

RAY

OF HOPE

Many investors would shy away from investing in Venezuela, but there are some that see opportunities in the South American country – Holland & Knight is gearing up to offer them support

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Despite the fact that Venezuela has been wracked by economic and political turmoil, some investors still see a country that offers potential. And any investor that wants to take what many would see as the very bold step of ploughing their money into the South American country will need a lawyer. In an effort to capitalise on this burgeoning market for legal services, law firm Holland & Knight announced in February it had formed a Venezuela focus team. The team includes a group of 20 partners who are advising clients on their interests in the country. And the early signs are that Holland & Knight's strategy could pay off. “We are beginning to get expressions of interest from many clients for a return to what was once a thriving market,” says Miami-based managing partner **José Sirven**, co-chair of the firm's Venezuela focus team. “Many of our clients hope that there will be positive changes.”

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So what are Holland & Knight's credentials and do they represent a good bet for clients that are looking to find business in Caracas? Well, the firm has significant experience of advising clients on trade and sanctions matters, as well as having expertise in the areas of corporate and tax, energy and natural resources, real estate and hospitality, and international disputes. Added to this is the fact that the law firm has had a strategic alliance with Venezuelan law firm Tinoco Travieso Planchart & Nuñez for more than 20 years. As a result, the firm is confident it has the expertise to help clients avoid potential pitfalls. “We're close to the issues and in some ways, while we are not on the ground there, our strategic partners are, and that has been a real driver for us,” Sirven says.

FORCED OUT

Holland & Knight and Tinoco Travieso Planchart & Nuñez have jointly represented dozens of clients on Venezuela-related matters, including entry into the Venezuelan market, mergers and acquisitions, issues relating to exiting the country, dealing with expropriation, as well as litigation and arbitration involving the current government. Holland & Knight's strategy has been to ensure it can offer clients access to lawyers that have experience ‘on the ground’ in the troubled country. “Essentially we thought it was important to bring together lawyers from a number of different disciplines and specialties with past experience in Venezuela so that we are ready to help our clients with market entry or re-entry,” Sirven explains. “Many of our clients were in Venezuela but were forced out, but they would view that market very positively if things change.”

Holland & Knight's lawyers often find themselves deluged with requests from clients for advice on sanctions. “The vast majority of our work involves sanctions work,” says Sirven. “We do a lot of work for financial institutions who are struggling

98%

Proportion of Venezuela's exports accounted for by crude oil

with how to deal with the daily changes to the sanctions scheme here in the US (with respect to Venezuelan assets), and so a lot of our advice is banking-related, whether we are representing banking institutions, or logistics and transportation companies, some of whom are operating vessels and are concerned that the way they are doing business with Venezuela could be in violation of some of the sanctions that exist.”

WORRY FOR CLIENTS

This is indeed a worry for clients, in large part due to the unpredictability of the situation. “It's difficult because it changes every day,” Sirven says. “The US government is applying added pressure by expanding the sanctions programme, and we have lawyers in Miami and Washington DC who are spending a great deal of their time helping our clients understand it all, including whether they can do business there, ship goods from A to B, or whether they can make bank deposits to a particular client.” In this environment, the only constant is change and this causes anxiety for clients. “It's a very fluid situation, and it's a cause for concern for a lot of clients because it's not entirely clear what can and cannot be done,” Sirven explains.

The oil and gas industry, in particular, has been particularly unsettled by the strife in the country. “Oil and gas is greatly affected because if you're involved in that sector in Venezuela then there is likely a connection to state oil company PDVSA,” says Sirven. So what's the problem with PDVSA? The US imposed sanctions on PDVSA in January, freezing all the

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company's property and other interests in the US and prohibiting US persons and companies from engaging in transactions without prior authorisation from the Office of Foreign Assets Control (OFAC). This has caused a major headache for oil industry clients and, despite the fact that Holland and Knight has lawyers with considerable expertise in the area of sanctions, it's a challenging case to deal with. "It's a very complex and fluid situation and our clients have to deal with this on a daily basis," Sirven says.

STILL OPTIMISTIC

Yet, despite this, there is still a sense of hope among some investors. Sirven claims that there remains optimism among clients that business opportunities will once again emerge in Venezuela. "We definitely see a high degree of long-term optimism," he argues. When Juan Guaidó [who is recognised as the Venezuelan president by a number of foreign governments] first emerged there was a feeling that things would change pretty quickly, but some of that optimism has tempered a little as regime change wasn't immediate," Sirven adds, in reference to the head of the opposition declaring himself interim president in January, in defiance of the regime of Nicolás Maduro, the 'other' Venezuelan president, whose legitimacy is in dispute.

HOLLAND & KNIGHT'S LATIN AMERICAN PRACTICE

The practice has more than 175 lawyers, which, the firm says, makes it one of the largest among US law firms. The firm also says: "Holland & Knight is one of the few US firms with an office in Colombia, Venezuela's neighbour and a country where many of its top natural resources professionals currently reside in exile."

373,000%

Venezuela's annual inflation rate

However, Sirven insists that "there is optimism that things will change". He adds: "The hope is that once things do change, the structural changes that would be required, starting with government, will fall into place, and foreign investment would increase dramatically." Yet, some investors are ready to invest now. "There are some outliers who have a higher risk tolerance and who think that they might be willing to make certain investments now because the cost of entry is lower, for obvious reasons, but our experience with our clients is that they are optimistic, but watching closely for change to occur before they take any big steps," explains Sirven.

Any post-Maduro government is likely to make significant efforts to encourage foreign investment, particularly in the oil and gas sector in an effort to get the country's hydrocarbons output back up to previous levels. It is also likely that it would seek to secure foreign aid from countries such as the US to try and jump start the economy as soon as possible.

Venezuela's recovery is also vitally important for neighbouring countries such as Colombia, due to the high number of Venezuelan people fleeing their country and creating issues with immigration in other Latin American states. Another issue is the potential prospect of possible military intervention in an effort to topple Maduro, but Sirven says this is not a concern of clients – many dismiss the idea of military intervention, particularly from the US, as a figment of Maduro's imagination and a propaganda tool to fuel support for his regime. For investors with a large appetite for risk, the opportunities are there. ■

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