

Soundings

US sanctions against Venezuela and PdVSA

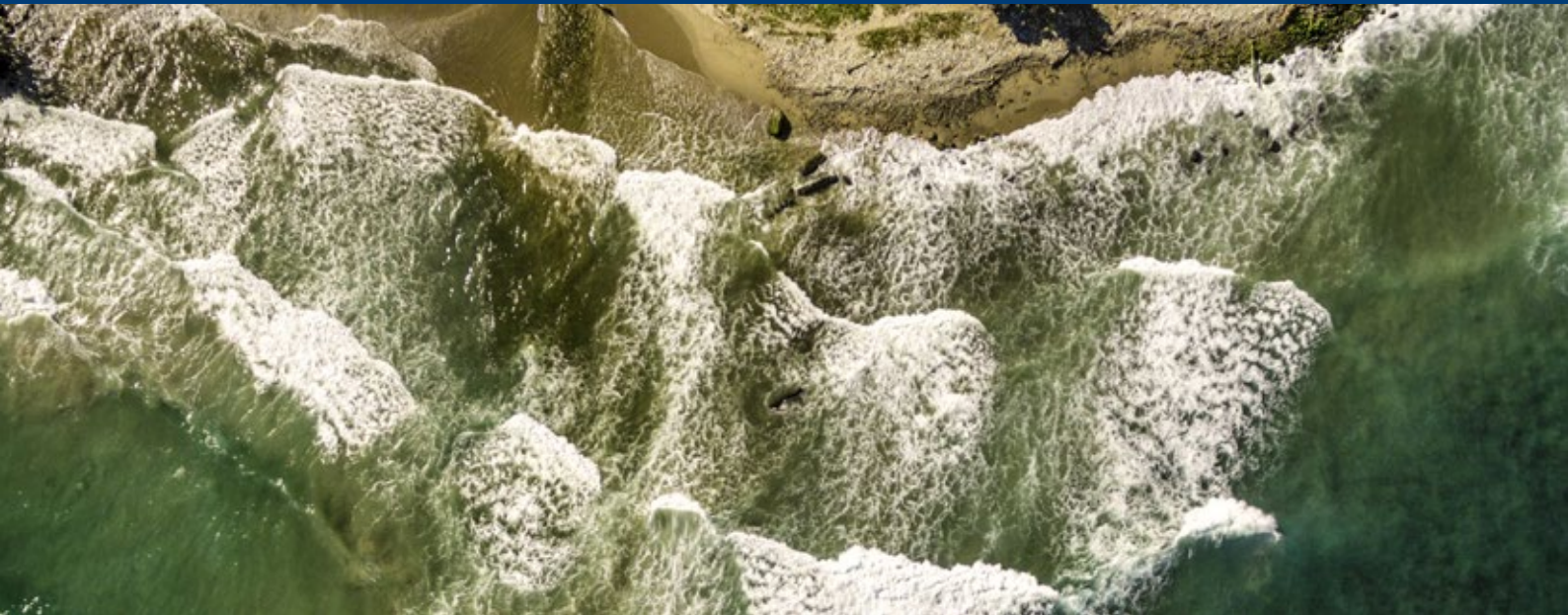
On 28th January, 2019, the US issued sanctions against Petróleos de Venezuela, S.A. (PdVSA). Under Executive Order (EO) 13857 the US Department of the Treasury's Office of Foreign Assets Control (OFAC) included PdVSA as part of the "Government of Venezuela". Therefore, it was designated as a Specially Designated National (SDN) and transactions involving PdVSA may be subject to US sanctions. Members are recommended to exercise caution when trading with PdVSA.

The issuance of EO 13857 followed an earlier Executive Order which broadly targeted corrupt practices in Venezuela by granting the US Department of the Treasury authority to impose sanctions on any sector of the Venezuelan economy determined to be complicit in deceptive or corrupt transactions for the "Government of Venezuela". These actions are part of the US Government's escalating responses to the political and economic crises in the region and follows President Trump's recognition

of Mr Juan Guaido (President of the National Assembly of Venezuela) as the nation's legitimate leader. The US Government's stated aim is to assist the transition of power to Mr Guaido and the National Assembly rather than to impose permanent sanctions.

Prohibition of transactions with PdVSA

EO 13857 prohibits US persons from engaging in practically all transactions with PdVSA unless a General



License applies. The EO also blocks all PdVSA property and interests subject to US jurisdiction. All transactions with PdVSA involving US dollars will also be affected by the Executive Order and US sanctions.

The penalties for violating US sanctions can involve fines of up to the greater of \$250,000 or twice the value of the transaction or, in certain cases, up to 20 years in jail or a fine up to US\$1 million.

General Licenses – “wind-down” exemption

As part of the imposition of these new sanctions, the US Government has issued and subsequently amended 14 General Licenses which permit and regulate a small number of transactions with PdVSA for a limited period of time.

The most important of these licenses is General License 12: “Authorizing Certain Activities Necessary to Wind Down of Operations or Existing Contracts with Petróleos de Venezuela, S.A”. Section 12 (a) of this license grants permission for all transactions and activities that are ordinarily incident and necessary to the purchase and importation into the United States of petroleum and petroleum products from PdVSA or any entity in which PdVSA owns, directly or indirectly, a 50 percent or greater interest. These transactions are permitted until 28th April, 2019.

However, a significant aspect of General License 12 is a requirement that any payment to PdVSA authorised thereunder must be made into a blocked interest bearing account located in the US. Essentially, therefore, payments cannot be made directly to PdVSA. Blocked interest bearing accounts are defined by OFAC to include federally insured banks where funds can earn interest rates that are

commercially reasonable. General License 12 also does not permit the exportation or re-exportation of diluents (products used to dilute and transport heavier crudes) from the US to Venezuela, PdVSA, or any PdVSA owned entity.

Up to 28th April, 2019, Members should be able to rely upon the exemption contained in Section (a) of General License 12 in relation to charterparties or other contracts of carriage that were in effect prior to 28th January, 2019. However, it is advisable that all voyages are completed by 28th April, 2019. Nonetheless, Members are advised that this point may be subject to change as OFAC is yet to issue its clarification of the applicable deadlines. Questions may arise as to whether the General License 12 exemption applies to the transportation of petroleum where the cargo has been loaded and title transferred to PdVSA before 28th April, 2019. Members are advised to seek specific advice and monitor for updated guidance in relation to this and other such issues.

OFAC FAQs

OFAC has released a series of FAQs https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_other.aspx#595 relating to the new Executive Order and the effect it will have on trade with PdVSA. These frequently asked questions and OFAC’s responses are subject to change. In any event, as the situation continues to evolve, Members are strongly advised to approach existing commitments with PdVSA with caution and to closely monitor developments.

If Members have questions in relation to the Venezuelan sanctions they should contact the Managers for additional assistance.

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