

## CLIENT ALERT

# Rising Cross-Border Enforcement Risk for Companies Operating in Latin America

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The new administration's prioritization of fighting cartels and criminal organizations based in Latin America appears to be gaining momentum in light of recent developments in Mexico. That alignment signals a heightened risk environment for companies operating throughout the region, particularly in light of some of the enforcement tools now in play, which raise the specter of materially more severe penalties.

On January 20, 2025, President Trump issued an Executive Order, "Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists," directing the Secretary of State to designate several cartels and other transnational criminal organizations ("TCOs") as Foreign Terrorist Organizations.<sup>1</sup> On February 20, the Department of State then designated the following eight organizations

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<sup>1</sup> Executive Order, *Designating Cartels And Other Organizations As Foreign Terrorist Organizations And Specially Designated Global Terrorists*, WHITEHOUSE.GOV (Jan. 20, 2025), <https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/>.

operating in Mexico and Latin America more broadly as Foreign Terrorist Organizations and Specially Designated Global Terrorists:<sup>2</sup>

- Cartel de Sinaloa
- Cartel de Jalisco Nueva Generacion
- Cartel del Noreste (formerly Los Zetas)
- La Nueva Familia Michoacana
- Cartel del Golfo (Gulf Cartel)
- Carteles Unidos
- Tren de Aragua
- Mara Salvatrucha (MS-13)

With the exception of the Unidos cartel, all of these cartels had previously been designated by the U.S. Treasury Department's Office of Foreign Assets Control ("OFAC") under narcotics trafficking authorities, and U.S. persons were prohibited from dealing with them (directly or indirectly).

Now, the Mexican government appears to be actively aligning with the United States' increased focus on fighting cartels. On May 27, 2025, the President of Mexico, Claudia Sheinbaum, issued a presidential decree creating a new unit within Mexico's Financial Intelligence Unit ("UIF," per its acronym in Spanish)<sup>3</sup> focused on combatting criminal organizations: the General Directorate Specialized in Criminal Organizations. This development indicates that Mexico intends to assist the United States in aggressively prosecuting the cartels, and likewise deploy various enforcement tools to achieve that.

#### *Prosecuting Cartels and Transnational Criminal Organizations a Top DOJ Priority*

In the past few months, the Department of Justice (the "Department" or "DOJ") has issued various policies and guidelines outlining its enforcement priorities under this administration. Significantly, on February 5, 2025, Attorney General Pamela Bondi issued a memorandum that called for a "fundamental change in mindset and approach" to pursue "*total elimination*" of cartels and TCOs. The memorandum further instructed the Criminal Division's Foreign

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<sup>2</sup> *Designation of International Cartels*, STATE.GOV (Feb. 20, 2025), <https://www.state.gov/designation-of-international-cartels/>.

<sup>3</sup> The Financial Intelligence Unit was created by a presidential decree published in the Official Journal of the Federation on May 7, 2004, to assist in the prevention and prosecution of crimes related to transactions with illicit resources (money laundering) and terrorism financing.

Corrupt Practices Act Unit to “prioritize investigations related to foreign bribery that facilitates the criminal operations of Cartels and TCOs, and shift focus away from investigations and cases that do not involve such a connection.”<sup>4</sup>

Further, on May 12, 2025, the DOJ issued an Enforcement Plan for the Criminal Division titled “Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime,”<sup>5</sup> that underscored the Department’s commitment to focusing on cartels and TCOs. Among other things, the plan enumerated 10 “high impact areas” of criminal activity that the Criminal Division would prioritize investigating and prosecuting, including “[m]aterial support by corporations to foreign terrorist organizations, including recently designated Cartels and TCOs,” and misconduct perpetrated by “financial institutions and their insiders that commit sanctions violations or enable transactions by Cartels, TCOs, hostile nation-states, and/or foreign terrorist organizations.” Similarly, updates to the DOJ’s Corporate Whistleblower Awards Pilot Program added several new “subject areas” that could qualify corporate whistleblowers for payouts, including corporate crime related to international cartels and TCOs, and “material support” for terrorism, immigration violations, and sanctions violations.<sup>6</sup>

Most recently, on June 9, 2025, the DOJ issued its highly anticipated “Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA).”<sup>7</sup> The Guidelines identify four non-exhaustive “factors” that prosecutors must consider when evaluating whether to bring potential new FCPA enforcement actions. The first of these four factors is the involvement of cartels or TCOs in the corrupt conduct at issue.

### *Mexico’s New Specialized Anti-Cartel Unit*

In line with the recent developments in the United States, Mexico’s President Claudia Sheinbaum issued a presidential decree on May 27, 2025, which amends certain provisions of the internal regulations of the Ministry of Finance to create the General Directorate Specialized in Criminal Organizations within the UIF.<sup>8</sup>

This Directorate was created to strengthen the UIF and provide assistance in matters related to criminal organizations and high impact crimes. The Directorate is intended to link the UIF, other Mexican enforcement authorities, and non-Mexican enforcement authorities for designing, implementing, monitoring, and executing strategically coordinated and collaborative actions to prevent high impact crimes and to disrupt criminal organizations including the cartels. Speaking at a press event in May, President Sheinbaum stated that the

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<sup>4</sup> Memorandum from the Office of Attorney General Pamela Bondi, *Total Elimination of Cartels and Transnational Criminal Organizations* (Feb. 5, 2025), <https://www.justice.gov/ag/media/1388546/dl?inline>. For more information on this announcement, please see our prior client alert [here](#).

<sup>5</sup> Memorandum from the Office of Criminal Division Head Matthew R. Galeotti, *Focus, Fairness, and Efficiency in the Fight Against White-Collar Crime* (May 12, 2025), <https://www.justice.gov/criminal/media/1400046/dl?inline> (hereinafter the “Enforcement Plan”).

<sup>6</sup> *Department of Justice Corporate Whistleblower Awards Pilot Program* (May 12, 2025), <https://www.justice.gov/criminal/media/1400041/dl?inline>. For more information on enforcement priorities and policy revisions, please see our prior client alert [here](#).

<sup>7</sup> Memorandum from the Office of Deputy Attorney General Todd Blanche, *Guidelines for Investigations and Enforcement of the Foreign Corrupt Practices Act (FCPA)* (June 9, 2025), <https://www.justice.gov/dag/media/1403031/dl> (hereinafter the “Guidelines”). For more information on enforcement priorities and policy revisions please see our prior client alert [here](#).

<sup>8</sup> Diario Oficial de la Federación, *DECRETO por el que se reforman y adicionan diversas disposiciones del Reglamento Interior de la Secretaría de Hacienda y Crédito Público*, [diariooficial.gob.mx](https://www.diariooficial.gob.mx/nota_detalle.php?codigo=5758317&fecha=27/05/2025#gsc.tab=0) (May 27, 2025), [https://www.diariooficial.gob.mx/nota\\_detalle.php?codigo=5758317&fecha=27/05/2025#gsc.tab=0](https://www.diariooficial.gob.mx/nota_detalle.php?codigo=5758317&fecha=27/05/2025#gsc.tab=0).

Directorate was also meant to give the UIF “more investigative and intelligence capacity” to investigate “everything related to money laundering.”<sup>9</sup>

By creating this new, specialized unit, the Mexican government has signaled a heightened appetite for combatting organized and high impact crimes—a clear message that this is also a priority of the Mexican government. Furthermore, the Directorate establishes a potentially enhanced channel for cooperation between U.S. and Mexican authorities. Historically, units like this have facilitated interaction between both governments, leading to greater enforcement on this front against the cartels in line with U.S. priorities.

### *What This Means for Companies*

The clear signal from both the U.S. and Mexican governments is that they are focused on cracking down on the cartels and TCOs. Given the enforcement tools at the U.S. government’s disposal, this could mean not only prosecution of cartel members, but also enforcement actions against companies found to have assisted the cartels.

Under U.S. law, the push against cartels creates a materially higher risk environment because of the additional statutes being invoked (on top of the U.S. sanctions risks that already accompanied the cartels that were designated under sanctions programs targeting drug trafficking). For example, under the Anti-Terrorism Act (“ATA”) *criminal* liability can be imposed on companies that provide “material support or resources” to an organization knowing either that (1) it is a designated foreign terrorist organization, or (2) that it engages or has engaged in terrorism or terrorist activity.<sup>10</sup> The term “material support or resources” is broadly—if not amorphously—defined to include, *inter alia*, any property, service, money or financial securities, or financial services.<sup>11</sup> There is no threshold test about what constitutes “materiality,” which has traditionally been left to prosecutorial discretion.

In addition, the ATA allows U.S. nationals who are victims of terrorism to sue anyone who “aids and abets” a foreign terrorist organization by “knowingly providing substantial assistance.”<sup>12</sup> Willful blindness or deliberate indifference can satisfy the knowledge requirement. Unlike the Foreign Corrupt Practices Act, for instance, this private right of action potentially creates a wide pool of plaintiffs. In addition, pursuant to the ATA, victims shall recover threefold the damages sustained.<sup>13</sup>

Accordingly, companies should use this window to conduct a robust risk assessment of their business to identify any potential exposure or touch points to regions or business lines impacted by cartel activities, and take appropriate risk mitigation steps. Companies may need to enhance their existing controls in order to identify risks posed not only by their customers, but also by suppliers and other third parties, as well as their beneficial owners and control

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<sup>9</sup> *Crea Hacienda Unidad Élite Contra Lavado de Cártels*, EL UNIVERSAL (May 28, 2025), <https://www.eluniversal.com.mx/nacion/crea-hacienda-unidad-elite-contra-lavado-de-carteles/> (quotations translated).

<sup>10</sup> See 18 U.S.C. § 2339B.

<sup>11</sup> See 18 U.S.C. §§ 2339A(b)(1); 2339B(g)(4).

<sup>12</sup> See 18 U.S.C. § 2333(d)(2).

<sup>13</sup> See 18 U.S.C. § 2333(a).

persons. Such steps will not only reduce the risks of any violation but also meaningfully help companies in responding to any investigation from U.S. or Mexican enforcement authorities.

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