

U.S. Sanctions Against Venezuela Escalate: PdVSA Now Subject to Blocking Sanctions

January 30, 2019

On January 28, 2019, the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") [blocked](#) the property of Venezuela's state-owned oil company, Petróleos de Venezuela, S.A. ("PdVSA"), by listing it as a Specially Designated National ("SDN") of Venezuela. This action is the latest step in a steady escalation of U.S. sanctions in response to the ongoing political crisis in Venezuela.

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Why has PdVSA been sanctioned? Following action by Venezuela's National Assembly to remove Nicolás Maduro as president and appoint Juan Guaidó as interim president, the United States has [recognized Mr. Guaidó](#) as the current legitimate leader of Venezuela. Mr. Maduro, however, has not vacated Venezuela's presidency.

In its [press release](#), OFAC stated the sanctions against PdVSA are intended to "prevent further diverting of Venezuela's assets by Maduro and preserve these assets for the people of Venezuela." News reports have indicated that revenues generated by PdVSA, which OFAC describes as a "primary source" of income and currency for the Venezuelan Government, are being used for corrupt payments to maintain political loyalty to Mr. Maduro. In what is likely a response to these concerns, OFAC indicated that the sanctions may be lifted if PdVSA undertakes "concrete, meaningful, and verifiable actions to support democratic order and combat corruption in Venezuela."

What restrictions now apply to PdVSA? PdVSA's assets are now subject to blocking, which is among the harshest sanctions imposed under U.S. law. These sanctions require U.S. persons to "block" (freeze) any property or interests in property of PdVSA and generally refrain from undertaking any business in which PdVSA has an interest. Because funds transfers in dollars pass through the U.S. banking system, this action immediately cuts PdVSA off from U.S.-dollar financing markets and makes future commercial dealings in U.S. dollars unlikely. It also generally cuts off PdVSA's ability to do business with the United States or with U.S. companies or individuals.

Do the restrictions apply to PdVSA affiliates? Under longstanding guidance, any entity in which a person subject to U.S. blocking sanctions has an ownership interest of 50 percent or more is also subject to blocking sanctions. Accordingly, any going concern

or legal entity in which PdVSA holds 50 percent or more of the ownership interests, whether organized as a corporation, joint venture, investment fund or other ownership structure, also is now subject to U.S. blocking sanctions, absent a waiver from OFAC. Importantly, OFAC has authorized many transactions with PdVSA's U.S. subsidiaries PDV Holding and CITGO, subject to certain conditions, as well as certain transactions for winding down existing business, as discussed below.

Are non-U.S. persons required to comply with the sanctions against PdVSA?

Non-U.S. persons are not obligated to block the assets of PdVSA or, more generally, to refrain from engaging in dealings with or involving PdVSA. However, any person that assists PdVSA in the evasion of U.S. sanctions, causes a U.S. person to violate its own obligations under U.S. sanctions, such as by concealing PdVSA's interest in a financial transaction presented to a U.S. financial institution, or deals in property of PdVSA that has been blocked in the United States or in the possession of a U.S. person may face civil or criminal liability under U.S. law.

Are any transactions with PdVSA still permitted for U.S. persons? In announcing the new sanctions against PdVSA, OFAC amended an existing general license and issued eight new general licenses. These measures are meant to mitigate immediate disruptions to U.S. persons, including PdVSA's U.S. refining subsidiary, CITGO Holding, Inc. ("CITGO").

- [General License 3A \(formerly General License 3\)](#), "Authorizing Transactions Related to, Provision of Financing for, and Other Dealings in Certain Bonds" was amended to exclude PdVSA, CITGO and related-entity bonds. Disposition of these bonds to non-U.S. purchasers, however, is now authorized for a temporary period under General License 9, discussed below.
- [General License 7](#) authorizes U.S. persons to engage in transactions and activities with PDV Holding, Inc. ("PDV Holding"), CITGO and their subsidiaries until July 27, 2019, where only these PdVSA-related entities are involved. It also allows these entities and their affiliates to purchase and import petroleum products until April 28, 2019. However, any payments to or for PdVSA or any other blocked person, other than PDV Holding, CITGO or their subsidiaries, must be made into a blocked account in the United States.
- [General License 8](#) authorizes certain energy companies operating in Venezuela to continue transactions "ordinarily incident and necessary to operations in Venezuela involving PdVSA" and its affiliates until July 27, 2019.
- [General License 9](#) allows holders of PdVSA, CITGO and Nynas AB debt issued prior to August 25, 2017 to divest their holdings to non-U.S. persons and explicitly

includes permission to facilitate, clear and settle transactions of this debt to non-U.S. persons. Trade in these bonds had previously been permissible under General License 3.

- [General License 10](#) authorizes U.S. persons in Venezuela to purchase refined petroleum products for personal, commercial or humanitarian uses from PdVSA and its affiliates.
- [General License 11](#) authorizes a maintenance and wind-down period for U.S.-persons who are employees and contractors of non-U.S. companies located in third countries to continue performing on or winding down existing agreements involving PdVSA until March 29, 2019.
- [General License 12](#) authorizes “the purchase and importation into the United States of petroleum and petroleum products from PdVSA” and its affiliates until April 28, 2019. It also provides for a wind-down period for other existing contracts and arrangements with PdVSA and its affiliates until February 27, 2019.
- [General License 13](#) authorizes “all transactions and activities prohibited by Executive Order 13850, where the only [PdVSA] entities involved are Nynas AB or any of its subsidiaries,” until July 27, 2019. Unless otherwise authorized by General License 7, 8, 11 or 13, payment to PdVSA or another blocked person must be made to a blocked account in the United States.
- [General License 14](#) authorizes “all transactions that are for the conduct of the official business of the United States government by employees, grantees, or contractors thereof.”

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Please do not hesitate to contact us with any questions.

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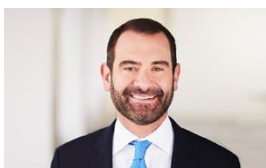


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