Terrorist Designations Are Reshaping Compliance Risk in Brazil

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The United States has significantly expanded its approach to combatting transnational criminal organizations. Recent measures include the designation of Comando Vermelho (CV) and Primeiro Comando da Capital (PCC) as both Specially Designated Global Terrorists (SDGTs) and Foreign Terrorist Organizations (FTOs), as well as the addition of two Brazilian nationals and three Brazilian companies with ties to the PCC to the Specially Designated Nationals and Blocked Persons (SDN) list maintained by the U.S. Treasury Department's Office of Foreign Assets Control (OFAC). Together, these developments signal an important shift in the way U.S. authorities approach sanctions, anti-money laundering, and broader compliance risks. They also reflect an enforcement policy that began with Executive Order 14157 and that increasingly relies on tools such as the Foreign Corrupt Practices Act and anti-money laundering laws in investigations involving criminal organizations.

These designations have far-reaching practical consequences that extend well beyond U.S. borders. Frequent transactions in U.S. dollars will often be enough to attract U.S. jurisdiction. At the same time, financial institutions that depend on access to the U.S. financial system are likely to strengthen compliance controls, impose additional restrictions, and in some cases terminate business relationships because of sanctions-related risks.

Designation as an FTO also significantly increases criminal exposure under U.S. anti-terrorism laws. Under U.S. law, providing "material support" to a designated organization is a federal crime and can give rise to liability even where the underlying conduct occurs outside the United States. The breadth of the material-support concept is what gives U.S. anti-terrorism law its long reach. Material support extends well beyond the direct financing of unlawful activities and can include banking and payment services, specialized advisory services, training, lodging, and other forms of direct or indirect assistance.

For Brazilian companies, the new environment calls for a thorough review of compliance controls and third-party risk management procedures.

Identifying exposure is particularly challenging because organizations such as the PCC and CV can infiltrate legitimate business activities and operate through broad networks of affiliates, intermediaries, and seemingly ordinary commercial relationships. The concern extends well beyond the individuals and entities that have been formally designated. As noted above, the effects of these sanctions can ripple through entire chains of business relationships, financing arrangements, and service providers connected, directly or indirectly, to sanctioned parties.

In response, Brazilian companies should prioritize measures that align with international best practices reflected in OFAC guidance. These include regularly updating risk assessments, strengthening sanctions-related policies and procedures, adopting more sophisticated screening tools, and verifying beneficial ownership information.

Companies should also continuously monitor and strengthen controls relating to payments, suppliers, and financial transactions, while ensuring that incident-response procedures are regularly reviewed and updated.

As economic sanctions, national security, and transnational crime become increasingly intertwined, companies are expected to exercise greater diligence in assessing the integrity of those they do business with, and in identifying risks arising from direct or indirect relationships with organizations subject to sanctions or terrorism-related designations.

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