

Allianz Global Corporate & Specialty SE

ECONOMIC SANCTIONS DIE WIRTSCHAFTLICHE MACHT AUSSEN- POLITISCHEN WILLENS

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Hamburg | 11. September 2019

Allianz 



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EXPOSURE

Was sind die Business Risiken im Umgang mit Sanktionen?

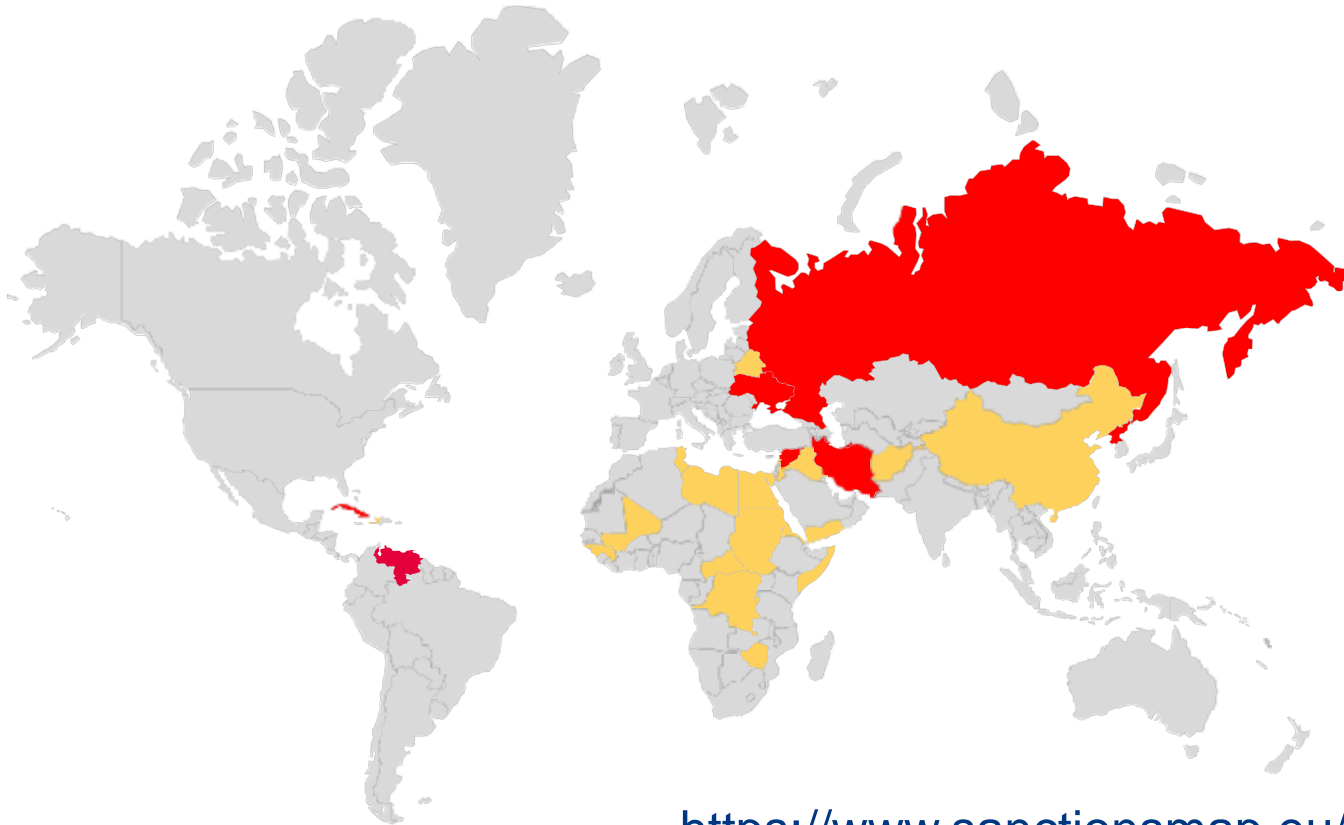
1. Geschäftsstörung / Unterbrechung ohne Carve out
2. Vermögens- und Investitionsverluste in Zielländern
3. Unerwartete Schadenersatzleistungen (z.B. Kuba, US Helms Burton Act, 02.05.2019)
4. Hohe Bußgelder bis hin zu schweren strafrechtlichen Folgen
5. Reputationsverluste
6. Hoher Personal- und Kostenaufwand im Umgang mit Behörden im Fall eines Sanktionsexposures oder gar Vergehens
7. Dilemma bei der Gesetzescompliance

è Landkarte zum Navigieren durch die Sanktionen!





HOT SPOTS



<https://www.sanctionsmap.eu/#/main>



01

FINANZ SANKTIONEN

Finanzsanktionen / Blacklistings

- § Total (z.B. US SDN Listings)
- § Sektorial (z.B. US SSI Listings)
- § Personen / Unternehmen
- § Wirtschaftliche Beteiligungen (33/50%)
- § Wirtschaftliche Kontrolle (ab 25% - vgl. WpG)





OFAC SDN LISTINGS



Entwicklung (ca./ Quelle: OFAC)

§ 2010:	+	600
§ 2012:	+	600
§ 2014:	+	600
§ 2016:	+	600
§ 2018:	+	1.400



HANDELSANKTIONEN



Handelssanktionen

- § Quasi totale Länderboykotte
- § Sektoriale Länderboykotte
- § Wirtschaftliche Kernsegmente
- § Monopolstrukturen anfällig für “BvB”
(**B**oykotte **v**ia **B**lacklisting, z.B.
PDVSA/GAZ Group/RUSAL)



FINANZSANKTIONEN UND HANDELSANKTIONEN



Versicherungs-Compliance

auf

- § Versicherungsvertraglicher Ebene
- § Risikoebene (Geschäft des VN)
- § Zahlungsebene (Beneficiary)

02

EU SANKTIONEN

EU Verordnungen zuzüglich dem jeweiligen nationalen Recht

§ Unterschiedliche Ausführungsstandards und
nationale Guidance (z.B. DNB, OFSI ...)

Zuständigkeiten Deutschland

§ Finanzsanktionen: Bundesbank

§ Handelssanktionen: BAFA





US SANKTIONEN



US Primary Sanctions: Subject to US Jurisdiction

- US link / US product (de minimis)
- US Personen (Förderung verbotener Taten / Facilitation)
- USD / US Banken (Exponierung durch Non-US Personen)
- OFAC, BIS, SEC

US Re-Export-Kontrolle entwickelte sich zu US Secondary Sanctions

- “Materially assisted”
- “Knowingly engaged in significant transaction”
- Foreign Sanctions Evaders List
- OFAC / State Department

03

US SANKTIONEN

Steuerung und Kontrolle durch

- § General Licences
- § Specific Licensing
- § USD Clearing New York
- § OFAC Reporting (Update Juni 2019)



DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

OFFICE OF FOREIGN ASSETS CONTROL

Executive Order of August 5, 2019
Blocking Property of the Government of Venezuela

GENERAL LICENSE NO. 33

Authorizing Overflight Payments, Emergency Landings, and Air Ambulance Services

(a) Except as specified in paragraph (c), the receipt of, and payment of charges for, services rendered involving the Government of Venezuela in connection with overflights of Venezuela or emergency landings in Venezuela by aircraft registered in the United States or owned or controlled by, or chartered to, persons subject to U.S. jurisdiction are authorized.

(b) Except as specified in paragraph (c), persons subject to U.S. jurisdiction are authorized to engage in all transactions involving the Government of Venezuela necessary to provide air ambulance and related medical services, including medical evacuation from Venezuela, for individuals in Venezuela.

(c) This general license does not authorize any transactions or dealings otherwise prohibited by Executive Order (E.O.) of August 5, 2019, or E.O. 13850 of November 1, 2018, E.O. 13835 of May 21, 2018, E.O. 13827 of March 19, 2018, E.O. 13808 of August 24, 2017, or E.O. 13692 of March 8, 2015, each as amended by E.O. 13857 of January 25, 2019, or any part of 31 C.F.R. chapter V, or any transactions or dealings with any blocked person other than the Government of Venezuela persons described in paragraphs (a) and (b) of this general license.

Andrea Gacki
Director
Office of Foreign Assets Control

Dated: August 5, 2019





US SECONDARY SANCTIONS (AUSZUG): WO ?



IRAN

US Secondary

(teilweise geblockt durch EU
VO 2271/96 in Gestalt der
Delegierte VO der Kommission
[2018/1100](#))

NORD KOREA

US Secondary

RUSSLAND

**US Secondary (CAATSA)
US SSIL**

VENEZUELA

**US Secondary
EO 13884**



BEISPIEL VENEZUELA

AUFBAU

Statutes

[Venezuela Defense of Human Rights and Civil Society Act of 2014](#)

[International Emergency Economic Powers Act \(IEEPA\), 50 U.S.C. §§ 1701-1706](#)

[National Emergencies Act \(NEA\), 50 U.S.C. §§ 1601-1651](#)

Executive Orders

[13884](#) - Blocking Property of the Government of Venezuela - (August 5, 2019)

[13857](#) - Taking Additional Steps to Address the National Emergency With Respect to Venezuela (January 25, 2019)

[13850](#) - Blocking Property of Additional Persons Contributing to the Situation in Venezuela (November 1, 2018)

[13835](#) - Prohibiting Certain Additional Transactions with Respect to Venezuela (May 21, 2018)

[13827](#) - Taking Additional Steps to Address the Situation in Venezuela (March 19, 2018)

[13808](#) - Imposing Additional Sanctions with Respect to the Situation in Venezuela (August 24, 2017)

[13692](#) - Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela (March 8, 2015)

Determinations

[Determination Pursuant to Executive Order 13850 of November 1, 2018, as Amended](#) (Effective date - May 9, 2019) - Defense and Security Sector

[Determination Pursuant to Executive Order 13850 of November 1, 2018, as Amended](#) (Effective date - March 22, 2019) - Financial Sector

[Determination Pursuant to Executive Order 13850 of November 1, 2018, as Amended](#) (Effective date - January 28, 2019) - Oil Sector

STEUERUNG (Auszug)

[General License 2](#) - Authorizing Certain Transactions Involving CITGO Holding, Inc.

[General License 3E](#) - Authorizing Transactions Related to, Provision of Financing for, and Other Dealings in Certain Bonds

[General License 4B](#) - Authorizing New Debt Transactions Related to the Exportation or Reexportation of Agricultural Commodities, Medicine, Medical Devices, or Replacement Parts and Components

[General License 5](#) - Authorizing Certain Transactions Related to the Petroleos de Venezuela SA 2020 8.5 Percent Bond

[General License 6](#) - Authorizing Certain Activities Necessary to the Maintenance or Wind Down of Operations or Existing Contracts with Globovision Tele C.A. or Globovision Tele CA, Corp.

[General License 7B](#) - Authorizing Certain Activities Involving PDV Holding, Inc. and CITGO Holding, Inc.

[General License 8A](#) - Authorizing Transactions Involving Petróleos de Venezuela, S.A. (PdVSA) Prohibited by Executive Order 13850 for Certain Entities Operating in Venezuela

[General License 9D](#) - Authorizing Transactions Related to Dealings in Certain Securities

[General License 10](#) - Authorizing the Purchase in Venezuela of Gasoline from Petróleos de Venezuela, S.A. (PdVSA)

[General License 12](#) - Authorizing Certain Activities Necessary to Wind Down Operations or Existing Contracts with Petróleos de Venezuela, S.A. (PdVSA)

[General License 13C](#) - Authorizing Certain Activities Involving Nynas AB

[General License 14](#) - Official Business of the United States Government

[General License 15B](#) - Authorizing Transactions Involving Certain Banks Prohibited by Executive Order 13850 for Certain Entities

[General License 16B](#) - Authorizing Maintenance of U.S. Person Accounts and Noncommercial, Personal Remittances involving Certain Banks

[General License 17](#) - Authorizing Certain Activities Necessary to Wind Down of Operations or Existing Contracts with Certain Banks

[General License 18A](#) - Authorizing Certain Transactions Involving Integracion Administradora de Fondos de Ahorro Previsional, S.A.

[General License 20A](#) - Authorizing Official Activities of Certain International Organizations Involving Banco Central de Venezuela

SITUATION IRAN



JCPOA (Joint Comprehensive Plan of Action)

- Einigung EU, Russland, USA, China und Iran im Juli 2015
- Implementation Day: 16.01.2016
- Abschluss: 2025 (geplant)
- U.S. Rücktritt: 08.05.2018
- Verschärfung der US Sanktionen seit 07.08.2018 mit (teilweiser) Wirkung seit dem 05.11.2018
- Weitere U.S. Sanktionen, U.S. Ausnahmen liefen/laufen aus (z.B. bestimmte Öl Exporte, 02.05.2019)



REAKTION EU / DEUTSCHLAND



EU Schutzverordnung 07.08.2018 / EU VO 2271/1996 (1101/2018)

- § US Primary Sanctions (soweit extraterritorial)
- § US Secondary Sanctions
- § US Prohibition on causing a violation of US Sanctions
- § US Re-Export Kontrolle
- § Jegliche andere Form der extraterritorialen Wirkung einschließlich gerichtlicher Entscheidungen

- § Eingeschränkte Neufassung des § 7 AWV
- § INSTEX (als Verrechnungsplattform)

Wirkung EU-Blocking

Geblockt sind (Auszug):

- § Iran Sanctions Act of 1996
- § Iran Freedom and Counter-Proliferation Act of 2012
- § National Defense Authorization Act for Fiscal Year 2012
- § Iran Threat Reduction and Syria Human Rights Act of 2012
- § Iranian Transactions and Sanctions Regulations

Jedoch nicht:

- § EAR,
- § Patriot Act und auf dem allgemeinen **US Terrorabwehrrecht** beruhendes Blacklisting (z.B. Mahan Air)



URTEILE (EU)



§ **LAKRITZ-URTEIL** des LG Hamburg vom
09. Dezember 2014

§ **MAMANCOCHET MINING LIMITED**
Entscheidung des High Court of Justice
Business and Property Courts of England
and Wales vom 12. Dezember 2018

05

DUE DILIGENCE

Maßstab

Grundsatz

“No reasonable cause to suspect”

ITSR (Iran) – OFAC DAF Judgement 06.08.2019

“Know or had reason to know”





DUE DILIGENCE



**North Korea Sanctions Advisory inklusive
Schiffslisten**

vom 21.03.2019



**Advisory to the Maritime Petroleum
Shipping Community inklusive Schiffslisten**

vom 25.03.2019



**Iran-Related Civil Aviation Industry
Advisory** vom 23.07.2019



**Framework for OFAC Compliance
Commitments** vom 02.05.2019



06

ERFOLGREICHES KONZEPT?

- § Die Macht des Faktischen, wirtschaftliche Erfüllbarkeit außenpolitischer Erklärung
- § Grenze der Justiziabilität
- § Erhebliche wirtschaftliche Steuerung





FRAGEN?

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