



Trump Administration Efforts to Eliminate Cartels Pose Heightened Risk for Financial Institutions

Update

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As discussed in Bracewell's [February 11](#) and [February 26](#) updates, the executive branch is prioritizing the "total elimination" of cartels and transnational criminal organizations, both through edicts from the Oval Office and through agency initiatives. Each action is significant on its own, but taken together, this concerted effort increases the potential criminal and civil liability of any company — but particularly financial institutions — that conducts business in Mexico and certain parts of Central and South America. Below we break down three significant pieces of this effort and provide guidance on how companies should navigate this new risk landscape.

Designation of Cartels as FTOs and SGGTs Expands Scope of Criminal and Civil Liability

Pursuant to [Executive Order 14157](#), the US State Department designated eight international cartels and transnational organizations^[1] as Foreign Terrorist Organizations (FTOs) and Specially Designated Global Terrorists (SGGTs). The list includes six Mexican cartels, TdA (a cartel active in parts South America) and MS-13 (a cartel active in parts of Central America). These new designations increase the risk of criminal and civil liability for both US and foreign companies that may interact with these cartels knowingly or unknowingly, directly, through third-party vendors, or when paying certain "fees" and to conduct business in areas controlled by the cartels.

Criminal Liability. Providing any of the cartels now designated as FTOs with money, financial services, lodging, personnel or transportation may constitute the criminal offense of providing "material support" to a terrorist organization in violation of 18 U.S.C. § 2339B. Because the reach of 18 U.S.C. § 2339B is not confined to US entities or activities on US soil, these charges have been

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brought against foreign companies for transactions in foreign countries, including against Lafarge, a French building materials manufacturer for sharing revenue with FTOs (ISIS and ANF) in Syria, and Chiquita Banana for making payments to an FTO (the AUC) in Colombia. By increasing the number of FTOs, the new designations increase the risk of similar prosecutions directed at any company providing material support to these newly designated FTOs operating in Mexico and in parts of Central and South America. While some of these entities may previously have been subject to US sanctions, criminal liability creates an even greater threat.

Civil Liability. The Anti-Terrorism Act, 18 U.S.C. § 2333, allows US nationals injured by an act of terrorism to bring claims against companies that engage in or aid and abet an act of international terrorism by providing material support or knowingly providing substantial assistance to the FTO who perpetrated, planned or authorized the attack. The potential liability is considerable, because the statute allows the victims to “recover threefold the damages he or she sustains and the cost of the suit, including attorney’s fees.” In *Linde v. Arab Bank, PLC*,^[2] for example, a jury found Arab Bank Plc liable for knowingly supporting militant attacks in Israel linked to Hamas — an FTO — based on the bank’s providing financial services to charities that plaintiffs allege were agents of Hamas set up to solicit and launder money to support the FTO’s operations. Before the verdict was overturned on appeal, the bank was facing at least \$100 million in damages. Ultimately, Arab Bank Plc reached a settlement with the plaintiffs for an undisclosed amount.

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Justice Department Expedites Cartel-Related Prosecutions

Historically, certain types of prosecutions required approvals by various stakeholders within the Department of Justice. To facilitate the “aggressive prosecution” of cartels and transnational criminal organizations (TCOs), Attorney General Pam Bondi has suspended certain approval requirements, to which she referred as “bureaucratic impediments,” that might slow down or impede prosecutors from bringing charges against cartels, TCOs or their affiliates for some terrorism charges,^[3] violations of the International Emergency Economic Powers Act (IEEPA), racketeering, violations of the Foreign Corrupt Practices Act and money laundering and asset forfeiture. See [Bondi Memorandum regarding Total Elimination of Cartels and Transnational Criminal Organizations](#) (Bondi Memo).

Before this suspension, a prosecutor would need approval from either the Criminal Division or the National Security Division (NSD) before issuing warrants and filing the charges listed above. Now, prosecutors are able to proceed more easily, without the same level of oversight. The Bondi Memo does, however, encourage consultation with the NSD and requires that

prosecutors provide 24 hours' advance notice of the intention to seek charges or apply for warrants. Nevertheless, the requirement to provide NSD with 24 hours' notice, as compared to the requirement to meet NSD's approval requirements, will allow for more charges to be brought more quickly.^[4]

In addition to increasing the number of charges brought against cartels and their members directly, these changes will likely lead to an increase in the number of charges brought against companies for various crimes, including providing "material support" to a terrorist organization in violation 18 U.S.C. § 2339B, as described above; facilitating payments related to the human smuggling or illegal drugs, which has been declared a national emergency under IEEPA; and laundering money used for activities of the cartels.

Financial institutions are particularly at risk of tripping these wires. Banks that may provide financial services, or money transfer businesses (MTBs) that facilitate payments to cartels, for example, could be the subject of the criminal prosecutions described above. Given that cartels are woven into the fabric of many industries in Mexico, Central and South America, banks may be providing these services unwittingly. To address this threat, banks must reevaluate their Customer Due Diligence and KYC policies and reassess their current customers.

OFAC Highlights Risk for Financial Institutions Related to Cartel Designations

Reinforcing the increased risk of liability to financial institutions described above, the Office of Foreign Asset Control (OFAC) issued an alert on March 18, 2025 (OFAC Alert), warning of exposure to sanctions and civil or criminal penalties, especially for providing material support to foreign terrorist organizations in violation of 18 U.S.C. 2339B. The OFAC Alert is specifically directed at US and foreign financial institutions, noting that "foreign financial institutions that knowingly facilitate a significant transaction or provide significant financial services for any of the designated organizations could be subject to US correspondent or payable-through account sanctions." This could suggest that the administration is not only aware that its new approach may ensnare financial institutions, but that doing so is one of its aims, likely calculating that such a focus will decrease cartel access to finances.

There is a precedent for such prosecutions of financial institutions for failing to maintain effective anti-money laundering programs and to conduct appropriate due diligence to avoid transacting with customers located in countries subject to sanctions enforced by OFAC. These prosecutions can result in fines and penalties greater than \$1 billion. Now, the OFAC Alert serves as a warning that financial institutions may be prosecuted if they provide financial services to any of the cartels now designated as FTOs.

For more information, reach out to Bracewell's government enforcement and investigations team for guidance.

[1] The first round of designations include: Tren de Aragua (TdA); La Mara Salvatrucha (MS-13); Cártel de Sinaloa; Cártel de Jalisco Nueva Generación (CJNG); Cártel del Noreste (CDN); La Nueva Familia Michoacana (LNFM); Cártel del Golfo (CDG); and Cártel Unidos (CU).

[2] Case No. 04-cv-2799 in the United States District Court for the Eastern District of New York.

[3] The terrorism charges for which NSD approval has been suspended include: 18 U.S.C. §§ 2332a, 2332b, 2339, 2339A, 2339B, 2339C, 2339D, 21 U.S.C. § 960A, and 50 U.S.C. § 1705. This policy does not exempt from NSD's approval and concurrence requirements cases involving 18 U.S.C. §§ 175, 175b, 219, 793, 794, 831, 951, and 1030(a)(I).

[4] Although it is not entirely clear in the Bondi Memo, these changes appear to apply only to "investigations targeting members or associates of cartels or TCOs." The suspension of approval requirements could be interpreted, or may be amended, to include all charges under the enumerated statutes.