

TECHNICAL COMMUNIQUÉ CT-11/2018

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, December 13th, 2018

Dear Sirs /Madams,

According to Article 40.1 paragraph a) of the *Law 14/2017, of 22 June, on the prevention and fight against money laundering and terrorist financing*, 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.

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 January 31st, 2019**, 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, besides carrying out the external audit report to comply with article 40.1 paragraph a) of Law 14/2017.

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.

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- c) a reasoning of 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.

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.

The items that are subject to verification are listed below, and **must be compulsorily stated in the aforementioned report** in the same order in which they appear in this Communiqué:

1. Business model of the reporting entity.

Description of the business model of the entity indicating:

- a) the types of products and services that are offered, their geographical reach or exposure and the percentage they represent out of the total business (number of clients and AUMs).
- b) client risk profile, according to the risk categorization model of the entity;
- c) client distribution according to their geographical exposure;
- d) main distribution channels used for the commercialization of the different products and services offered by the entity;
- e) main means of payment accepted by the entity;
- f) participation in branches, subsidiaries and delegations abroad.

2. Internal Control and Communication Body (ICCB)

- a) organizational chart of the body, stating the composition, name and position held in the entity by its members;
- b) opinion of the auditor in relation to the designation procedure and assessment on the suitability of the members of the internal control and communication body, as well as, on the frequency of the meetings held by this body.

3. Communication systems.

- a) internal communication channel and procedure for the communication of potential suspicious transactions to the internal control and communication body, as well as the confidentiality measures that apply;
- b) channel and procedure for the communication of suspicious transactions to the UIFAND;
- c) specific, independent and anonymous channel used for the communication of violations of internal policies, as required by article 91.3 of the Law;
- d) availability and accessibility by the ICCB to all the information related to the concerned client;
- e) attach the corresponding **Annex 1** to the report.

4. Control measures and procedures.

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

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- b) specific measures adopted to prevent the personnel of the entity from being used to facilitate money laundering or terrorist financing activities;
- c) customer on-boarding and acceptance policies and, if applicable, the account opening authorization process;
- d) client risk distribution, specifying the factors and due diligence measures that apply to each one of the risk categories defined by the entity, indicating whether the reporting entity considers the beneficiary of life-insurance policies as a risk factor;
- e) measures and procedures in place for the identification and verification of the identity of the client and the beneficial owner, specifying the volume of supporting documentation requested based on certain circumstances (such as the type of client or the type of business relationship), if applicable;
- f) procedures established for the identification of politically exposed persons and the adopted measures.
- g) measures and procedures in place in order to achieve an adequate knowledge of the client, including the origin of the funds, the professional activity, etc.;
- h) measures in place for the update of out-dated or missing data, especially in the case of pre-existing clients or clients for which their risk categorization has changed;
- i) measures established in order to digitize and preserve documentation, in compliance with the obligations established under article 37 of Law 14/2017;
- j) transaction monitoring and control systems established (in order to potentially detect early repayments, exposure to risk countries, contributions that do not correspond to the profile of the client, etc.).
- k) procedures for the management of inactive accounts.
- l) procedure for the management of the numbered accounts, specifically in relation to: (i) the preservation of documentation of numbered accounts and; (ii) accessibility of information concerning numbered accounts for analytical purposes.

5. Branches, subsidiaries or delegations located abroad

- a) international presence through branches, subsidiaries and/or delegations, specifying the countries or jurisdictions in which they are located;
- b) description of the type products and services offered;
- c) Knowledge of the auditing entity in relation to regulations in force, concerning the prevention of money laundering and terrorist financing, in aforementioned countries or jurisdictions.
- d) in the case of non-equivalent third countries or countries with less stricter requirements, detail of the control procedures in place in order to ensure the application of the legal requirements established by the Andorran legislation in relation to the prevention of money laundering and terrorist financing;
- e) follow-up of the status of the implementation of recommendations made by external or internal auditors, or local supervisory authorities, in relation to the subsidiaries, branches or delegations located abroad;
- f) attach the corresponding **Annex 2** to the report.

6. Compliance by third parties.

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Describe whether the entity has delegated, to another reporting entity, the application of due diligence measures, and provide all existing contractual documentation in which the obligations of each party are detailed in relation to the aforementioned measures.

7. Random verification of the support documentation corresponding to the number of samples listed in **Annexes 3 and 4**.

The information that needs to be verified includes the following:

- identification, home address and professional activity of the client, as well as of the holders, attorneys-in-fact and/or representatives;
- identification of the beneficial owner or of the person acting on behalf of the client;
- verification of the identity of the client, the beneficial owner or the person acting on behalf of the client. Describe the means used to carry out the verification. In the case of legal entities, specify the existence of documentation relating to its shareholders and legal representatives;
- verification of the professional activity carried out by the client and of the origin of the funds received;
- account opening agreement, if applicable;
- purpose of the business relationship;
- documentation that certifies the application of enhanced due diligence measures, especially in relation to clients that have not been physically present for their identification, and in the case of politically exposed persons;
- acknowledgment that the transactions carried out by the client correspond to the declared professional activity or the usual movements reflected in the account of the client. Verify potential significant deviations and the corresponding documentation used to justify them.

Additionally, in the case of life-insurance products, the measures taken in relation to the beneficiaries of the policy must be verified:

- documentation proving the application of the enhanced due diligence measures described in article 15 of the Law 14/2017.
- the consideration of the beneficiary of the life-insurance policy as a relevant risk factor when determining which type of due diligence measures must be applied, according to what is established in article 9.4 of Law 14/2017.

The aforementioned data should be up to date.

Attach the corresponding **Annex 3 and 4 to the audit report**

8. Shortcomings detected resulting from the random verification of documentation

The auditing company should specify and concretize in the audit report all the possible shortcomings detected in relation to the random verification of the items mentioned in previous sections. Each of the shortcomings should be reasoned by the opinion of the auditors, taking into account the risk criteria

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applied (client risk profile according to the internal classification, type of transactions, etc.). In all cases, the auditing company should keep a reference of the audited accounts and of the detected shortcomings.

Attach the corresponding **Annex 5** to the report.

9. Omnibus accounts

Number of omnibus accounts held by the entity and the procedures and measures applied in relation to its management in order to prevent money laundering and terrorist financing.

Assess the degree of compliance with the measures established in article 7.4 of the Regulations for the application of Law 14/2017.

10. Correspondent banking and other similar business relationships in which the reporting entity acts as a correspondent.

- a) number of entities, by jurisdiction, to which the audited entity provides this service, specifying those that are group entities;
- b) assess the degree of information gathered by the audited entity in order to understand the activity nature, reputation and supervision of the entity that uses the correspondent banking service, indicating the employed means / obtained documentation;
- c) result of the assessment carried out by the audited entity in relation to the controls for the prevention of money laundering and terrorist financing applied by the entity to which the correspondent service is provided;
- d) control measures established for each typology of entity to which the correspondent service is provided (especially those aimed at ensuring that the entity has not been investigated or subject to a regulatory action and is not a shell entity).
- e) adopted method to document the respective responsibilities of each entity in the correspondence relationship.

11. New technologies

Supervision measures regarding new technologies used in relation to distance and off-premises transactions and/or in relation to those that favour anonymity.

12. New prevention / detection measures and procedures implemented (or under study 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;
- 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.

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Attach the corresponding **Annex 2** to the report.

- c) status of the implementation of the individual risk assessment (IRA, *ERI* from its catalan acronym)), as established in the fourth transitory provision of Law 14/2017.
- d) risk areas and products identified in the National Risk Assessment (NRA) marketed by the reporting entity, as well as the mitigation measures adopted in this regard.

13. Training

Detailed description of the training programs carried out by the reporting entity. As an example, the content, scope and dates of the trainings should be considered.

Mention should also be made to the number of participants - in relation to the overall staff of the entity (including the members of the ICCB) - and the positions held by each one of them.

Systems in place in order to verify the degree of assimilation of the employees regarding provided trainings.

- 14. Attach the internal policies and procedures for the prevention of money laundering and terrorist financing established by the reporting entity.

The report presented by the external auditor should not be limited solely to the description of prevention systems implemented by the reporting entity or the legally established obligations, but should also include, for each one of the points analysed, its opinion based on the degree of compliance of the entity in relation to the obligations of Law 14/2017 and the recommendations and areas of improvement.

The resulting report of each entity should be delivered directly by the auditors to this Unit both in physical format and in electronic format, so that it 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 informations specified in the various sections of this technical communiqué are included in the report.

The maximum irrevocable deadline for the submission of this report is **April 30th, 2019**.

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 UIFAND

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