

Legal and Compliance Services Proposal: Preparedness for OFAC Regulations and Designation of Cartels as Terrorist Organizations

Introduction

With the imminent designation of Mexican drug cartels as terrorist organizations by the current administration of the United States, Mexican companies and individuals operating in risk zones or directly or indirectly exposed to them may be subject to strict Office of Foreign Assets Control (OFAC) regulations, as well as economic penalties and criminal consequences for acts related to terrorist activities or groups, in addition to the rules specifically applicable against organizations related to drug trafficking. These regulations prohibit any financial or commercial interaction with sanctioned actors; such interactions may include extortion (e.g., “protection fees,” passage fees, or illegal tolls), threats or transactions with suspicious clients, intermediaries, or counterparties in sensitive areas. Failure to comply with these provisions can result in severe legal, financial, and reputational sanctions.¹

In this context, Von Wobeser y Sierra offers preventive and corrective solutions designed to mitigate risks, strengthen regulatory compliance and ensure the operational continuity of our clients.

Relevant Regulations

OFAC is an agency of the U.S. Department of the Treasury, charged with administering and enforcing economic and trade sanctions consistent with U.S. foreign policy and national security objectives. These sanctions are targeted to governments, entities, individuals, and organizations involved in activities that pose a threat to U.S. interests, such as terrorism, drug trafficking, weapons proliferation, and human rights violations, among others. OFAC stands out as one of the most rigorous agencies in the enforcement of these regulations, with broad powers to impose significant sanctions on violators.

A central element of the OFAC regulation is its scope of application, which covers all persons and entities within the United States, as well as U.S. citizens and entities organized under U.S. jurisdiction anywhere in the world (extraterritorial application). Generally speaking, this regulation extends to transactions conducted in any country involving sanctioned actors, including those transactions conducted through virtual currency. This implies that, even indirectly, Mexican individuals and companies may be exposed to the risk of non-compliance with the referred regulation, for example, when conducting transactions with counterparties that are associated with sanctioned actors, as outlined above.

¹ <https://www.whitehouse.gov/presidential-actions/2025/01/designating-cartels-and-other-organizations-as-foreign-terrorist-organizations-and-specially-designated-global-terrorists/>

To help organizations manage these risks, OFAC has published detailed guidance, such as “A Framework for OFAC Compliance Commitments,” which sets out the five essential components of an effective Sanctions Compliance Program (SCP): management commitment, risk assessment, internal controls, testing and auditing, and training. This approach encourages the implementation of risk-based compliance systems to identify and mitigate potential regulatory exposures. A key aspect of this guidance is the importance of conducting ongoing risk assessments that analyze not only the organization’s direct operations, but also relationships with customers, suppliers and third parties in general. These assessments should be customized, taking into account factors such as geographic location, industries involved and financial transaction patterns. In addition, recommended internal controls include real-time monitoring systems, the implementation of enhanced due diligence protocols and the establishment of clear reporting and follow-up mechanisms.

These measures will also help to avoid falling under legal scenarios related to financing of terrorist activities and groups, which may involve hefty criminal sanctions and measures of account freezing or asset seizure, in accordance with U.S. standards and the regulations established in international treaties against the financing of terrorism.

Compliance with OFAC regulations, as well as regulations against terrorist groups and activities, is not only a legal imperative, but also an essential tool to protect the reputation and operational sustainability of organizations. Compliance plays an important role in this regard, as it enables the integration of internal controls and policies that proactively ensure compliance. A robust compliance approach not only helps prevent sanctions, but also strengthens the confidence of business partners, investors and customers.

Companies must also consider the possibility of tax contingencies arising from transactions related to sanctioned actors. In this context, it is possible that some companies may resort to modifying their accounting records or concealing the true nature of transactions through their tax invoices or bookkeeping entries. Therefore, it is important for businesses to identify appropriate ways to address these situations and avoid committing additional violations that could exacerbate their legal and regulatory risk.

Areas of Focus for our Clients

Preventive

- **Enhanced Due Diligence, focused on Preventive Compliance:**

We conduct detailed assessments to identify potential risks in operations, customers and business partners. Our approach is aligned with OFAC standards and focuses on preventing organizations’ exposure to transactions or relationships that may generate sanctions or regulatory violations. This includes:

- o Identification of high-risk counterparties or activities.
- o Monitoring suspicious transactions.
- o Evaluation of suppliers and supply chains in sensitive geographies.

- **Training and Capacity Building:**

We design customized training programs to strengthen our clients’ internal capabilities in regulatory risk management and implementation of internal compliance policies. These trainings include:

- o OFAC regulatory framework.
- o Identification of risks in financial transactions.
- o Implementation of internal controls.

- **Crisis Management Preparedness:**

We assist organizations in creating crisis response plans related to regulatory risks, including:

- o Identification of operational vulnerabilities.
- o Development of action protocols in case of regulatory investigations.
- o Communication strategies (internal and external) in the face of potential incidents.

- **Policy design:**

We support our clients in the design of internal policies that reinforce corporate ethics and regulatory compliance, protecting their operations from potential regulatory sanctions and strengthening their reputation in the marketplace.

Corrective

- **Corrective Actions:**

We advise on the implementation of corrective actions that mitigate the impact of activities or incidents potentially related to OFAC regulations, including:

- o Internal audits to identify vulnerable areas.
- o Updating internal controls and compliance policies.
- o Assistance in resolving issues arising from previous transactions.

- **Crisis Management Support:**

We provide strategic support in regulatory crisis scenarios, such as investigations related to suspicious activity or transactions in risk areas. Our team coordinates:

- o Interaction with regulatory authorities.
- o Designing effective legal responses.
- o Strategic communication management.

- **Legal representation:**

We represent our clients in investigations, regulatory proceedings and litigation related to international sanctions compliance, within the framework of our competence and jurisdiction. Our experience ranges from internal investigations to legal defense in high impact proceedings.

Our Differentiation

At **Von Wobeser y Sierra** we understand the complexity and legal implications of operating in a highly regulated environment with increasing risks. We recommend our clients to review and update their regulatory compliance processes. While the frameworks established under the FCPA are valuable in mitigating risks, it is crucial to assess these risks from an OFAC compliance perspective.

Our approach combines a deep understanding of the OFAC regulatory framework with customized strategies for each client, allowing us to offer practical and effective solutions. **Von Wobeser y Sierra's** Investigations, Anti-Corruption and Compliance attorneys are available to address these issues and have extensive experience working with top-tier U.S. firms. Additionally, we have relevant experience collaborating with auditors, security

experts, strategic communication agencies, and other professionals in the preventive and corrective handling of these matters. Our goal is to protect our clients' interests, ensure their regulatory compliance and strengthen their position in the global marketplace.

For any questions and/or additional information, please contact our experts:

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S I N C E R E L Y

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