

MEMBER ALERT



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US SANCTIONS – US DEPARTMENT OF THE TREASURY ACTION ON VENEZUELA

On Tuesday, February 18, the US Department of the Treasury's Office of Foreign Assets Control (OFAC) designated Rosneft Trading S.A., the Swiss-incorporated oil brokerage division of Russian oil company Rosneft, for "operating in the oil sector of the Venezuelan economy."

All property and assets of Rosneft Trading that are either in the United States or in the control of US persons (including American banks, financial institutions and other entities) are now blocked.

Companies that have business dealings with Rosneft Trading will have a limited period of time to wind down their connections under a temporary OFAC general license. The wind down period will end at 12:01 a.m. Eastern Daylight Time, **May 20, 2020**.

Rosneft Trading currently handles an estimated 70% of Venezuela's crude oil exports, and the Treasury disclosed several of the specific transactions that formed the basis for the sanctions' designation:

- Rosneft Oil Company and Rosneft Trading had already been designated pursuant to American sanctions on the Russian energy sector, which were enacted to penalize Russia for its 2014 annexation of Crimea, and were already subject to a limited set of restrictions.
- Executive Order (EO) 13850 was generally not considered to set forth express secondary sanctions. However, it appears that the EO will likely continue to be used as a secondary sanctions tool to target the actions of non-US persons.
- Second, EO 13850 contains a "material assistance" provision by which non-US persons may be sanctioned if they are determined to have "materially assisted, sponsored, or provided financial, material, or technological support for" any entity designated to the SDN List pursuant to EO 13850.
- Material assistance is not defined in the EO although other authorities suggest it targets the types of activities for which the entity was designated. However, it is not clear how broadly OFAC will construe the material assistance provision of EO 13850 insofar as Rosneft Trading's designation is concerned and in particular whether the authorities will construe this provision as potentially applicable to non-US persons only in regards to Rosneft Trading's Venezuelan-related transactions or more broadly to any transactions in which it engages. US persons are plainly prevented from engaging in any transactions with Rosneft Trading whether related to Venezuela or not.
- Of significance is FAQ 818, which implies that non-US persons who continue to engage in transactions with Rosneft Trading beyond the wind-down period face

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potential sanctions - whether that risk exists under the oil sector and/or material assistance provision is not yet clear.

- **Transactions with and involving Rosneft Trading should therefore be examined carefully.**
- Despite the wind-down period, vessel owners should consider whether any payments remain to be made by or on behalf of Rosneft Trading for any existing charters that fall within the winddown period.
- Also, US persons, US banks, and their foreign branches, are generally prohibited from processing any US dollar transactions involving entities on the SDN List. These banks often have internal protocols which are stricter than the sanctions provisions.

Thus, regardless of whether the wind-down encompasses a particular charter, or payments from or on behalf of Rosneft Trading, as of today, may experience delays or stoppage.

Indications from Washington, DC are that more steps and further pressure will be exerted in the coming weeks and months relating to Venezuelan sanctions. The designation of Rosneft Trading S.A. to the SDN list may be a prelude of more to come.

More details can be found on OFAC's website:

https://www.treasury.gov/resource-center/faqs/Sanctions/Pages/faq_compliance.aspx