

OFAC IMPOSES BLOCKING SANCTIONS ON PDVSA

30 January 2019 | New York
Legal Briefings

On January 28, 2019, the US Department of the Treasury's Office of Foreign Assets Control ("OFAC") [announced](#) the designation of Venezuelan state-owned oil producer Petroleos de Venezuela, S.A. (PdVSA) as a Specially Designated National ("SDN"), which follows the White House's [earlier announcement](#) recognizing Venezuelan National Assembly President Juan Guaidó as the Interim President of Venezuela. The sanctions are significant because PdVSA has a monopoly in the Venezuelan oil sector and contributes significantly to Venezuela's foreign trade income. Concurrent with the designation announcement, OFAC also issued a number of general licenses that authorize a range of activities involving PdVSA and its subsidiaries.

The designation was imposed under [Executive Order 13850](#), which broadly authorizes OFAC to designate persons "operating in" any sector of the Venezuelan economy which is identified by the Treasury Secretary and the Secretary of State as a basis for sanctions. Concurrently with the designation of PdVSA, the Venezuelan oil industry was designated as such a sector.

The immediate effect of the sanctions is to prohibit US persons from virtually all dealings with PdVSA and any entity 50% or more owned, directly or indirectly, by PdVSA (collectively, "Blocked PdVSA Entities"). This will also mean that transactions with Blocked PdVSA Entities cannot be denominated in USD. All property and interests in property that are in the US or come within the possession or control of any US persons of Blocked PdVSA Entities must be blocked (*i.e.* frozen). Previously, the US had only imposed [limited, capital markets-oriented restrictions](#) on dealings with PdVSA.

OFAC also issued eight general licenses for US persons to carry out some limited activities involving certain Blocked PdVSA Entities. The primary intent of most of the licenses is to allow US persons to wind down activities with Blocked PdVSA Entities.

- Most importantly, General License 12 provides an oil purchase winding down period until April 28, 2019, during which the purchase and importation into the US petroleum and petroleum products from any Blocked PdVSA Entity is still permitted. Winding down of operations, contracts or agreements with any Blocked PdVSA Entity for importation of other goods, services and technology into the US must be carried out before February 27, 2019. No export of diluents (substances used to dilute crude oil in order to facilitate its transportation by pipeline) to any Blocked PdVSA Entity, or any transactions involving ALBA de Nicaragua (ALBANISA) or its majority-owned subsidiaries, are allowed under General License 12. In general, unless otherwise provided under a different General License, payments for authorized transactions under General License 12 have to be made into an interest-bearing blocked account in the US.
- General License 11 provides a winding-down period that ends on March 29, 2019, for US person employees or contractors of non-US entities located outside of the US and Venezuela to maintain or wind down operations, contracts or other agreements with any Blocked PdVSA Entity (the permission does not cover any transaction involving ALBANISA or ALBANISA's subsidiaries). General License 11 also allows US financial institutions to, until March 29, 2019, reject (rather than block) funds transfers involving: (i) any Blocked PdVSA Entity; and (ii) a non-US entity located outside of US and Venezuela, provided that (a) such funds transfers do not originate or terminate in the US; (b) neither the originator nor the beneficiary is a US person; (c) the funds are not destined for a blocked account on the books of a US person; and (d) the transaction does not involve ALBANISA or its subsidiaries.
- General License 7 authorizes, until July 27, 2019, transactions involving PDV Holding, Inc. (PDVH), CITGO Holding, Inc. (CITGO) and any of their majority-owned subsidiaries, to the extent no other Blocked PdVSA Entity is involved. General License 13 authorizes, until July 27, 2019, transactions involving Nynas AB and its majority-owned subsidiaries, to the extent no other Blocked PdVSA Entity is involved.
- General License 7 also authorizes, until April 28, 2019, PDVH and CITGO's own purchase and importation of petroleum and petroleum products from any Blocked PdVSA Entity.
- General License 8 authorizes five US oil-services companies to continue their operation in Venezuela with any Blocked PdVSA Entity until July 27, 2019.
- General License 9 authorizes US persons to deal with (including facilitating, clearing and settling transactions in connection with) some debts issued prior to August 25, 2017, by certain Blocked PdVSA Entities, with the condition that any divestment or transfer of, or facilitation of divestment or transfer of, any such debt must be to a person who is not a

US person or an SDN. The restriction on transfer to a US person does not apply to certain debts issued by PDVH, CITGO or Nynas AB.

- General License 10 authorizes US persons in Venezuela to purchase refined petroleum products from any Blocked PdVSA Entity for personal, commercial or humanitarian uses.
- General License 14 authorizes official business by US persons that would be otherwise prohibited by the designation.

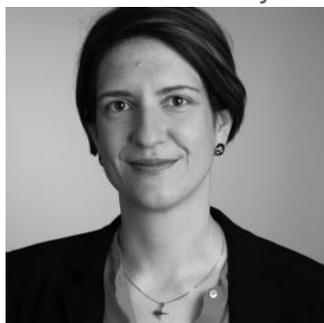
Companies that have current arrangements with any Blocked PdVSA Entity should examine carefully whether, and to what extent, they can utilize the various authorizations provided under these General Licenses, and should evaluate the impact of PdVSA's designation on any pre-sanctions arrangements.

Based on OFAC's announcement and the general licenses, it is possible that the US government may revisit the blocking sanctions on a temporary basis once the political turmoil in Venezuela has been resolved. Companies doing business in, or with, Venezuela should continue to monitor US sanctions closely.

The New York office of Herbert Smith Freehills has handled a wide range of matters related to the various US sanctions programs and stands ready to assist businesses seeking sanctions-related advice.

KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



**SUSANNAH
COGMAN**
PARTNER, LONDON

+44 20 7466 2580
Susannah.Cogman@hsf.com



DANIEL HUDSON
PARTNER, LONDON

+44 20 7466 2470
Daniel.Hudson@hsf.com



JONATHAN CROSS
COUNSEL, NEW YORK

+1 917 542 7824
jonathan.cross@hsf.com



**CHRISTOPHER
MILAZZO**
ASSOCIATE, NEW
YORK

+1 917 542 7807
christopher.milazzo@hsf.com

LEGAL NOTICE

The contents of this publication, current at the date of publication set out above, are for reference purposes only. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

© Herbert Smith Freehills 2020

SUBSCRIBE TO STAY UP-TO-DATE WITH LATEST THINKING, BLOGS, EVENTS, AND MORE

Close

© HERBERT SMITH FREEHILLS LLP 2020