Network Intelligence Report

Trump's Designation of Cartels as FTOs Raises Legal and Compliance Risks for Global Businesses

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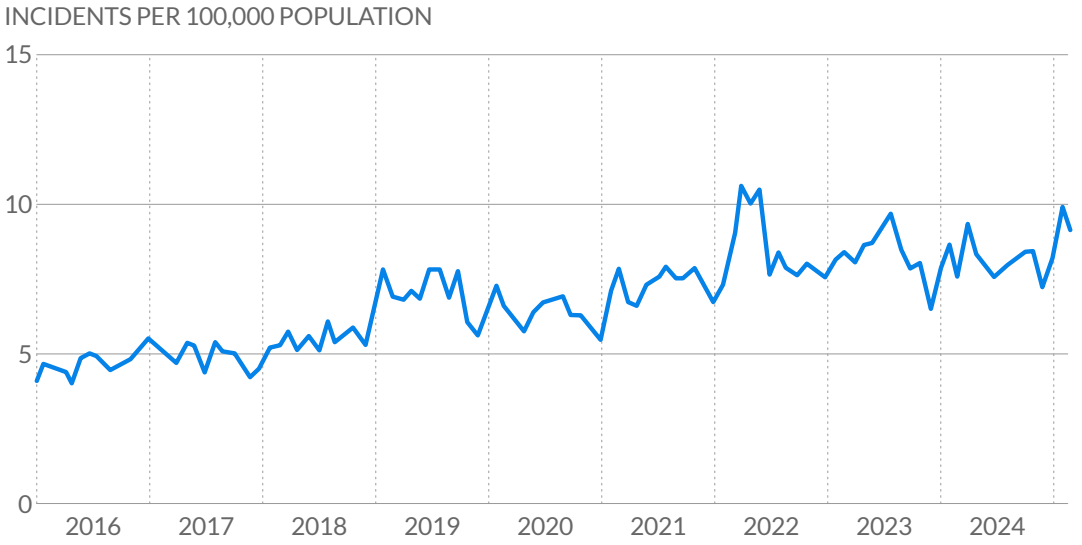
The new Trump administration is focusing intensely on cartels and other transnational criminal organizations (TCOs), particularly in Latin America, as part of a crackdown on illegal immigration and fentanyl trafficking. Within his first 30 days in office, U.S. President Donald Trump launched efforts to designate drug cartels as foreign terrorist organizations (FTOs), announced an initial round of designations, and began implementing sweeping changes to financial crime compliance, enforcement and transparency priorities. Amidst this, his America-First policy may strain international information sharing and collaboration channels. These changes in policies and priorities present complex sanctions and anti-money laundering (AML) compliance challenges for U.S. and non-U.S. financial institutions, financial platforms that process remittances, and international organizations with operations in Mexico. To better understand the dynamics at play and the associated risks, **RANE** spoke with **Robert Appleton,** Partner at **Olshan Frome Wolosky LLP,** and **Guillermo Christensen,** Partner at **K&L Gates LLP.**

Over the past 40-odd years, drug cartels in Mexico have grown increasingly pervasive, engaging in a wide range of criminal activities, including drug trafficking, extortion, kidnapping and violence, heightening exposure risk for organizations doing business there. Drug cartels are deeply integrated into Mexican society, using existing infrastructure and exploiting economic opportunities to gain power and influence, leading to widespread corruption and violence. While Trump's designation of cartels as FTOs is recent, the concern that led him to do so is not. The U.S. Congress first proposed the FTO designation for the Mexican cartels in 2011 as a response to two separate killings of U.S. citizens by the cartels. The goal was then, as it is now, to pressure Mexico into doing more to curb cartel activity, give U.S. federal and state law enforcement agencies more aggressive tools to confront the fentanyl crisis, deny cartel members entry into the United States and allow prosecutors to pursue harsher punishments against those providing material support to these organizations.

Extortion Rate in Mexico

Cartel extortion of Mexican businesses has continued to expand in both scope and the size of targets. It is a crime for U.S. companies to provide material support or resources to designated FTOs; in most cases, material support includes payments made under duress, like protection payments or extortion.



Source: https://elcri.men/

However, designating a group as an FTO carries increased legal and financial implications. When paired with the deep and diversified entrenchment Mexico's cartels have in society, individuals, businesses and financial institutions risk possible U.S. prosecution if they knowingly or unknowingly engage in transactions that touch the widespread world of the cartels. This risk is further compounded by the vast extortion networks these cartels have built, for which businesses trying to operate in the area are coerced into paying for the right to function or for protection.

The Trump Administration's Cartel Focus and Redeployment of Resources

The Trump administration argues that the international connections and operations of these transnational criminal organizations — including drug trafficking, migrant smuggling and violent pushes to extend their territory — warrant the designation of terrorist organizations and the deployment of resources to fight them as such. Immediately following his inauguration, on Jan. 20, 2025, Trump issued Executive Order (EO) 14157, "Designating Cartels and Other Organizations as Foreign Terrorist Organizations and Specially Designated Global Terrorists (SDGTs)." On Feb. 5, 2025, newly-confirmed Attorney General (AG) Pam Bondi issued a Memorandum to Department of Justice (DOJ) employees, calling for the "Total Elimination of Cartels and Transnational Criminal

Cartels Recently Designated as FTOs

The U.S. has classified eight criminal cartels as foreign terrorist organizations. Companies operating in areas controlled by these cartels, or doing business with entities in them, face heightened risks of U.S. sanctions violations and enforcement.

Countries with significant cartel presence*

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Jalisco New Generation Cartel
(Cartel de Jalisco Nueva Generacion, CJNG)
Founded: Mexico

Northeast Cartel
(Cartel del Noreste, CDN, Los Zetas)
Founded: Mexico

Tren de Aragua
(TdA)
Founded: Venezuela

Mara Salvatrucha
(MS-13)
Founded: U.S.

Gulf Cartel
(Cártel del Golfo; CDG)
Founded: Mexico

New Michoacán Family
(La Nueva Familia Michoacána, LNFM)
Founded: Mexico

United Cartels
(Cárteles Unidos; La Resistencia)
Founded: Mexico

Sinaloa Cartel
Founded: Mexico

*Presence outside the Americas: Jalisco New Generation Cartel (Australia, China), Northeast Cartel (Italy), Mara Salvatrucha (Italy, Spain), Gulf Cartel (Italy)

Organizations" and realigning DOJ priorities and resources to effect this. On the same day, and in furtherance of the U.S. goal of eliminating cartels and TCOs, AG Bondi implemented changes to the National Security Division and dissolved the KleptoCapture Task Force and related initiatives, with "resources currently devoted to those efforts [to] be committed to the total elimination of cartels and TCOs."

Then, on Feb. 20, 2025, Secretary of State Marco Rubio designated eight cartels and TCOs as FTOs, adding them to the U.S. Treasury's Office of Foreign Assets Control (OFAC)'s Specially Designated National and Blocked Persons (SDN) List. While almost all of these groups were already subject to U.S. sanctions, having been previously listed by OFAC as SDNs, the FTO designation ushers in considerable new legal and compliance consequences. FTO and SDGT designations have traditionally been used on groups like al Qaeda and the Islamic State that do not have significant involvement in international business. Mexico is a major global manufacturing and trade partner, and cartels have a ubiquitous presence there. Any individual or entity that engages with cartels or engages with a third party that engages with cartels risks U.S. sanctions violations and enforcement. Other risks include becoming designated by association, criminal investigation and prosecution, or becoming a party in drawn-out terrorism-related private civil lawsuits in the United States.

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Christensen notes that while employing the FTO designation for the first time for Mexican cartels may indicate an increased enforcement focus by the United States, he thinks it was a natural consequence of ineffective efforts to curb the entrenchment of Mexican and Central American cartels in North America. The reality is, he says, that many cartels have not been blocked from actively doing business in the United States by existing interdictions like sanctions, and they have extensive business activities in the United States. **Christensen** cautions that U.S. companies and persons will have to be much more diligent in understanding ownership to ensure that any potential or existing partner entities, in either Mexico or the United States, are not connected to or owned by cartels, including by way of various shell companies.

The second Trump administration has been vocal about its desire to crack down on cartels, so federal agencies will likely be aggressive about enforcement. As such, organizations should assess risk exposure and appetite accordingly. This may be particularly challenging due to the lack of currently available guidance and existing protocols. A shift in mindset and a reinforcement of different types of controls and information-sharing tools may be necessary to follow the downstream flow of money that the Countering the Financing of Terrorism (CFT) part of the AML/CFT equation requires. Companies that previously relied on traditional AML and sanctions compliance strategies must now adapt to the more challenging legal framework applicable to FTOs.

Enforcement of the U.S. Foreign Corrupt Practices Act (FCPA) is Paused While Domestic Corporate Transparency Efforts are Abandoned

While Trump's designation of cartels as FTOs represents a major shift in U.S. financial crime priorities, it is not the only major

change he has directed since taking office, as his administration moves to de-prioritize enforcement of an overseas corporate bribery law and narrow efforts for domestic corporate transparency. On Feb. 10, 2025, Trump issued an EO that placed a temporary halt on investigations or enforcement actions related to the Foreign Corrupt Practices Act (FCPA) for 180 days and directed AG Bondi to review pre-existing and in-process FCPA-related actions. The order also directed Bondi to issue new guidelines to govern the DOJ's enforcement of the FCPA, a U.S. law that has been a key tool in the global fight against corruption for decades.

Criminal networks continue to exploit shell companies to launder money, evade sanctions and fund illicit operations.

In the "Total Elimination of Cartels and TCOs" memo, AG Bondi directs the FCPA unit within the DOJ and the Money Laundering and Asset Recovery Section (MLARS) to "prioritize investigations related to foreign bribery that facilitates the criminal operations of cartels and TCOs." While many questions remain about the shape of future FCPA enforcement, for which drug and violent-crime-related cases have never been the focus, with a whole-of-government approach dedicated to eliminating cartels, agents and prosecutors will likely be highly active in their investigation and enforcement efforts.

Trump has also directed the U.S. Treasury's Financial Crimes Enforcement Network (FinCEN) to significantly water down the Corporate Transparency Act (CTA), a bipartisan effort to curb money laundering through shell companies by requiring businesses to disclose beneficial ownership information to FinCEN for a non-public registry. While the CTA initially required both domestic and foreign companies to disclose their beneficial owners, on March 21, 2025, the Treasury Department issued an Interim Final Rule (IFR) that narrows the scope of the CTA to apply only to certain foreign companies that register to do business in the United States. The IFR exempts all domestic companies, as well as all beneficial owners of covered foreign companies who are U.S. persons.

While the narrowed scope may have been welcomed by parts of the business community — some of whom viewed the CTA as burdensome and intrusive — criminal networks continue to exploit shell companies to launder money, evade sanctions and fund illicit operations. Historically, drug cartels have relied on banks to launder their dirty money. However, as U.S. AML laws for banks have strengthened, these TCOs are increasingly utilizing non-bank professionals like lawyers, accountants, trust and company service providers, incorporators, and others, who are not subject to these laws and are not required to understand the nature or source of income of their clients, to form or register companies for their clients.

The Impact of International Relationships on the Financial Crime Enforcement Landscape

The Trump administration has taken a markedly different stance on international relations than its presidential predecessors, which may impact prosecutors' ability to conduct investigations or obtain bank records and other critical overseas evidence, among other things. The transnational nature of money laundering networks and drug syndicates makes it difficult to catch criminals since it requires cooperation between officials in different countries. Intelligence partnerships and international joint efforts are critical to tracking illicit finance flows and shutting down cartels.

Appleton notes that the United States has intentionally developed relationships with authorities abroad in order to coordinate and combine forces to investigate priority cases. The United States has spent two decades nurturing these relationships, particularly in Europe as well as Latin America, Australia and Africa, all of whom have become very close partners in cross-border criminal cases, and he warns that severing them will make bringing cross-border cases much more challenging. Reflecting on his past experience conducting export trade, international money laundering, and international fraud and corruption prosecutions in the DOJ, **Appleton** remarks that he regularly needed to work closely with authorities from multiple countries to gather evidence. He questions the ability of the United States to pursue cases involving priority issues like immigration and cartels without Mexico's willing involvement and participation. The concern is compounded, he says, when he imagines how tariffs might factor into the equation, adding that he cannot imagine these authorities will be too disposed to help in a timely and comprehensive manner.

The concern over how Trump's trade policies will impact international collaboration may be reflected in how Canada navigates its developing relationship with the United States. In 2024, in preparation for an upcoming review by the Financial Action Task Force, Canada increased its efforts to expand and strengthen tools to combat money laundering and enforce economic sanctions, including by making changes to its Proceeds of Crime (Money Laundering) and Terrorist Financing Act (PCMLTFA) and its Criminal Code, which will create new enforcement and compliance considerations. Following the upcoming PCMLTFA amendments, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC) will be granted the authority to share information with foreign states if there is an agreement to do so. However, while Canada initially showed signs that it is prepared to coordinate with the United States — as evidenced by its mirror designations naming seven of the same cartels as terrorist entities immediately after the U.S. designations, appointment of a fentanyl czar, launch of the Canada-U.S. Joint Strike Force and convention of a new task force to combat money laundering — the impact of tariffs, negotiations between newly-installed Prime Minister Mark Carney and the results of Canada's snap elections on April 28, 2025, may lead to a different economic and security relationship.

For Europe and the United Kingdom, the Trump administration's retreat from corporate anticorruption enforcement and other traditional financial crime priorities is a chance to step up and attempt to fill the enforcement gap. In the potential absence of U.S.-led efforts, which have driven the enforcement of corruption cases in the European Union for twenty years, prosecutors in the United Kingdom and Europe will be more ambitious and work together more to bring cases.

In the United Kingdom, Serious Fraud Office (SFO) Director Nick Ephgrave has made clear his wish to take a "bolder, more pragmatic, more proactive" approach to investigating and prosecuting serious financial crime. Under his direction, the SFO launched six new investigations, charged 15 suspects, obtained its first-ever unexplained wealth order and brought back the use of dawn raids. Despite Ephgrave originally indicating that he would focus on domestic fraud, he has taken on large, international corruption cases, including in partnership with the French Parquet National Financier (PNF).

Formalizing these partnerships, on March 21, 2025, the United Kingdom's SFO, France's PNF and the Office of the Attorney General of Switzerland announced the creation of a new task force to strengthen collaboration against international bribery

and corruption. Its founding statement states that its members recognize that "success relies on us working closely and effectively together." The announcement noted that all three countries have anti-bribery legislation with jurisdiction to prosecute criminal conduct, even if that activity occurs overseas, provided there is a link to the prosecuting country. Notably absent from this task force is the United States. Despite the agencies saying this is not a response to Trump's EO pausing and redirecting FCPA enforcement, the timing of the announcement suggests that the United Kingdom, France and Switzerland are distinguishing themselves from the current anti-corruption enforcement posture of the United States.

Foreign subsidiaries of U.S. companies, joint ventures and even companies based outside the United States should consider incorporating FTO compliance into their Mexico business strategies

There are a handful of legislative developments that support this trend in Europe, namely the European Union's Anti-Corruption Directive, which, as of February 2025, is in trilogue negotiations and which attempts to harmonize anti-corruption efforts in the European Union and support efforts of EU agencies to investigate and prosecute cross-border cases. Additionally, the European Union has announced regulation related to cross-border access to electronic evidence in criminal proceedings, and the EU Whistleblower Directive, which ostensibly makes it safer for whistleblowers to report potential wrongdoing, might create a pipeline that could result in a rise in investigations.

Both **Christensen** and **Appleton** believe non-U.S. regulators may increase white-collar crime investigations and enforcement proceedings in an effort to fill the void left by the United States. In this event, U.S. companies may be targeted in an attempt to maintain a level playing field since the DOJ has indicated that it may still wield the FCPA to target foreign companies paying bribes to obtain resources deemed by the administration to be of national or economic security to the United States. **Appleton** notes that EU regulators have already signaled that they are gearing up to increase enforcement in money laundering and cross-border fraud, although he is less confident in their ability to prosecute sophisticated corruption cases as these non-U.S. enforcement bodies have significantly smaller budgets, fewer resources, limited extraterritorial laws to address cross border crime and less-developed infrastructure. As a result, this may give rise to more cases brought against individuals, as it is generally easier for the European Union to bring cases against individuals than companies due to the legal standing of individuals and the complexity of corporate structures, which can make it harder to pinpoint responsibility and enforce legal actions.

Immediate Impact and Risk

The Trump administration's push to designate cartels and TCOs as FTOs and SDGTs, as well as the DOJ's prioritization of investigations into these entities, may result in more cartel- and TCO-related corporate prosecutions, as well as increased scrutiny and compliance burdens. It is important to note that FTO risk is not limited to U.S. companies, as the FTO statute has broad extraterritorial purview. As such, foreign subsidiaries of U.S. companies, joint ventures and even companies based outside the United States should consider incorporating FTO compliance into their Mexico business strategies.

Antiterrorism Act — Material Support and Civil Litigation: It is a crime under the U.S. Antiterrorism Act to provide material

support or resources to designated FTOs, including financial services, tangible or intangible property, lodging, equipment, training, and personnel. In most cases, material support includes payments made under duress, like protection payments or extortion, which is a high risk in Mexico. The DOJ has previously brought charges against companies that made protection payments to FTOs and SDGTs, including Chiquita Brands International and Lafarge, and there is every indication that this will continue to be the case.

Foreign Intelligence Surveillance Act: In April 2024, the United States added international narcotics trafficking to the definition of "foreign intelligence information." This definition change allows targeted surveillance of non-U.S. citizens abroad in order for the U.S. government to "target the affiliates of cartels, such as bankers, accountants and others who help operate their business." Non-U.S. organizations and multinationals operating in Mexico should be aware of the potential for surveillance risk.

Potential for Increased Interest in Remittances: Remittances — a way to electronically send funds to people, often family, in another country — are increasingly being used as a tool for money laundering by cartels. Prosecutors may target money services businesses (MSBs) to stem financial flows to cartels and motivate MSBs to do more to prevent remittance-based money laundering.

Potential for Trade War to Increase TBML Opportunities: TCOs, professional money launderers and terrorist financing networks use trade-based money laundering (TBML) to exploit international trade transactions to transfer value and obscure the origins of illicit funds. As the United States, under its current America-First policy, enters into trade wars with large partner economies like Mexico, Canada, China and Europe, the supply chain upheaval and anticipated tariff circumvention efforts may make it harder to identify suspicious activity for both organizations and investigators.

What to Think About

To stay ahead of these risks, companies should consider taking several proactive steps. First and foremost, companies should assess the extent to which their businesses may come into contact with criminal syndicates. It is critical for organizations operating in higher-risk areas in Mexico, particularly those involved in the cross-border movement of goods or that facilitate cross-border transactions, to incorporate due diligence and training about FTO laws. There is currently a dearth of guidance from the U.S. government about how to comply with the FTO statute. Organizations should keep an eye out for the DOJ's forthcoming guidance, which is expected between July and December of this year. **Christensen** reminds organizations that in the case of SDNs or designated entities, there is a strict liability for a civil violation. If they do business with a designated entity, whether knowingly or not, they could still be in violation of the regulations. He advises organizations to ask third parties questions about operations and relationships until they feel comfortable with the responses. That way, even if they end up working with someone they should not have, they can better demonstrate that they made a good-faith effort.

While the United States may be retreating from robust FCPA enforcement for now, companies should remain mindful of both the FCPA's five-year statute of limitations, extending beyond this current administration, as well as the potential rise in prominence of anti-corruption laws of other countries and non-U.S. enforcement. **Appleton** says that he has clients who have spent

years developing robust anti-corruption and AML compliance programs who are now, in light of Trump's EO, wondering if they should maintain these compliance efforts. The general consensus in the legal community, **Appleton** notes, is that they should because the FCPA has a statute of limitations that is longer than the current presidential administration, and, should the next president hold a different position on anti-corruption priorities than Trump, it might aggressively target FCPA violations to make up for the gap in enforcement. **Appleton** warns that Trump's deprioritization of FCPA enforcement for domestic companies will not be an adequate defense in the event of any future prosecution, as an executive order does not invalidate a statute passed by Congress.

The next presidential administration and/or non-U.S. authorities may carefully inspect how companies acted during this period of lax enforcement, so documenting decisions and compliance efforts may be especially valuable. As other countries might begin enforcing their own anti-corruption laws more vigorously, companies may want to consider implementing training and policies that are more reflective of local regulations and concerns. It may be valuable to assess compliance policies, procedures and resourcing to ensure they are not overly focused on addressing only FCPA and U.S. enforcement-related risks. Organizations should also be mindful of U.S. foreign policy. As the administration aligns FCPA enforcement with its national security and foreign relations priorities, enforcement may be directed towards countries the United States believes to be at odds with U.S. interests, such as China.

Third parties remain particularly vulnerable to corruption and money laundering risks. It is important to understand the business as a whole and where third parties intersect with the business and the community. Organizations should pay particular attention to any third party whose role is not clearly defined. **Appleton** recommends that organizations be especially diligent in hiring decisions and personnel, and ensure they know their counterparties. He reminds companies that sanctions are still in place and that he expects this administration will actively use them as a tool to forward its goals. This means that companies conducting commercial activity and business transnationally should be careful about trade and exports to ensure they are not dealing with SDNs. **Christensen** recommends supply chain mapping and warns that getting behind the veil of corporate ownership structures is critical but can be incredibly difficult depending on the jurisdiction. Beyond the need for businesses to understand with whom they are dealing in light of the FTO designations, he also reminds organizations that other sets of regulatory requirements and reputational risks come from having nationals from countries of concern to U.S. national security as beneficial owners.

About the Experts:

Robert Appleton is a Partner at **Olshan Frome Wolosky LLP.** A leader in high-profile, cross-border cases, investigations, due diligence and regulatory matters — focusing on OFAC sanctions, Committee on Foreign Investment in the United States (CFIUS) matters, cross border fraud, the FCPA and global asset recovery and due diligence — Appleton advises and defends international and U.S. companies, organizations and individuals in sensitive government investigations, before U.S. regulatory bodies and criminal litigation. Appleton specializes in Russia, China and Iran sanctions and submitting applications for Special Licenses with OFAC to address sanctions restrictions. Prior to private practice, Robert served for more than 13 years as a senior Assistant

U.S. Attorney in the U.S. Department of Justice (DOJ), senior and principal legal counsel to U.S. Federal Reserve Chairman Paul Volcker at the UN's Independent Inquiry Committee into the Iraq Oil for Food Programme bribery scandal and Chairman of the first and only United Nations Anti-Corruption Task Force. Robert holds a JD from Western New England School of Law and a BA from Emory University.

Guillermo Christensen is a Partner at **K&L Gates LLP.** Prior to that, he was a CIA intelligence officer and a diplomat with the Department of State. He is a national security law practitioner, focusing on cybersecurity, export controls and sanctions, and national security reviews of mergers, acquisitions and investments. Drawing on his national security background, Christensen counsels clients about economic sanctions and embargoes administered by OFAC, including complex technology matters involving China, and ransomware payments. Christensen is an adjunct law professor at Georgetown University Law Center, and a life member of the Council on Foreign Relations. He holds a JD and an MS in Foreign Service, both from Georgetown University, and a BA from American University. ☐

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