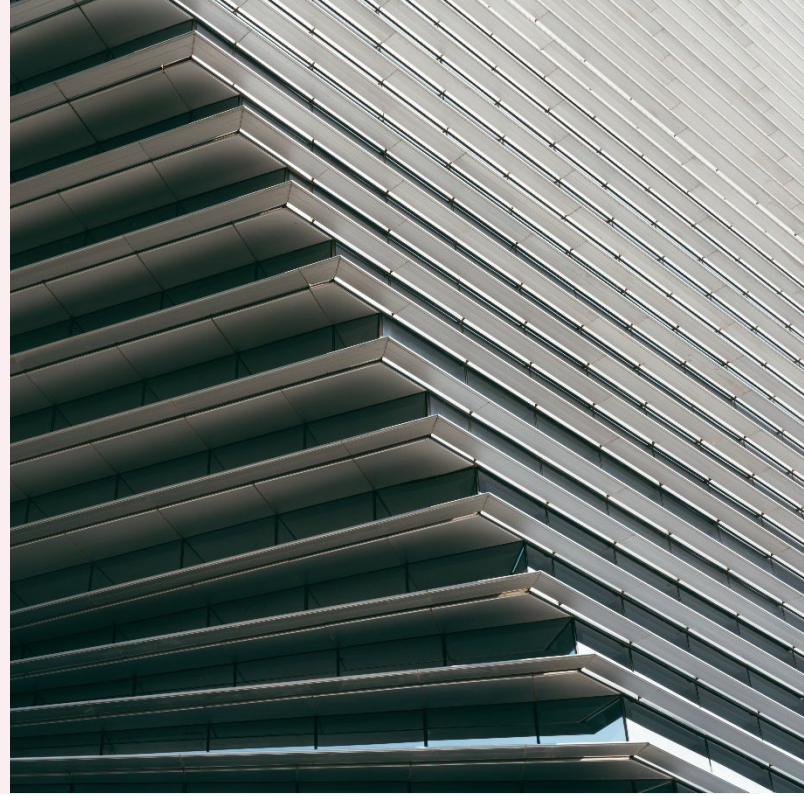


Designation of CV and PCC

June 02, 2026



Last week, the US Department of State ("**State**") designated Comando Vermelho ("**CV**") and Primeiro Comando da Capital ("**PCC**") as Specially Designated Global Terrorists ("**SDGTs**") under Executive Order 13224 and the Global Terrorism Sanctions Regulations. State also announced its intention to designate both CV and PCC as Foreign Terrorist Organizations ("**FTOs**"), effective 5 June 2026. The US Treasury Department's Office of Foreign Assets Control ("**OFAC**") had previously designated PCC as an SDN under a counter-narcotics sanctions program initiated by the Biden Administration.

The existing blocking sanctions applicable to PCC and the new blocking sanctions applicable to both PCC and CV: (a) block any funds or other interests in property of PCC, CV and entities owned 50% or more by them (collectively, "**Blocked Persons**") in the possession or control of US Persons,¹ and (b) require, absent an applicable OFAC license or exemption, the exclusion of US Persons, US territory and the US financial system ("**US Elements**") from any transactions or dealings with or on behalf of Blocked Persons or involving their property or other Blocked Interests, including the provision of funds, goods or services *by, to, or for the benefit of* a Blocked Person.

Separately, OFAC and State, at the discretion of the Trump Administration, now have expanded authority to impose blocking sanctions (through an SDN designation) on, among others, any person that they determine to have provided material assistance or support to a Blocked Person, among other potential forms of sanctionable activity. OFAC also now has authority to impose so-called "CAPTA" sanctions on any foreign financial institution that OFAC determines to "*knowingly facilitate significant transactions for or on behalf of an SDGT*". Under the CAPTA sanctions, OFAC can prohibit or impose restrictions on access by a foreign financial institution to correspondent or payable-through accounts at US banks.

¹ OFAC defines "**US Persons**" as (a) US domiciled entities and their foreign branches, (b) US citizens and US green-card holders globally, and (c) anyone physically located in the United States.

In addition, as a result of the FTO designations, effective 5 June 2026, the blocking sanctions will also apply to "agents" of CV and PCC, which OFAC defines to include any person (a) owned or controlled by a FTO, or (b) who *"is, or has been, or to the extent that there is reasonable cause to believe ... is, or has been, since the effective date, acting or purporting to act directly or indirectly on behalf of a"* FTO.

As noted above, the blocking sanctions on such "agents" and other Blocked Persons apply only to activity of non-US persons that involve US Elements. However, under Section 2339B of the US Antiterrorism Act (the "**ATA**"), the US Department of Justice ("**DOJ**") also has the authority to prosecute any person globally, at its discretion, that it believes has provided "material support or resources" to an FTO. The ATA does not require the involvement of any US Elements in the provision of the material support to the FTO or any proof that the material support contributed to a terrorist act. If the DOJ can obtain custody over the defendant (by arrest in the US or extradition from a foreign country), DOJ can prosecute them if it determines that they have provided, after the effective date of the FTO designation, material support to CV or PCC.

The ATA, at § 2339B, defines "material support or resources" broadly to include any property, tangible or intangible, or service, including **financial services**, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, and transportation. [Emphasis added.]

The key elements for a violation of § 2339B are: (i) the defendant knowingly provided (or attempted or conspired to provide) material support or resources, (ii) to a designated FTO, (iii) the defendant knew that the organization was a designated FTO, or (iv) that the organization had engaged or engages in terrorist activity or terrorism. Both 18 U.S.C. § 2339B and the Immigration and Nationality Act § 219 (which, in turn, provides the definition of "foreign terrorist organization") are silent on whether the criminal risk is limited to assistance provided to the FTO itself or extends to the FTO's controlled entities.

The ATA also provides a private right of action (*i.e.*, civil litigation for damages) to US nationals against *"any person who aids and abets, by knowingly providing substantial assistance or who conspires with"* an FTO. Thus, unlike the criminal provisions of the ATA, the civil provisions require a link between the material support and the terrorist activity of the FTO. To bring a claim, plaintiffs must present facts showing: (i) they suffered an injury by reason of an act of international terrorism; and (ii) that the act was committed, planned, or authorized by a designated FTO. Liability extends to companies that aided and abetted the terrorism. by knowingly providing substantial assistance or by conspiring with the designated FTO. The Supreme Court has held that for knowing and substantial assistance, a defendant must *"consciously, voluntarily, and culpably participate in"* the FTO's wrongful activity.



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