National Institute for Combating Cybercrime and Terrorism

INCC · in co-authorship with the National Center for Cybersecurity, Intelligence and Counterterrorism (CNC)

OPINION ARTICLE · INSTITUTIONAL ANALYSIS

No summons, no hearing, no prior notice: how a company ends up on a U.S. sanctions list

After the PCC and Comando Vermelho were designated terrorist organizations by the United States, many companies began asking how, in practice, someone ends up on a sanctions list. Is there any warning? Is there a right to defense before the freeze? How long does it take? This text explains the process in plain language, separating the three possible tracks and showing where the real risk lies for the private sector.

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The designation of the PCC and Comando Vermelho as terrorist organizations by the United States opened a practical question few people can answer: how, exactly, does a company end up on a U.S. sanctions list? Is there any warning? Is there a right to defense before the freeze? How long does it take? The answer is uncomfortable, and it is better to hear it now.

Start with the uncomfortable part: in the procedure that most affects companies, there is no summons, no prior hearing and no notice to the target. Inclusion on a U.S. sanctions list is an administrative act, not a judicial sentence. By the time the company finds out, the decision has already taken effect and the assets are already frozen. Anyone expecting an adversarial proceeding before the freeze is waiting for the wrong step.

A common confusion needs to be cleared up. Designating the PCC and Comando Vermelho as terrorist organizations **does not, by itself, place any Brazilian company on a list**. What the designation does is create the legal trigger that can later reach third parties through different paths. Understanding these paths is what separates the company that protects itself from the one that only discovers the problem when the bank cuts off its operations without explanation.

THE ACRONYMS YOU WILL COME ACROSS

OFAC (Office of Foreign Assets Control): the arm of the U.S. Treasury that administers financial sanctions. **SDN** (Specially Designated Nationals): the public list of persons and companies blocked by OFAC. **FTO** (Foreign Terrorist Organization): the foreign terrorist organization designation made by the State Department. **SDGT** (Specially Designated Global Terrorist): global terrorist designation, the basis for the financial block. **DOJ** (Department of Justice): responsible for the criminal sphere. **Federal Register**: the official gazette of the United States, where the designation is published.

THE THREE FRONTS

THREE DIFFERENT DOORS, THREE AGENCIES, THREE LOGICS

There is no single sanctions process. There are parallel tracks, run by different agencies, that can act independently or in combination. Confusing one with another leads a company to prepare for the wrong door.

Treasury · OFAC

Financial sanction (SDN list)

- Administrative act, with no prior conviction
- Legal basis in IEEPA and Executive Order 13224
- Freezes assets and bars from the U.S. financial system
- It is the front that most affects companies

State · FTO

Terrorist organization label

- Decision of the Secretary of State
- Basis in Section 219 of the immigration law (INA)
- Notifies Congress and publishes in the official gazette
- Opens the door to criminal and civil liability

Justice · DOJ

Criminal sphere

- Criminal prosecution of those who provide material support
- The material support offense can reach 20 years
- Requires a proceeding with evidence and due process
- It is the only track with a trial in the classic sense

WHAT "MATERIAL SUPPORT" IS AND WHY IT REACHES ANY COMPANY

U.S. law defines material support deliberately broadly. It is not just about giving money or weapons. It includes tangible and intangible goods and virtually any service: lodging, transportation, communication, training, consulting, technical advice, documents, personnel and financial services. The only clear exceptions are medicine and religious materials.

In practice, this reaches ordinary commercial gestures. Some examples that most companies never imagine as a risk:

- Renting a room, a warehouse or a property to a front company linked to the organization.
- Transporting cargo, making deliveries or providing logistics without knowing who the final recipient is.
- Processing a payment, opening an account, advancing a receivable or intermediating a transaction.
- Providing accounting, legal advice, consulting or IT services to someone in the organization's chain.
- Selling communication equipment, software, phones or vehicles that end up in the group's hands.
- Hiring, seconding or outsourcing personnel who end up serving the criminal structure.
- Hosting, feeding or providing operational support to members, even through third parties.

The frightening point: this does not depend on size or sector. A carrier, a real estate agency, an accounting firm, a fintech, an electronics store or a small service provider can be caught just as much as a multinational. In the criminal sphere, conviction requires proving there was knowledge that it involved a designated organization, and so-called willful blindness, ignoring obvious signs, counts as knowledge. In the sanctions sphere, civil liability can arise even without intent. That is why the real defense is prior due diligence on whom you do business with.

The designation of the PCC and Comando Vermelho activated the first two doors in late May and early June 2026: the terrorist organization label by the State Department and the global terrorist framing, which triggers OFAC's financial block. The third door, the criminal one, depends on its own investigation and proceeding.

THE PROCEDURE THAT SCARES THE MOST

HOW OFAC'S PATH WORKS, STEP BY STEP

This is the track that can place a company on the SDN list. It does not go before a judge prior to the freeze. Here is the real sequence, from the silent beginning to the effects on third parties.

1. **Silent investigation**
   The target is not warned. There is no summons or prior hearing.
2. **Building the administrative record**
   Financial intelligence and evidence are gathered by the competent agency.
3. **Decision and signing of the designation**
   Administrative act of the Executive. No criminal conviction required.
4. **Publication and SDN list online**
   Enters the official gazette and OFAC's public online list.
5. **Automatic block and the 50% rule**
   Assets in the U.S. are frozen; entities owned 50% or more too.
6. **Duty to block and report**
   Under U.S. jurisdiction, block and notify OFAC within 10 business days.
7. **Secondary effects and liability**
   Risk of secondary sanction and criminal and civil exposure for third parties.

Simplified flow of the OFAC (U.S. Treasury) procedure that results in inclusion on the SDN list. Steps 1 to 3 occur without the target's participation; step 4 is usually the moment the company finds out.

The central point is step 3. The designation is an **administrative act**, not a conviction. The absence of prior notice in this procedure has already been challenged and upheld by U.S. courts, which held that the freeze may precede notification to preserve the effectiveness of the measure. In other words: block first, discuss later.

THE 50% RULE AND WHY IT CATCHES COMPANIES THAT ARE NOT EVEN LISTED

OFAC automatically treats as blocked any company whose combined ownership by sanctioned persons reaches 50% or more, directly or indirectly, even if that company's name does not appear on any public list. There need not be a single sanctioned majority owner.

- Two sanctioned persons with 25% each in the same company: the sum reaches 50% and the company is considered blocked.
- Indirect ownership counts: if a sanctioned person holds 50% of a holding company that owns half of another company, that chain is captured.
- The rule looks at ownership, not control. Someone who controls without holding 50% is not automatically blocked, but OFAC recommends caution and may designate later.

The practical effect is harsh: a company may pass a simple name check cleanly and still be blocked by the ownership structure behind it. That is why due diligence on ultimate beneficial owners is worth more than a name check.

AN IMAGE TO REMEMBER

Picture a lock that changes on its own the moment the name enters the list. The company does not receive the new key nor is it called to a meeting beforehand. It shows up the next day, tries to open the account, the operation or the contract, and the door simply will not open. Only then does the path to discuss the way out begin.

THE OTHER DOOR

THE FTO PROCEDURE, RUN BY THE STATE DEPARTMENT

The foreign terrorist organization label follows its own path, more formal and with a step the OFAC procedure does not have: passing through Congress.

1. **Identification** of the organization by the State Department's counterterrorism office.

2. **Building the administrative record** that supports the designation.
3. **Decision of the Secretary of State**, in consultation with the Attorney General and the Treasury.
4. **Notification to Congress**, with a legal waiting period before publication.
5. **Publication in the official gazette**, the moment the designation takes effect.
6. **Judicial review** possible afterward, within a short deadline, before the competent federal court.

Note the difference in logic: here the target is the criminal organization, not the company. The risk to the private sector comes indirectly, when an operation, a payment or a supply chain touches, even indirectly, the designated organization.

WHAT EVERY MANAGER ASKS

THREE QUESTIONS, THREE DIRECT ANSWERS

THE DOUBTS THAT COME UP FIRST

? **Does the company receive notice of an investigation?** In the OFAC procedure, no. The target is not notified before the freeze. In the criminal sphere, yes, there is a proceeding with defense.

? **How does the company find out it was sanctioned?** Through publication in the official gazette and the public online list, or in practice, when a bank or partner cuts the relationship after checking the list. INCC provides tools to check sanctioned parties and a self-assessment that lets a company understand its current situation and risks, acting before the problem begins.

? **How long does it take?** The designation takes effect immediately upon publication. Getting off the list is the opposite: it can take many months and, in difficult cases, years.

INCC RESOURCE

Check the list and assess your risk before the problem

INCC offers tools to check sanctioned persons and companies and a self-assessment that shows, in a few steps, your organization's current situation and points of exposure. It is a way to act at the stage when there is still time to react, before the publication that freezes everything.

Go to www.incc.org.br

THE WAY BACK

HOW A COMPANY ASKS TO BE REMOVED FROM THE LIST

There is an administrative removal procedure (delisting). The company submits a petition to OFAC demonstrating that there is no longer a basis for maintaining the block, or that there was an identification error. The agency reviews and decides.

What weighs against rushing

Getting on the list is fast and takes effect immediately; getting off depends on the agency's discretionary review and tends to be slow. *The reputational cost and the loss of access to the financial system run throughout that entire interval.*

WHAT TO TAKE FROM THIS TEXT

The designation of the PCC and Comando Vermelho does not automatically sanction companies, but it changes the terrain. The real risk arrives through three doors, and OFAC's door, the one that most affects businesses, acts with no prior notice, no hearing and immediate effect. Mapping exposure, suppliers and payment chains **before** a problem is the only defense that works, because after publication there is no time to react.

Sources and reliability classification

Classification by the NATO (Admiralty) code, from the most reliable source (A1) to the least. A1 indicates an official source and confirmed information; B2, a usually reliable source and probably true information; C3, a fairly reliable source and information to be confirmed.

[A1] U.S. State Department / Bureau of Counterterrorism, statements on the designation of the PCC and Comando Vermelho (foreign terrorist organization and global terrorist), May and June 2026.
state.gov (official statement; confirm the specific announcement URL)

[A1] Federal Register, publication that makes the designation effective.
federalregister.gov · govinfo.gov

[A1] Legal basis for the foreign terrorist organization designation: Section 219 of the Immigration and Nationality Act, codified at 8 U.S.C. §1189.
Stable legal citation (United States Code)

[A1] The 50% rule: an entity owned 50% or more, directly or indirectly and in the aggregate, by sanctioned persons is considered blocked even if not listed. Revised OFAC guidance of August 13, 2014; FAQs 398 to 402.
ofac.treasury.gov (official OFAC FAQs)

[A1] OFAC rules on the duty to report and the removal petition: 31 C.F.R. Part 501 (in particular §501.603 and §501.807).
Stable regulatory citation (Code of Federal Regulations)

[A1] Legal basis for financial sanctions: International Emergency Economic Powers Act, 50 U.S.C. §§1701-1708, and Executive Order 13224 (global terrorist).
Stable legal citation (United States Code; Executive Order)

[A1] Validity of asset blocking based on an administrative record and rejection of the target's due process claims: Holy Land Foundation for Relief and Development v. Ashcroft, 333 F.3d 156 (D.C. Circuit, 2003). IEEPA expressly authorizes blocking assets during the pendency of an investigation (50 U.S.C. §1702).
Published court decision (United States Court of Appeals, D.C. Circuit); stable legal text

[A1] Definition and offense of material support: 18 U.S.C. §2339A (broad definition, excepting medicine and religious materials) and §2339B (support to a designated organization).
Stable legal citation (United States Code)

[A2] Congressional Research Service, explanatory material on foreign terrorist organizations (report IF10613).
congress.gov / crsreports.congress.gov

[B2] Analyses by specialized law firms on the effects of the designation for companies (among them White & Case, Hogan Lovells, A&O Shearman and Brazilian firms). Secondary sources, useful for practical interpretation, subject to case-by-case verification.
Bulletins and client alerts of the respective firms

[B2] Knowledge element required in the material support offense, equating willful blindness with knowledge, and strict civil liability for sanctions violations. Interpretation consolidated in specialized legal analyses; confirm case by case.

Bulletins and client alerts of the respective firms

[C3] Estimated duration of the removal procedure (on the order of many months, possibly reaching years in difficult cases). Based on specialized analyses and past cases; it is not a fixed legal deadline and must be confirmed.

Secondary analyses and enforcement history

Dates and legal framings for 2026 were checked against primary sources. Timing milestones and enforcement practice are based on specialized analyses (secondary sources) and must be confirmed case by case.

This article is informational and educational and **does not constitute legal advice**. Assessing the specific exposure of any organization requires dedicated professional analysis.

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