

TECHNICAL COMMUNIQUÉ CT-10/2016

Andorra la Vella, 22 December 2016

Dear Sirs and Madams,

Given the recent adoption and forthcoming entry into force of Law 19/2016, approved by the General Council (Andorran Parliament) on November 30, regarding the automatic exchange of information on tax matters, as well as the various agreements signed by Andorra in the same field of international cooperation on tax matters, UIFAND considers it necessary that all the country's reporting entities should intensify their measures addressed to preventing forbidden practices.

Our Unit, within the framework of its activities, wishes to recall the risks inherent to planning, assisting, executing, facilitating or participating in any other way in commercial, corporate, real estate, financial or other operations with the aim to avoid or postpone the automatic exchange of information on tax matters.

In many cases such operations do not pursue any economic aim but rather seek to conceal or cover up the origin, location, movement or ownership of funds (including, according to the definition in Paragraph 3 of Article 366 bis of the Criminal Code, financial assets and property of any nature, either movable or immovable, among others). As examples of these operations, the incorporation of companies, donations, trust business and the use of intermediaries (even including reporting entities), among others, may be included..

It is possible that funds on which the aforementioned operations are carried out have their origins, among others, in criminal activities as defined in Article 409 of the Criminal Code (in this context, criminals would take advantage of the current situation to launder their illicit funds).

For these purposes, this Technical Communiqué is issued:

1. To inform the reporting entities and to raise their awareness in this respect, that operations addressed to avoiding or postponing the automatic exchange of tax information, regardless of what may be established in the specific legislation on this matter, present a **high risk of money laundering**, that is to say, of being used by criminals whose activities could be related to predicate offences included in Article 409 of the Criminal Code.
2. To require all reporting entities that take part in this kind of operations to apply **enhanced due diligence measures** regarding the origin of funds and their beneficial owner, as well as the person to whom such funds may be transferred.

In the event that the identification of the client and of the beneficial owners or the evaluation and the procurement of information on the purpose and the envisaged nature of the respective business relationship cannot be appropriately achieved or if there are doubts about the veracity or suitability of the procured information, the reporting entities should not establish a business relationship or carry out an occasional transaction. If the relationship has already been established, it should be put to an end. In both cases, the reporting entities should consider issuing a suspicious transaction report to the FIU.

3. The main reporting entities exposed to this risk are: financial entities, lawyers and other company services providers, real estate agents and notaries.
4. The reporting entities should establish the appropriate measures to control the actions of their employees in the exercise of their functions, for which the former may be responsible.

5. Regarding dealers of highly valuable goods (i.e. jewellers), an increase has been detected in the sale of products such as gold bullion and cut diamonds, which typically have an unquestionably high liquidity and a relatively stable value.

In this same respect, criminals could try to take advantage of the current situation to launder their funds through the purchase of the aforementioned products.

For this reason, when a product of this kind has been sold for an especially high amount (whether the operation has been conducted in a single transaction or else several transactions that appear to be linked), measures of enhanced due diligence should be applied as has been set out in Paragraph 2 of this Communiqué.

This Technical Communiqué revokes Technical Communiqué CT-09/2016.

We stand at your disposal for any questions or any further information which you may require.

Kind regards,

Carles FIÑANA PIFARRÉ
Head of UIFAND