

TECHNICAL COMMUNIQUÉ CT-08/2022

Instructions regarding audits on the prevention and fight against the laundering of money or securities and the terrorist financing by banking financial institutions

Andorra la Vella, October 25th, 2023

Dear Sirs /Madams,

According to Article 40.1 paragraph a) of *Law 14/2017, of 22 June, on the prevention and fight against money laundering and terrorist financing* (hereafter, *Law 14/2017*), the financial reporting entities should carry out an independent external audit to assess compliance with the articles of this Law, and convey a copy of the resulting report to the Financial Intelligence Unit from Andorra (hereafter, UIFAND) on a yearly basis.

A. Procedure for appointing the external auditor

In this regard, the reporting entity must have a procedure in place in order to determine whether the auditor has the appropriate ability and expertise to issue an opinion on the matter of prevention and fight against money laundering and terrorist financing.

Once the auditor is appointed, and prior to the realization of the corresponding audit, **no later than on the 30th of November 2023**, the reporting entity must provide to the UIFAND:

- a) The identification of the designated auditing entity, as well as the name and position of all the auditors that will participate in the evaluation and report preparation;
- b) A certificate issued by an associated partner of the auditing entity stating:
 - That nor the auditing entity or the auditors participating in the audit have maintained a professional or business relationship, either directly or indirectly, with the reporting entity, in the past three years, besides carrying out other audit report to comply legal requirements (audit of financial statements, CRS, etcetera).
Any financial, commercial or any other type of relationship that has been carried out either directly or indirectly, between the auditing entity or the auditors and the reporting entity, which may entail a

conflict in terms of independence for the auditor during the issue of their opinion, must be immediately informed to the UIFAND.

- A reasoning on the capacity of the auditing team, in terms of training and experience, to issue an opinion on the matter of prevention and fight against money laundering and terrorist financing in accordance with the regulation applicable in Andorra.

The UIFAND will not take a stand in relation to the designated auditing entity; however, the Unit can react in case it identifies any element that spread doubts about the capacity or independence of the external expert to issue an opinion in terms of AML/CFT.

B. Instructions for the elaboration of the report

IMPORTANT

- The report should necessarily contain described and/or verified items, which should be exposed in the same order in which they appear in this technical communiqué and should follow the same structure.
Otherwise, the audit report could be considered incomplete or with shortcomings and entail a serious infringement of the AML/TF regulation according to article 72.16 of *Law 14/2017*.
- In cases where the auditor verifies the implementation of the entity's procedures through samplings, the determined sample should contain risk factors. For this purpose, following elements should necessarily be taken into consideration:
 - Selected customers' typology (natural and legal persons, residents and non residents, national and foreign PEPs, etc.);
 - Contract date or date of the beginning of the business relationship; and
 - Percentage of the verified contracts and business relationships out of the total number of existing.
- When the description of the performing sampling is requested, the auditor should indicate the size and the features of the selected sample, which have to contain at least the description of the elements mentioned above.
- Auditor must ensure that the size of the sample is appropriate and complete, for the purpose of expressing an opinion about the control procedure to verify.
- As a complement to the instructions contained in this Communiqué, the auditor should consider the informative note issued on 23th October 2020 by the UIFAND, which was addressed to banking institutions in order to be shared with auditors.

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C. Content of the audit report

1. General information on the reporting entity

- a) Identification of the reporting entity.
 The external expert should identify all the entities if the report cover more than one reporting entity which are subjected to the same control procedures and which belong to the same economic group.
 The basic data which must appear are: (i) name and corporate name; (ii) address; (iii) social object; and (iv) registration in public registries.

| Description |
|-------------|
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- b) Information about the activity and characteristics of the reporting entity that are considered relevant from the perspective of AML/CTF, indicating notable risk factors.

| Description |
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- c) Main distribution channels, physical and telematics, used for the commercialization of the different products and services offered by the entity.

| Description |
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2. Internal Control and Communication Body (ICCB)

Designation and operating procedure of ICCB, in accordance with Article 40 of Law 14/2017 and article 15 of Regulations for the application of Law 14/2017.

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| Description (including, among others, organizational chart of the body, stating the composition, name and position held in the entity by its members) |
| |
| Assessment of the suitability and effectiveness of implemented procedures |
| |
| Type of detected shortcomings and its degree of relevance |
| |
| Proposals on improving internal control |
| |

3. System to communicate suspicious activity reports

Procedures for the detection of suspicious activities, communication to the internal control and communication body and subsequent submission to the UIFAND, if applicable:

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| Description |
| Assessment of the suitability and effectiveness of implemented procedures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

Attach the corresponding **annex 1** to the audit report.

4. Control measures and procedures with respect to the staff of the entity

- a) Measures adopted for the fit and proper suitability assessment performed in relation to new hires.

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| Description |
| Assessment of the suitability and effectiveness of implemented procedures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

- b) Specific measures adopted to prevent the personnel of the entity from being used to facilitate money laundering or terrorist financing activities

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| Description |
| Assessment of the suitability and effectiveness of implemented procedures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

- c) Procedures and adopted measures in relation to staff training in compliance with article 42.1 of Law 14/2017.

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| Description (including, among others, detailed description of the training programs carried out) |
| Assessment of the suitability and effectiveness of implemented procedures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

5. Control measures and procedures with respect to the customer of the entity

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| Description of the realised sample ¹ |
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- a) Procedures of clients' classification according to the ML/TF risks specifying the factors, categories in place and the type of measures that apply to each one.

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| Description |
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| Assessment of the suitability of the clients' classification model |
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| Type of detected shortcomings and its degree of relevance |
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| Proposals on improving internal control |
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- b) Procedures in place for the identification and verification of the identity of the client and the beneficial owner.

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| Description (including, among others, the type of the obtained documentation) |
| |
| Assessment of the suitability and effectiveness of implemented procedures |
| |
| Type of detected shortcomings and its degree of relevance |
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| Proposals on improving internal control |
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- c) Procedures established for the identification of politically exposed persons and the adopted measures in order to mitigate the associated risks in compliance with articles 14 to 17 of Law 14/2017.

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| Description (including, among others, the type of the obtained documentation) |
| |
| Assessment of the suitability and effectiveness of implemented procedures and adopted measures |
| |
| Type of detected shortcomings and its degree of relevance |
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| Proposals on improving internal control |
| |

- d) Procedures in place in order to achieve an adequate knowledge of the client, including the origin of the funds, the professional activity, etc.

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| Description (including, among others, the type of the obtained documentation) |
| |

¹ The assessment of each point included in section 5 has to be carried out based on a single sample which must be established following the instructions described in section B of this communiqué.

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| Assessment of the suitability and effectiveness of implemented procedures and adopted measures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

- e) Measures in place to update documents, data or information obtained in application of the due diligence measures.

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| Description |
| Assessment of the suitability and effectiveness of implemented procedures and adopted measures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

- f) Transaction monitoring of the operations carried out during the business relationships (alerting system, specific checks, etc.) and adopted measures.

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| Description |
| Assessment of the suitability and effectiveness of implemented procedures and adopted measures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

- g) Procedures established for the identification of persons and entities designated by the United Nations Security Council and for the adoption and communication of restrictive measures.

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| Description |
| Assessment of the suitability and effectiveness of procedures implemented for identification and adopted measures |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

- h) Measures established in order to digitize and preserve documentation, in compliance with the obligations established under article 37 of Law 14/2017.

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| Description |
| Assessment of the suitability and effectiveness of procedures implemented |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

6. Reliance on third parties

Procedures to rely on third parties the customer due diligence measures according to article 18 of Law 14/2017.

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| Description |
| Assessment of the suitability and effectiveness of procedures implemented |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

7. Branches, subsidiaries or delegations located abroad

- a) Measures adopted by reporting entity in order to ensure that it disposes of sufficient and valid knowledge of the regulations concerning the prevention of money laundering and terrorist financing in countries or jurisdictions where it operates.

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| Description |
| Assessment of the suitability and effectiveness of procedures implemented |
| Type of detected shortcomings and its degree of relevance |
| Proposals on improving internal control |

- b) Procedures of control to ensure the implementation of equivalent requirements in relation to the prevention of money laundering and terrorist financing as those established by the Andorran legislation in the case of those related to the concerned country that are less strict.

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| Description |
| Assessment of the suitability and effectiveness of procedures implemented |

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| Type of detected shortcomings and its degree of relevance |
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| Proposals on improving internal control |
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Attach the corresponding **annex 2** to the audit report.

8. Omnibus accounts

Measures applied in relation to omnibus account management for compliance with article 7.4 of the Regulations for the application of Law 14/2017.

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| Description (including, among others, the number of omnibus accounts hold in the entity) |
| |
| Assessment of the suitability and effectiveness of procedures implemented |
| |
| Type of detected shortcomings and its degree of relevance |
| |
| Proposals on improving internal control |
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9. Correspondent banking and other similar business relationships in which the reporting entity acts as a correspondent

Measures adopted related to correspondent banking and other similar business relationships in which the reporting entity acts as a correspondent, in accordance with article 13 of Law 14/2017.

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| Description (including, among others, number of entities, by jurisdiction, to which the audited entity provides this service, specifying those that are group entities) |
| |
| Assessment of the suitability and effectiveness of procedures implemented |
| |
| Type of detected shortcomings and its degree of relevance |
| |
| Proposals on improving internal control |
| |

10. New products, business practices and/or technologies

Procedures regarding new products, new business practices and/or new technologies, in accordance with article 9.6 of Law 14/2017.

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| Description (including, the type of new products, business practices and/or technologies) |
| |
| Assessment of the suitability and effectiveness of procedures implemented |
| |
| Type of detected shortcomings and its degree of relevance |
| |
| Proposals on improving internal control |
| |

11. New prevention/detection measures and procedures implemented (or under study and/or in the process of implementation) since the last audit performed, in relation to:

- a) The follow-up of recommendations stated by the auditors regarding previous audits that have been carried out.
Attach the corresponding **annex 3** to the audit report.
- b) The follow-up of recommendations that have been made by the UIFAND regarding previous audits performed. Additionally, if the reporting entity has received an on-site inspection by the UIFAND during the audited year, the tracking of recommendations made by the Unit within the framework of the inspection.
Attach the corresponding **annexes 4.1** and **4.2** to the audit report.

12. Attach to the audit report the internal policies and procedures for the prevention of money laundering and terrorist financing established by the reporting entity.

The resulting report of each entity should be delivered directly by the auditors to this Unit only in electronic format, that allows the Unit to process the information (perform searches, copies, etc.).

Although the external auditor conducts the audit report, the reporting entity is the one responsible for providing and ensuring that all the information specified in the various sections of this technical communiqué is included in the report.

The maximum irrevocable deadline for the submission of this report is **April 1st, 2024**.

We stay at your disposal for any further information you may require, and we take this opportunity to send you our respects.

Carles FIÑANA PIFARRÉ
Head of the UIFAND

ANNEX 1

Origin of the suspicious activity reports made during the audited year

| | Audited year |
|--|--------------|
| A] The total number of alerts generated by the transaction monitoring system | |
| A.1] Archived alerts | |
| A.2] Alerts that have resulted in a SAR | |
| B] Total number of internal suspicious communications reported by the employees of the entity to the Compliance Department, the Internal Control and Communication Body, or equivalent | |
| B.1] Archived internal suspicious communications | |
| B.2] Internal suspicious communications that have resulted in a SAR | |
| C] Total number of operations analysed by the Compliance Department or by the Internal Control and Communication Body (besides the ones derived from the alerts generated by the monitoring system and the internal suspicious communications) | |
| C.1] Archived operations | |
| C.2] Operations that have resulted in a SAR | |
| Total SARs presented to the UIFAND | |

ANNEX 2

Subsidiaries, branches or delegations located abroad

Table 2.1. General data

| | Entity name | Subsidiary, branch, delegation, or others, located abroad (specify) | Jurisdiction | Equivalent jurisdiction? (Yes/No) | Audited in AML/CFT matters? (if yes, indicate the date of the last report) | Activity | % of the bank's participation |
|-----|-------------|---|--------------|-----------------------------------|--|----------|-------------------------------|
| 1 | | | | | | | |
| 2 | | | | | | | |
| ... | | | | | | | |
| N | | | | | | | |

Table 2.2. AML/CFT supervision and control

| | Entity name | Competent supervisory authority (AML/CFT) | Number of on-site inspections carried out by the competent supervisory authority | Shortcomings detected by the competent supervisory authority | Sanctions imposed by the competent supervisory authority (even if these have not yet been confirmed) | Number of inspections carried out at the subsidiary, branch or bank's foreign delegation by the audited entity | Shortcomings detected by the bank | Number of external audits in relation to AML / TF carried out during the audited year | Shortcomings detected by the external auditor |
|-----|-------------|---|--|--|--|--|-----------------------------------|---|---|
| 1 | | | | | | | | | |
| 2 | | | | | | | | | |
| ... | | | | | | | | | |
| N | | | | | | | | | |

ANNEX 3

Status of the recommendations issued by the auditor in relation to the analysis of previous audit reports

| | Audited exercise | Pending recommendations from previous reports | Current status of the recommendation | Comments - actions carried out or in course of implementation | Timeline for the implementation of the recommendation ² |
|-----|------------------|---|--|---|--|
| 1 | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| 2 | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| ... | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| N | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |

² Only apply to the recommendations “partially adopted” or “not adopted”.

ANNEX 4

Table 4.1. Status of the recommendations issued by the UIFAND in relation to the analysis of previous audit reports.

| | Audited exercise | Pending recommendations from previous reports | Current status of the recommendation | Comments - actions carried out or in course of implementation | Timeline for the implementation of the recommendation ³ |
|------------|-------------------------|--|--|--|---|
| 1 | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| 2 | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| ... | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| N | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |

³ Only apply to the recommendations “partially adopted” or “not adopted”.

Table 4.2. Status of the recommendations made by the UIFAND following an on-site inspection.

| | Date of the on-site inspection report | Description of the recommendation | Current status of the recommendation | Comments - actions carried out or in course of implementation - | Timeline for the implementation of the recommendation ⁴ |
|-----|---------------------------------------|-----------------------------------|--|---|--|
| 1 | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| 2 | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| ... | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |
| N | | | <input type="checkbox"/> Adopted <input type="checkbox"/> Partially adopted <input type="checkbox"/> Not adopted | | |

⁴ Only apply to the recommendations “partially adopted” or “not adopted”.