

Circular From SKULD

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INSIGHT: Venezuela Sanctions**Introduction**

The United States first imposed sanctions targeting the Venezuelan government in 2015. Both the US and EU have designated individuals associated with the regime. The US measures against the government of Venezuela were significantly extended in January 2019 to target PdVSA.

It should be noted that sanctions regulations are subject to change without notice and with immediate effect. The situation in Venezuela is volatile and the US, EU and other States may expand or remove sanctions to reflect political developments.

US

A significant ramping up of US sanctions took place on 28 January 2019 with issue of [Executive Order 13857](#) which extended the scope of [Executive Order 13850](#) by designating Petroleos de Venezuela, S.A (PdVSA) as a Specially Designated National ("SDN"). This includes entities in which PdVSA owns, directly or indirectly, a 50 percent or greater interest, subject to some limited relief for PdVSA's US subsidiaries CITGO and PDV Holdings.

The designation prohibits US persons from engaging in transactions with PdVSA or its subsidiaries unless they are able to bring themselves within the scope of a General License. All PdVSA property which is subject to US jurisdiction is blocked.

The designation does not on the face of it have extraterritorial effect, but non-US persons may be indirectly affected in a number of ways.

- Non-US companies involved in the transportation of PdVSA cargo to the US must comply with US sanctions. Limited wind down provisions apply to 28 April 2019 under [General License 12](#).
- Non-US companies which make or receive PdVSA related payments in USD bring the transaction under US jurisdiction even in relation to cargo which is not carried to the US.
- It is possible that there may be some banking delays in PdVSA related transactions even in a currency other than USD. This will depend upon how banks frame their policies in the light of the designation.

- It is possible (but not clear) that a foreign entity listed on the NYSE may be treated as US person.
- The Venezuelan cryptocurrency the "Petro" is unlikely to provide a solution and its use by US persons is likely to be a breach of sanctions.
- The US government can impose sanctions on "any person" (apparently including non-US persons) determined to have *"...materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of... any person whose property and interests in property are blocked pursuant to this order."* (EO 13850 Section 1(a)(iii)). The administration has not given any indication that it intends this provision to apply to non-US persons and [OFAC FAQ 657](#) implies that it is not so intended. However there remains a small element of doubt.
- A non-US entity should not assist or facilitate a US person (such as a US employee) in acting in contravention of the measures applicable to US persons.

For further information members are referred to the [US Treasury Resource Center for Venezuela-related Sanctions](#).

A check on the [OFAC Sanctions Search](#) will identify designated individuals and entities.

EU

The European Union sanctions against the Venezuelan regime are far more limited in scope. There are measures which ban travel and freeze assets of 18 individuals closely connected with the Maduro regime and an embargo on arms and equipment for internal repression. A brief description is provided in the European Council [Press Release published on 6 November 2018](#). These provisions have been implemented in Norway.

Charterparties

Whilst some of the sanction provisions are inherently vague, and possibly subject to change, their effects on operations are nevertheless already being felt. Vessel owners or operators who have contracts directly with PdVSA, or PdVSA subsidiaries, which oblige the vessels to carry the cargoes to the US, will be affected. The sanctions will likely impinge most directly upon vessels already on charter to PdVSA, or any subsidiary, to carry cargoes to the US, and more particularly those vessels already loaded. Ensuing delays, or other issues regarding the disposition of loaded cargo, may give rise to disputes between owners and charterers. More generally, vessels scheduled to call in Venezuela, but which might not otherwise be subject to sanctions (no carriage to the US) may still encounter problems if they are deemed facilitators (see above) or may be subject to delays or other issues due to the general conditions now prevailing in Venezuela.

Cover

There are no specific sanctions against insurance providers, and it is unlikely that P&I cover will be prejudiced. However, members conducting business which involves PdVSA or its subsidiaries should exercise caution, particularly if there is a US nexus, and seek legal advice. Members attention is drawn to Skuld Rule 30.4.6 which excludes *"liabilities, costs or expenses where payment by the Association or the provision of cover in respect thereof may expose the Association to the risk of being subject to a sanction, prohibition or any adverse action by a state or international organisation or competent authority"*. Terms and Conditions for non-mutual products contain the same provision.

Source of Information: Skuld P&I Club