

TECHNICAL COMMUNIQUÉ CT-06/2019

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

Andorra la Vella, October 15th, 2019

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, the reporting entity must provide to the UIFAND, **no later than November 15th, 2019**:

- 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 preparation of the report;
- b) A certificate issued by a partner of the auditing entity stating:
 - That neither the auditing entity nor 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 audit reports to comply with other legal requirements (audit of financial statements, CRS, etcetera). Any financial, commercial or relationship of any kind either direct or indirect, between the auditing entity or the auditors and the reporting entity that may entail a conflict in terms of independence for the auditors when issuing their opinion, must be immediately informed to the UIFAND.

- 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 raises doubts about the capacity or independence of the external expert to issue an opinion in terms of AML/CFT.

After the appointment of all the auditors, the UIFAND will call them for a joint meeting about the content of the audit report and to resolve any doubts that may arise.

B. Instructions for the elaboration of the report

IMPORTANT

- The report has to necessarily contain all the items that have to be described and/or verified, in the same order in which they appear in this Technical Communiqué and has to 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 those cases where the auditor verifies the implementation of procedures by the entity through samplings, the determined sample has to contain the appropriate risk factors. For this purpose, the following elements have to be necessarily taken into account:
 - The typology of selected customer (natural and legal persons, residents and non residents, national and foreign PEPs, etc.);
 - The typology of selected products / accounts (nominal and numbered accounts, etc.);
 - The dates of the contracts or the start of the business relationship; and
 - The percentage of reviewed contracts and business relationships out of the existing total.
- Whenever the description of the utilized sample is requested, the auditor must indicate the size and characteristics of the selected sample, which has to contain, at least, the description of the aforementioned elements.
- The auditor must ensure that the size of the sample is appropriate and comprehensive, for the purpose of expressing an opinion about the control procedure subject to verification.

C. Content of the audit report

1. General information of the reporting entity

- a) Identification of the reporting entity.

The external expert should identify all the entities if the report covers more than one reporting entity which are subject to the same control procedures and are part of the same economic group.

The basic data of the reporting entity that must be stated are: (i) name and corporate name; (ii) address; (iii) business purpose; and (iv) registration in public registries.

Description

- b) Information about the activity and characteristics of the reporting entity that are considered relevant from an AML/CFT perspective, indicating noteworthy risk factors.

Description

- c) Main distribution channels, whether physical or electronic, used for the commercialization of the different products and services offered by the entity.

Description

2. Internal Control and Communication Body (ICCB)

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

Description (including, among others, the 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 the implemented procedures
Type of detected shortcomings and their relevance
Proposals on improving internal control

3. Systems for communicating 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:

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

4. Control measures and procedures regarding the entity staff

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

Description
Assessment of the suitability and effectiveness of the implemented procedures
Type of detected shortcomings and their 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.

Description
Assessment of the suitability and effectiveness of the implemented procedures
Type of detected shortcomings and their 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.

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

5. Control measures and procedures regarding the entity customers

Description of the sample used ¹

- a) Procedures of customer ML/TF risk categorization, specifying the factors, categories in place and the type of measures applicable to each one of them.

Description
Assessment of the suitability of the customers categorization model

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

Type of detected shortcomings and their relevance
Proposals on improving internal control

- b) Procedures in place for the identification and verification of the identity of the customer and the beneficial owner.

Description (including, among others, the type of documentation used)
Assessment of the suitability and effectiveness of the implemented procedures
Type of detected shortcomings and their relevance
Proposals on improving internal control

- c) Established procedures for the identification of politically exposed persons and adopted measures in order to mitigate the associated risks.

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

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

Description (including, among others, the type of documentation used)
Assessment of the suitability and effectiveness of the implemented measures and procedures
Type of detected shortcomings and their relevance
Proposals on improving internal control

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

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

Type of detected shortcomings and their relevance
Proposals on improving internal control

- f) Monitoring systems of operations carried out during the business relationships (alerts system, specific controls, etc.) and adopted measures.

Description
Assessment of the suitability and effectiveness of the implemented measures and procedures
Type of detected shortcomings and their relevance
Proposals on improving internal control

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

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

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

Description
Assessment of the suitability and effectiveness of the implemented measures and procedures
Type of detected shortcomings and their relevance
Proposals on improving internal control

6. Reliance on third parties

Procedures of reliance on third parties to conduct customer due diligence measures, according to article 18 of Law 14/2017.

Description

Assessment of the suitability and effectiveness of the implemented measures and procedures
Type of detected shortcomings and their relevance
Proposals on improving internal control

7. New products, business practices and/or technologies

Procedures regarding new products, new business practices and/or new technologies, according to article 9.6 of Law 14/2017.

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

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

- a) The follow-up of the auditors' recommendations from previous audit reports.
Attach the corresponding **annex 1** to the audit report.
- b) The follow-up of the UIFAND recommendations from previous audit reports. Additionally, if the reporting entity has received an on-site inspection by the UIFAND during the audited year, conduct a follow-up of the recommendations made by the Unit within the framework of the inspection.
Attach the corresponding **annexes 2.1** and **2.2** to the audit report.

9. 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 both in physical and electronic form, in a format that enables the processing of the information (perform searches, copies, etc.).

Although the external auditor is in charge of carrying out the audit report, the reporting entity is the one responsible for providing all the necessary information related to the various sections of this technical communiqué.

The maximum irrevocable deadline for the submission of this report is **March 31th, 2020**.

We remain at your disposal for any further clarification, and we take this opportunity to send you our respects.

Carles FIÑANA PIFARRÉ
Head of the UIFAND