

TECHNICAL COMMUNIQUÉ CT-04/2018

Andorra la Vella, 21 June 2018

Dear Sirs/Madams,

The Andorran regulations on matters of the prevention of and fight against the laundering of money or assets and terrorist financing (ML/TF) establish the duty of each reporting entity to possess an internal control and communication body (ICCB) in charge of the organization and surveillance of compliance with the rules for the prevention of ML/TF.

In the accomplishment of its mission, the ICCB should verify the constant effective compliance with the obligations of the entity and of its administrators, general management and personnel, in accordance with the laws in force. This body may be formed by a single person or a group of persons, its composition being adapted to the structure, complexity and size of the entity's business.

In order for the ICCB to carry out its functions, reporting entities should adopt the necessary measures to endow this body with suitable human, training, material, technical and organizational resources.

In this respect, as concerns the fitness and propriety of the persons designated to form part of the ICCB¹, the Law provides that its members should fulfil, as a minimum, the following requirements for their appointment²:

- a) They should be members of the top management or executives of the reporting entity.
- b) They should be appointed by the governing body or the general management.
- c) They should possess the necessary professionalism to perform their functions with integrity.
- d) They should have the necessary experience, knowledge of the Andorran legislative framework in matters of the prevention of money laundering and terrorist financing, availability, and authority within the entity in order to carry out effectively their functions within the internal control body.
- e) They should have the authority to propose to the top management, on their own initiative, all the measures and means necessary to ensure the compliance and effectiveness of the internal measures of prevention of money laundering and terrorist financing.

¹ By virtue of the provisions of Paragraph 2, Article 40.2 of *Law 14/2017, of 22 June, on prevention of the laundering of money or assets and terrorist financing*, the status of ICCB of **non-financial reporting entities which are natural persons** falls to the same natural person who is in charge of the activities which determine his status as a reporting entity

²The requirement mentioned in Point (1) is established by virtue of the provisions of Letter a), Article 40.2 of *Law 14/2017*. The rest of the requirements (Points 2 to 5) correspond to the provisions of Article 15.2 of the *Regulation for the application of Law 14/2017*.

Additionally, reporting entities should ensure that their respective ICCBs have immediate access to all the documentation relating to the identification of customers, to the rest of the documentation relating to compliance with the obligations of due diligence, to the records of transactions, and to any other relevant information.

Moreover, Article 40.3 of *Law 14/2017* provides that reporting entities should appoint at least one executive who is a member of the ICCB to act as the representative before UIFAND, according to criteria of training, fitness and propriety and experience in the sector. Functions of all representatives before UIFAND, according to Paragraph 4 of the aforesaid Article, are stated to be as follows:

- To submit the suspicious transaction reports to which reference is made in Article 20 of *Law 14/2017*, and
- To receive requests and formal petitions from UIFAND.

UIFAND has observed the need to harmonize the procedure of notification, by reporting entities, of the appointment of their respective ICCBs and of their respective representatives before UIFAND, and the need to update the contact information of the reporting entities which is contained in the internal registers of UIFAND.

To this end, a new form has been designed for submitting information to UIFAND on the basic identification data of the reporting entity, its typology, the composition of the ICCB and the appointed representative before UIFAND. This new form is called “Internal Control and Communication Body and Representative before UIFAND” and it is available on the website of UIFAND (www.uifand.ad).

As a first report, for the purpose of updating the data in the register of UIFAND, we request **all the reporting entities** to verify their compliance with the requirements mentioned in the preceding paragraphs and to inform us in this respect **by submitting a duly completed and signed copy of the form to the UIFAND offices before 1 October 2018.**

Any subsequent change in the information submitted on this document should be notified to UIFAND within a maximum time of fifteen days by submitting an update form.

In the case of new natural persons or legal entities which have the consideration of reporting entities according to the provisions of Article 2 of *Law 14/2017*, the form should be submitted for the first time before the start-up of their activities. Moreover, in the case of natural persons or legal entities which, as a result any change, become reporting entities, which they previously were not, notification should be given immediately upon acquiring the status of reporting entity.

All forms for reporting entities which are legal entities should be accompanied by the certificate which proves the appointment of the Internal Control and Communication Body and of the representative/s before UIFAND.

Likewise, it should be pointed out that in the case of reporting entities which belong to a group, compliance may be made with the obligations relating to the Internal Control and Communication Body and to the representative/s before UIFAND within the scope of the group³. However, the notification to UIFAND which is described in this Communiqué should be submitted separately.

In the case in which the reporting entity ceases to hold its status as such due to its having ceased to carry out the activities which made it subject to *Law 14/2017*, it should so notify UIFAND by means of a simple notification.

³ ¹ By virtue of the provisions of Article 15.5 of the *Regulation for the application of Law 14/2017*.

Lastly, we inform you that with the issuance of this Communiqué, the form called “Representative of the Internal Control and Communication Body” is null and void.

We stand at your disposal to answer any questions or to provide any additional information.

Best regards,

Carles FIÑANA PIFARRÉ
Head of UIFAND

Internal control and communication body and representative before UIFAND

1. Data of the natural person reporting entity

Forename and surnames:	
Nationality:	Passport no.:
Address:	
Postal code and town:	Country:
E-mail address:	Land line/mobile:

2. Data of the legal entity reporting entity

Name:	
Registration no.:	
Address:	
Postal code and town:	Country:
E-mail address:	Land line/mobile:
Forename and surnames of the legal representative:	
E-mail address:	Land line/mobile:

3. Type of reporting entity⁴

Financial reporting entity

<input type="checkbox"/> Operative entity of the financial system
<input type="checkbox"/> Insurance company <i>(only those authorized to operate in the life insurance branch)</i>
<input type="checkbox"/> Insurance broker who carries out insurance mediation activity in the life insurance branch in exchange for remuneration
<input type="checkbox"/> Postal order institution
<input type="checkbox"/> Subsidiary located in the Principality of Andorra <i>(this refers to the subsidiaries of any of the aforementioned categories regardless of the place where their respective central administration is located)</i>

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¹ Reporting entity according to the provisions of Article 2 of "Law 14/2017, of 22 June, on prevention of and the fight against the laundering of money or assets and terrorist financing" available in the "Legislation" section of the UIFAND website (www.uifand.ad).

Non-financial reporting entity

<input type="checkbox"/> External accountant
<input type="checkbox"/> Tax consultant
<input type="checkbox"/> Auditor
<input type="checkbox"/>

<input type="checkbox"/> Notary
<input type="checkbox"/> Lawyer
<input type="checkbox"/> Member of another independent legal profession (specify:.....)
<input type="checkbox"/>
<i>When they participate, acting in the name and on behalf of their customer, in any financial or real estate transaction, or assisting in the planning or performance of transactions on behalf of their customer relating to:</i>
<ul style="list-style-type: none">- the purchase and sale or other acts of disposition of immovable property or entities;- the management of funds, securities or other assets of the customer;- the opening or management of bank accounts, savings accounts or securities accounts,- the organization of the contributions necessary for the creation, functioning or management of companies;- the creation, functioning or management of trusts, companies, associations, foundations or analogous structures.

<input type="checkbox"/> Economist
<input type="checkbox"/> Administrative services agent or provider of services to companies
<input type="checkbox"/>
<i>When they provide services to companies, other legal entities, legal instruments of trust and other fiduciary structures.</i>

<input type="checkbox"/> Real estate agent
<i>(only if they carry out activities relating to the purchase and sale of real estate)</i>

<input type="checkbox"/> Merchant of goods
<i>(only to the extent in which the payments are made or are received in cash and for an amount equal to or greater than 10,000 euros, regardless of whether they are carried out in one or several transactions between which there would appear to be some type of relation)</i>

<input type="checkbox"/> Gambling casino
<i>(in-person and online)</i>

<input type="checkbox"/> Association
<input type="checkbox"/> Foundation
<input type="checkbox"/> Other non-profit entities (specify:.....)
<input type="checkbox"/>

Other reporting entities

<input type="checkbox"/> Non-resident which carries out, in the Principality of Andorra, activities of the same nature as mentioned above)
Specify:.....

4. Composition of the Internal Control and Communication Body

In compliance with Article 40.2 of Law 14/2017, of 22 June 2017, on prevention of and the fight against the laundering of money or assets and terrorist financing, we inform that the internal control and communication body (ICCB) in charge of the organization and surveillance of compliance with the rules on the prevention of the laundering of money or assets is formed by the following members (at least one)⁵:

Forename and surnames	Position in the body

5. Appointment of the representative/s before UIFAND⁶

In compliance with Article 40.3 of Law 14/2017, of 22 June 2017, on prevention of and the fight against the laundering of money or assets and terrorist financing, we inform of the appointment of the following representative/s before UIFAND:

Forename and surnames	Contact telephone	E-mail address

6. Date and signature

On (day) _____ of (month) _____ of (year) _____

Signature of the representative/s

⁵ In accordance with the provisions of Paragraph Two of Article 40.2 of the aforementioned Law, non-financial reporting entities which are natural persons who are the title-holders of activities which determine their status as reporting entities, have the status of internal control and communication body.

⁶ In accordance with Article 40.3 of the aforementioned Law, reporting entities should appoint at least one executive who is a member of the Internal Control and Communication Body to act as representative before UIFAND.

Important information

- f) This form should be duly signed and submitted on paper, with acknowledgement of receipt, to the following address:
Financial Intelligence Unit of Andorra -UIFAND-
C/ Dr. Vilanova 15-17, Floor -4
AD500 Andorra la Vella
- g) In the case of legal entities, this form should be accompanied by the document proving the appointment of the Internal Control and Communication Body and of the representative/s before UIFAND.
- h) Deadline for submission: immediately after the natural person or legal entity acquires the status of reporting entity.
- i) Any change in the information contained in this document should be duly notified to UIFAND within a maximum time of fifteen days by submitting an update of this form.
- j) The appointment of the representative before UIFAND should not be confused with the appointment of the legal representative of the company, although one same person may hold both positions.
- k) In the case of reporting entities belonging to a group, compliance may be made at group level with the obligations relating to the Internal Control and Communication Body and to the representative/s before UIFAND. Notwithstanding, each reporting entity which forms part of the group should submit its own respective form.