



# Venezuelan sanctions: Are all your risk-bases covered?

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As global financial institutions (FIs) continue to scramble to deal with the ramifications of a further round of Venezuelan sanctions, how can you ensure that your organization does not inadvertently fall foul of the law?

## Background

In 2017 the U.S. imposed Sectoral Sanctions against the Government of Venezuela, the Central Bank of Venezuela and state-owned oil company, Petroleos de Venezuela SA (PdVSA). In January 2019 the U.S. Government broadened its existing Executive Order 13850<sup>1</sup> and took 'additional steps to address the national emergency with respect to Venezuela' with Executive Order 13857.<sup>2</sup>

This is the latest in a lengthy history of U.S. sanctions against Venezuela. According to a February 2019 publication by the Congressional Research Service, 'For more than a decade, the United States has employed sanctions as a policy tool in response to activities of the Venezuelan government or respective Venezuelan individuals. These have included sanctions, including targeted sanctions against almost 100 individuals, related to terrorism, drug trafficking, trafficking in persons, antidemocratic actions, human rights violations and corruption.'<sup>3</sup>

The latest round of sanctions, which are also narrative in nature, have effectively blocked U.S. companies from transacting with PdVSA while it remains under the control of Nicolás Maduro's government.

<sup>1</sup> [treasury.gov/resource-center/sanctions/Programs/Documents/venezuela\\_gf11.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/venezuela_gf11.pdf)

<sup>2</sup> [m.treasury.gov/resource-center/sanctions/Programs/Documents/13857.pdf](https://www.treasury.gov/resource-center/sanctions/Programs/Documents/13857.pdf)

<sup>3</sup> [fas.org/sgp/crs/row/IF10715.pdf](https://fas.org/sgp/crs/row/IF10715.pdf)

<sup>4</sup> [reuters.com/article/us-venezuela-politics-eu-idUSKCN1PP1HQ](https://www.reuters.com/article/us-venezuela-politics-eu-idUSKCN1PP1HQ)

In January, the European Parliament voted to recognize opposition leader Juan Guaidó as interim president while Maduro's government stands accused of 'stifling democracy'.<sup>4</sup>

## Narrative sanctions and the 50% rule

Narrative sanctions (also referred to as implicit sanctions) are those that don't specifically name an entity but where the sanctions still applies to such non-listed entity. (other than the main sanctioned entity). This creates a challenge for organizations, as there is no finite sanction list to follow, but rather they must ensure that they do not transact with any blocked entity in terms of the 50% rule, described more fully below.

In 2014, the U.S. Department of Treasury issued the 'REVISED GUIDANCE ON ENTITIES OWNED BY PERSONS WHOSE PROPERTY AND INTERESTS IN PROPERTY ARE BLOCKED' stating that 'Persons whose property and interests in property are blocked pursuant to an Executive Order or regulations administered by Office of Foreign Asset Control (OFAC) (blocked persons) are considered to have an interest in all property and interests in property of an entity in which such blocked persons own, whether individually or in the aggregate, directly or indirectly, a 50% or greater interest'.

Consequently, any entity owned in the aggregate, directly or indirectly, 50% or more by one or more blocked persons, is itself considered to be a blocked person. The property and interests in property of such an entity are blocked regardless of whether the entity itself is listed in the annex to an Executive Order or otherwise placed on the U.S. OFAC list of Specially Designated Nationals (SDNs). Accordingly, a U.S. person generally may not engage in any transactions with such an entity, unless authorized by OFAC. U.S. persons are advised to act with caution when considering a transaction with a non-blocked entity, in which one or more blocked persons have a significant ownership interest that is less than 50% or which one or more blocked persons may control by means other than a majority ownership interest. Such entities may be the subject of future designation or enforcement action by OFAC.<sup>5</sup>

This effectively means that any entity that is 50% or more owned by blocked individuals or entities is also considered to be blocked. Ownership can be direct or indirect or in the aggregate.

## Developing a targeted response

These developments have left many FIs and businesses scrambling to comply and needing watertight assurance that they have not missed potential risk related to transacting with any entity implicated in terms of the 50% rule.

A holistic and targeted response involves screening for such entities and then conducting enhanced due diligence (EDD) on any entity flagged as high risk. These steps are discussed in more detail below.

## Screening for sanctions

Efficient screening depends on access to reliable and complete information as well as the right tools to pinpoint relevant nuggets of information.

## Data – finding what’s relevant

[World-Check Risk Intelligence](#) is the trusted solution when dealing with the onerous task of complying with the 50% rule. Our data for example also covers entity records where credible and reputable sources indicate that OFAC sanctioned SDNs individuals or entities and Sectoral Sanctions Identifications (SSIs) entities own, exercise control, sit on the Board of Directors of, or are closely associated with the entity itself.

Such entities are tagged with the World-Check keyword INSAE-WC (International Sanctions Associated Entity – World-Check data) to indicate that they have been included on the database because they are more than 25% owned (beneficial ownership, in order to flag cases where caution is advised even where ownership is less than 50%) or controlled by or associated with a sanctioned (OFAC, EU, UN, UKHMT) individual or entity, either directly or in aggregate ownership of 50% or more. In the latter instance, these records are also tagged with the INSAE-50-WC keyword to indicate said direct, indirect or aggregate majority ownership.

Tagging removes much of the noise factor and ensures that these relevant entities are not missed.

## How has Refinitiv responded to the Venezuela Executive Order?

When the Venezuelan Sectoral Sanctions were issued at the end of 2017, Refinitiv responded with the addition of a new keyword and completed thorough and rigorous research to uncover all entities owned or controlled by the Government of Venezuela, the Central Bank of Venezuela and PdVSA.

This keyword, USA – VEPTRE-WC (Venezuela Prohibited Transactions Relevant Entity World-Check Data), covers all entities connected to, related to, associated with, affiliated or linked to, owned, or controlled by PdVSA, the Central Bank of Venezuela, or any entity owned or controlled (directly or indirectly) or acting on behalf of the Government of Venezuela within World-Check per U.S. Executive Order 13808.

On 28 January 2019, PdVSA was also added to OFACs SDN list.<sup>6</sup> This means that the company and its non-OFAC listed subsidiaries are now subject to full financial restrictions and not only the Sectoral Sanctions. Refinitiv responded by allocating two existing keywords to relevant entries for PdVSA on the VEPTRE-WC keyword. These two World-Check specific keywords\* have also been assigned to both directly and indirectly owned PdVSA entries as follows:

- The INSAE-WC keyword covers all entities (not individuals) owned or controlled by or associated with a sanctioned (UN, EU, OFAC, UKHMT) individual or entity within World-Check.
- The INSAE-50-WC keyword covers any entity owned 50% or more by a sanctioned individual/entity either direct, indirect or in the aggregate, within World-Check.

These updates offer peace of mind that entities potentially implicated by recent developments are also covered.

<sup>5</sup> [m.treasury.gov/resource-center/sanctions/Documents/licensing\\_guidance.pdf](https://www.treasury.gov/resource-center/sanctions/Documents/licensing_guidance.pdf)

<sup>6</sup> [lexology.com/library/detail.aspx?g=1a5f286c-698b-48f6-9a07-1a8ff5c2ce62](https://www.lexology.com/library/detail.aspx?g=1a5f286c-698b-48f6-9a07-1a8ff5c2ce62)

\*Please note that these keywords are not Sanction, Law or Regulatory Enforcement keywords but merely general keywords requested by clients to simplify targeted data extraction from the World-Check database.

## Carrying out Enhanced Due Diligence

Once initial screening has identified any entities or areas of concern, the next step is to undertake a detailed review of such entities, and make informed decisions to help you safeguard your reputation and comply with all relevant legislation. An [Enhanced Due Diligence](#) (EDD) report is the magnifying glass that delivers detailed and targeted information on any entity or individual anywhere in the world and being able to access this critical intelligence empowers organizations to make informed decisions to avoid risk.

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**EDD reports provide a greater level of scrutiny of potential business associates and highlight risk that cannot be detected at geopolitical analysis or batch screening level. They offer auditable proof of due diligence and help meet legal obligations.**

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## Partnering for a holistic solution

Many organizations may choose to partner with a trusted provider to manage the complex and ever-changing regulatory landscape, particularly in light of these recent U.S. sanctions.

[Screening Resolution Service](#) (SRS) is Refinitiv's managed service that helps companies with an international footprint implement effective internal control procedures to ensure compliance with the full range of legal requirements and reduce exposure to risk during the customer onboarding, screening, and monitoring phases.

Our service highlights positive and possible matches for any customer identification program, detecting heightened risk individuals and entities, screened against World-Check Risk Intelligence.

<sup>7</sup> TRRI article: U.S. banks preparing 'super due diligence' in wake of new Venezuela sanctions. Published 31-Jan-2019 by Brett Wolf, Regulatory Intelligence, Reuters and Accelus News

## Staying on the right side of the (changing) law

Given the complex and far-reaching nature of these sanctions, many organizations feel that they need to up their game.

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**“We’re going to have to require not enhanced due diligence, but (in some instances) a kind of super due diligence.”**

**Daniel Gutierrez, a Miami-based compliance officer and chair for the anti-money laundering compliance committee for the Florida International Bankers Association (FIBA).<sup>7</sup>**

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There are some key tools that will ensure a nimble and immediate response to a changing sanctions landscape and empower organizations to avoid any breach in compliance. These include access to complete and trusted data, tools to pinpoint any relevant entities affected by the most recent sanctions and access to the level of 'super due diligence' that may be needed in cases of heightened risk.

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Ernst Pienaar is the Head of Content Specialists at World-Check and is responsible for all risk data inclusion policies, legal matters and knowledge management within World-Check. Ernst also acts as the lead Content Professional for the World-Check product for client and regulator engagements as it relates to international sanctions, law and regulatory enforcement matters, politically exposed persons compliance and financial and related crime screening.

He is the former Global Head of Research for Financial Crime and Reputational Risk activities at World-Check. In this capacity he was responsible for the management of the then five global World-Check Research centers (Santiago, Washington DC, Cape Town, Singapore and Penang) tasked with the creation and update of the World-Check and related risk databases for over 245 countries and territories in over 65 local languages. He assumed responsibility for managing the World-Check global research team in 2009. Pienaar joined World-Check in 2009 from the Sanlam Life Group in South Africa where, over a ten year period, he was the Head of Forensic Investigations and Group Money Laundering Reporting Officer. Previously he was a Senior State Advocate with South Africa's Office for Serious Economic Offences, and began his career as a State Prosecutor in Johannesburg. He holds a Master's Degree in Constitutional Law and LLB and B.lur law degrees.

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