HUNTON ANDREWS KURTH

Client Alert

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US Looks to Close Venezuela's Cash Pipeline

What Happened: On Monday, January 28, 2019, the Department of the Treasury's Office of Foreign Assets Control (OFAC) announced sanctions against Petróleos de Venezuela S.A. (PdVSA). PdVSA has been added to OFAC's Specially Designated Nationals and Blocked Person's List (SDN List). All property and interests in property of PdVSA in the US or within the possession or control of any US person is now blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in. Except as permitted under a general or specific OFAC license, US persons are prohibited from making any contribution or provision of funds, goods, or services by, to, or for the benefit of PdVSA and from receiving any contribution or provision of funds, goods, or services from PdVSA.

The Bottom Line: The Trump administration continues to ramp up pressure on the Venezuelan government by adding sanctions against the state's oil company to the already existing sanctions against persons who operate corruptly in the gold or other identified sectors of the Venezuelan economy. Multinationals and other entities with interests in Venezuela and the region need to continue monitoring the sanctions to see how they may affect their business.

The Full Story

On January 28, 2019, the Department of the Treasury's OFAC announced sanctions against PdVSA and persons who operate in the oil sector of Venezuela's economy pursuant to President Donald J. Trump's executive order "Blocking Property of Additional Persons Contributing to the Situation in Venezuela" (the Executive Order), discussed in our November 2018 Client Alert. The Executive Order blocks and prohibits the transfer, payment, exportation, withdrawal or other dealing in all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any US person, if such property or interests belong to any sector of the Venezuelan economy as designated by the Secretary of the Treasury in consultation with the Secretary of State. In this case, the Department of the Treasury has authorized the imposition of these blocking sanctions on PdVSA and the oil sector of Venezuela's economy, blocking PdVSA's proceeds from oil exports and generally prohibiting US persons from doing business with PdVSA. In other words, persons doing business in Venezuela's oil sector may be subject to sanctions.

In addition, it must be noted that PdVSA itself was added to OFAC's SDN List. Except as permitted under a general or specific OFAC license, US persons are prohibited from making any contribution or provision of funds, goods, or services by, to, or for the benefit of PdVSA and from receiving any contribution or provision of funds, goods, or services from PdVSA. This means that it is a violation of OFAC's regulations for a US person to engage in business not only with PdVSA, but also with any entities in which PdVSA owns, directly or indirectly, a 50% or greater interest. Thus, US persons operating in the oil industry should ascertain not only that they are not conducting business with PdVSA, but also that they are not conducting business with a directly or indirectly majority-owned subsidiary of PdVSA. While the "purchase and importation" of product from PdVSA is specifically authorized for three months, note that any payments directly or indirectly for the benefit of PdVSA must be made into a blocked US account unless specifically authorized by certain other OFAC licenses.

Concurrently with the announcement of the sanctions against PdVSA, OFAC also amended an existing general license and issued eight new general licenses regulating existing and future business activities with PdVSA. The new general licenses provide, among other things, and in each case subject to specific terms, conditions, and exceptions set forth in the respective general license, (i) a six-month wind-down period for US persons to conclude business with certain known PdVSA affiliates and subsidiaries, such as PDV Holding, Inc., and CITGO Holding, Inc., (ii) a six-month wind-down period for certain specified US persons to conclude doing business with PdVSA or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest, (iii) a three-month wind-down period for the purchase and importation into the US of petroleum and petroleum products from PdVSA or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest, and (iv) a two-month wind-down period for US person employees and contractors of non-US entities located outside the US or Venezuela to conclude operations, contracts or other agreements involving PdVSA or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest.

As can be seen, although sanctioning business with Venezuela's largest exporter and most important industry is intended as a strong blow against the Maduro regime, OFAC has attempted to phase in such sanctions without completely disrupting business conducted by US persons with PdVSA by providing US persons in the United States and abroad an opportunity to wind down and completely terminate ongoing business and contracts with PdVSA and its affiliates via a series of general licenses. Thus, it will be important for US persons conducting business with PdVSA or any entity in which PdVSA owns, directly or indirectly, a 50% or greater interest to ascertain how its business dealings with such party are affected by these new sanctions and general licenses.

The Latin America group practice at Hunton Andrews Kurth LLP will continue to closely monitor related developments in the US sanctions regime with respect to Venezuela. Please contact us if you have any questions or would like further information regarding US sanctions against Venezuela.

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