

OFAC Sanctions Rosneft's Swiss Trading Arm for Operating in Venezuela's Oil Sector

On Tuesday, February 18, 2020, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) designated Rosneft Trading S.A., the Swiss trading arm of Russia's state-controlled oil company, and its chairman of the board of directors and president, Didier Casimiro, to the Specially Designated Nationals And Blocked Persons (SDN) List. As a result, U.S. persons are prohibited from engaging in transactions or otherwise dealing with Rosneft Trading, Casimiro, or any entities in which they hold, directly or indirectly, a 50 percent or more interest. Additionally, all of their property and interests in property that are in the United States or in the possession or control of U.S. persons, are blocked and must be reported to OFAC. Concurrent with these designations, OFAC issued a general license providing a 90-day window to engage in certain activities necessary to wind down business with Rosneft Trading.

OFAC's action also has important implications for non-U.S. persons, as it signals a clear willingness to impose sanctions on anyone operating in the Venezuelan oil sector or otherwise supporting the Maduro regime.

I. Background – Executive Order 13850

OFAC designated Rosneft Trading pursuant to Executive Order (E.O.) 13850. Issued on November 1, 2018, E.O. 13850 established a framework to block the assets of, and prohibit transactions with, any person determined by the U.S. Secretary of the Treasury to operate in certain sectors of the Venezuelan economy or to engage in corrupt transactions with the Maduro government. On January 28, 2019, the Treasury Department determined that persons operating in Venezuela's oil sector could be subject to sanctions pursuant to E.O. 13850, and designated Venezuela's state-owned oil company, Petróleos de Venezuela, S.A. (PDVSA), for operating within this sector.

Notably, E.O. 13850 also authorizes sanctions against any person 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.”

II. OFAC's Designation of Rosneft Trading S.A.

As a result of Tuesday's action, Rosneft Trading and its chairman of the board and president, Didier Casimiro, have been added to the SDN List. Unless authorized by OFAC, U.S. persons are prohibited from engaging in transactions or dealings with parties on the SDN List, or with any entity owned 50 percent or more by an SDN. The term “U.S. persons” includes U.S. citizens and permanent residents (wherever located), entities organized under the laws of the United States (including foreign branches), and any persons physically present in the United States. U.S. persons must also block any property or interests in property of an SDN, or of any entity owned, directly or indirectly, 50 percent or more by an SDN, that come into the U.S. person's possession or control.

At the same time that it added Rosneft Trading and Casimiro to the SDN List, OFAC also issued General License 36 and two new Venezuela-related frequently asked questions (FAQs 817 and 818). The key takeaways are as follows:

- **There is a 90-day wind down period.** General License 36 authorizes U.S. persons to engage in certain activities prohibited by E.O. 13850 necessary for the wind down of transactions involving Rosneft Trading, or any entity in which Rosneft Trading owns, directly or indirectly, a 50 percent or greater interest, through 12:01 a.m. eastern daylight time, May 20, 2020. It is important to note that entering into new business involving Rosneft Trading is not considered wind down activity.
- **OFAC did not sanction the Rosneft parent company.** Tuesday's designation applies to Rosneft Trading or any entity in which it owns, directly or indirectly, a 50 percent or greater interest. The blocking sanctions do not apply to the ultimate parent company, Open Joint-Stock Company Rosneft Oil Company (Rosneft Oil Company), or other Rosneft subsidiaries or affiliates that are not owned 50 percent or more in the aggregate by one or more SDNs.
- **U.S. persons must continue to comply with applicable sectoral sanctions.** Although the E.O. 13850 blocking sanctions do not apply to Rosneft Oil Company, both Rosneft Oil Company and Rosneft Trading S.A. are designated on the Sectoral Sanctions Identifications (SSI) List under Directives 2 and 4 of the Ukraine/Russia sectoral sanctions, which prohibit dealings in "new debt" and certain exploration and production activities. U.S. persons must ensure that they continue to comply with these restrictions in any dealings with Rosneft.
- **Non-U.S. persons face significant risk if they continue to deal with Rosneft Trading or PDVSA.** Any person, including any non-U.S. person, found to have "materially assisted" either Rosneft Trading or PDVSA faces the prospect of being designated as an SDN themselves. As the term "materially assisted" is not defined, but instead left to OFAC's wide discretion, nearly any dealings with these designated entities poses significant risk. Consistent with this risk, OFAC's FAQ 818 notes that "[n]on-U.S. persons unable to wind down activities with Rosneft Trading S.A. before 12:01 a.m. eastern daylight time, May 20, 2020, may seek guidance from OFAC."

III. Conclusion

Following the expiration of the wind down period at 12:01 a.m. eastern daylight time on May 20, 2020, U.S. persons will be barred (absent an OFAC license) from any dealings with Rosneft Trading S.A. or any entity in which it holds a 50 percent or more interest, and non-U.S. persons will risk being sanctioned themselves if they materially assist Rosneft Trading. Importantly, these restrictions apply to *any* dealings or business with Rosneft Trading, and not merely business related to Venezuela. All individuals and entities, whether U.S. or non-U.S. persons, should therefore immediately consider whether they have dealings or contacts with Rosneft Trading or its subsidiaries and, if so, develop a strategy for winding down that business.

Additionally, pressuring the Maduro regime remains a top foreign policy priority of the Trump administration and U.S. officials have made clear that more Venezuela sanctions are coming. U.S. and non-U.S. persons alike should remain wary of the Venezuelan oil sector generally, as anyone operating there may find themselves sharing Rosneft Trading S.A.'s fate.

If you have any questions about the issues addressed in this memorandum, please do not hesitate to reach out to:

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