

General License 16. General License 16 authorizes, through 12:01 a.m. on March 22, 2020, all transactions and activities ordinarily incident and necessary to maintaining, operating, or closing accounts of U.S. persons in Banco de Venezuela or Banco Bicentenario del Pueblo and all transactions and activities ordinarily incident and necessary to processing noncommercial, personal remittances.⁶ Noncommercial, personal remittances do not include charitable donations or funds transfers for use in or supporting a business. Notably, OFAC clarified the requisite level of due diligence required of U.S. firms processing transactions authorized pursuant to this license — they may rely on the originator of a funds transfer with regard to compliance, provided that the transferring institution does not know or have reason to know that the funds transfer is not in compliance with the General License.

General License 17. General License 17 authorizes, through 12:01 a.m. on May 21, 2019, all transactions and activities that are ordinarily incident and necessary to the wind down of operations, contracts or other agreements involving Banco de Venezuela, Banco Bicentenario del Pueblo, or Banco Prodem S.A. that were in effect prior to March 22, 2019.⁷

General License 18. General License 18 authorizes all transactions and activities that are ordinarily incident and necessary to maintain or operate Integracion Administradora de Fondos de Ahorro Previsional S.A. (“Integracion AFAP”), a Uruguayan pension fund whose fund administrator is owned 50 percent or more by Bandes Uruguay, including the purchase from or sale to Integracion AFAP of securities or serving as a custodian for securities held by Integracion AFAP.⁸

None of these general licenses authorize any transactions or dealings with BANDES or Bandes Uruguay, other than as set forth in section (a) of General License 18.

New FAQs. In FAQ No. 663, OFAC clarified that not all Venezuelan financial institutions have been sanctioned by OFAC; only those on OFAC’s SDN List. In FAQ No. 664, OFAC provided that U.S. firms that

⁴ General License 4A, “Authorizing New Debt Transactions and Transactions Involving Certain Banks Related to the Exportation or Reexportation of Agricultural Commodities, Medicine, Medical Devices, or Replacement Parts and Components” (March 22, 2019), available [here](#).

⁵ General License 15, “Authorizing Transactions Involving Certain Banks Prohibited by Executive Order 13850 for Certain Entities” (March 22, 2019), available [here](#).

⁶ General License 16, “Authorizing Maintenance of U.S. Person Accounts and Noncommercial, Personal Remittances Involving Certain Banks” (March 22, 2019), available [here](#).

⁷ General License 17, “Authorizing Certain Activities Necessary to Wind Down of Operations or Existing Contracts with Certain Banks” (March 22, 2019), available [here](#).

⁸ General License 18, “Authorizing Certain Transactions Involving Integracion Administradora de Fondos de Ahorro Previsional, S.A.” (March 22, 2019), available [here](#).

maintain correspondent accounts for the four sanctioned Banes subsidiaries may debit or credit such accounts for transactions consistent with the activity authorized in the relevant general license.⁹

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If you have any questions concerning this *Alert* or would like assistance complying with the new requirements, please contact your attorney at Schulte Roth & Zabel or one of the authors.

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⁹ FAQ No. 664.