

FinCEN Uses the FEND Off Fentanyl Act for First Time To Prohibit Funds Transfers With Three Mexican Financial Institutions

July 10, 2025



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On June 25, 2025, FinCEN announced its first orders under the 2024 FEND Off Fentanyl Act, finding that three Mexican financial institutions—CIBanco S.A. Institución De Banca Multiple (“CIBanco”), InterCam Banco S.A., Institución de Banca Multiple (“InterCam”), and Vector Casa de Bolsa, S.A. de C.V (“Vector”) (collectively, the “Designated FIs”)—are of “primary money laundering concern in connection with illicit opioid trafficking.” Effective beginning September 4, 2025, U.S. financial institutions are prohibited from engaging in any transmittal of funds from or to the Designated FIs.

The FEND Off Fentanyl Act

In April 2024, Congress passed the FEND Off Fentanyl Act (“FOFA”), establishing a national policy “to apply economic and other financial sanctions to those who engage in the international trafficking of fentanyl, fentanyl precursors, or other related opioids.”^[1] FOFA amended the Fentanyl Sanctions Act to grant the Secretary of the Treasury power to impose restrictions relating to non-U.S. financial institutions that are of “primary money laundering concern in connection with illicit opioid trafficking.”^[2] Available restrictions include six special measures: the five USA PATRIOT Act Section 311 special measures, including record-keeping obligations, reporting requirements, and prohibitions on maintaining correspondent accounts, and a sixth special measure added by FOFA, which allows the Secretary of the Treasury to “prohibit, or impose conditions upon, certain transmittals of funds.”^[3]

Requirements Under the Orders

Each of the three orders prohibits covered financial institutions from engaging in any transmittal of funds from or to any of the Designated FIs.^[4] The term “covered financial institution” includes U.S. banks, broker-dealers, money services businesses, and other financial institutions.^[5]

Each Designated FI is defined to include its branches, subsidiaries, and offices located in Mexico. Any branches, subsidiaries, or offices operating outside of Mexico are expressly excluded from the definition of each Designated FI.

Unlike OFAC sanctions, which generally prohibit all dealings with a sanctions target, the FinCEN orders prohibit only the “transmittal of funds,” which is defined as the sending and receiving of funds, including convertible virtual currency. Beginning on the effective date, the orders require covered financial institutions to reject any prohibited transmittal of funds; the orders do not require any blocking, freezing, or reporting.

The penalties for engaging in a prohibited transmittal of funds include criminal fines of up to \$1,000,000 per violation, and civil money penalties of up to \$1,776,364 per violation.

FinCEN’s orders initially were to become effective on July 21, 2025. However, on July 9, 2025, FinCEN extended the effectiveness date of the orders to September 4, 2025. The orders have no cessation date.

Compliance Considerations

To ensure compliance with the orders, U.S. financial institutions may wish to consider several measures:

- Evaluate exposure to the Designated FIs to identify and manage related risk.
- Review agreements that involve any of the Designated FIs, whether directly or indirectly, to understand any legal, contractual, or operational implications.

- Ensure that compliance processes are calibrated to manage the risks that FinCEN's use of its new authority presents.

Notably, the FinCEN orders find that the Designated FIs have facilitated opioid-related money laundering for cartels that OFAC has sanctioned and that the Department of State has designated as foreign terrorist organizations. Although transmittals of funds with the Designated FIs remain permissible until September 4, 2025, financial institutions and non-financial institutions alike may wish to conduct additional diligence on any transactions involving the Designated FIs.

Looking Ahead

Mexico's bank regulator has intervened in response to FinCEN's orders, including by appointing representatives to key management functions at the Designated FIs, and by reviewing the AML/CFT certification of the compliance officers of the Designated FIs.^[6] FinCEN cited these measures by the Government of Mexico as a reason for extending the orders' effectiveness date to September 4, 2025; it remains to be seen whether additional measures by the Government of Mexico will cause FinCEN to change the effectiveness date again, or otherwise alter or withdraw the orders.

Separately, Mexico's Ministry of Finance and Public Credit has announced a plan to spin off the trust businesses of CIBanco and InterCam to ensure the "operational continuity of the trusts they currently manage."^[7] No timing for such a spin-off has been announced, but if implemented, the plan may remove CIBanco and InterCam as trustees of trusts with which U.S. financial institutions deal, allowing transmittals of funds involving those trusts to continue.

^[1] Pub. L. No. 118-50, § 3101(b), 138 Stat. 936.

^[2] 21 U.S.C. § 2313a(a).

^[3] 31 U.S.C. § 5318A(b)(1)–(5); 21 U.S.C. § 2313a(a)(2).

^[4] 90 Fed. Reg. 27764 (Jun. 30, 2025) (Vector); 90 Fed. Reg. 27770 (Jun. 30, 2025) (CIBanco); 90 Fed. Reg. 27777 (Jun. 30, 2025) (InterCam).

^[5] *Id.*, 31 C.F.R. § 1010.100(t).

^[6] FinCEN, Frequently Asked Questions, at 5-6 (Jul. 9, 2025), <https://www.fincen.gov/sites/default/files/shared/Final-FAQs.pdf>; Comisión Nacional Bancaria y de Valores, Comunicado Conjunto, Junta de Gobierno de la CNBV decretó la intervención gerencial temporal de CI Banco, S.A. e InterCam Banco, S.A., (Jun. 26, 2025), <https://www.gob.mx/cnbv/prensa/comunicado-conjunto-junta-de-gobierno-de-la-cnbv-decreto-la-intervencion-gerencial-temporal-de-ci-banco-s-a-e-intercam-banco-s-a>

^[7] Secretaría de Hacienda y Crédito Público, Comunicado No. 28 (Jul. 4, 2025), <https://www.gob.mx/shcp/prensa/comunicado-no-28-hacienda-anuncia-escision-y-proceso-de-transferencia-temporal-del-negocio-fiduciario-de-instituciones-de-credito-en-administracion-cautelar-a-la-banca-de-desarrollo-mexicana>