

2020

# SECTORAL NRA



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# FINANCIAL SECTOR



A photograph of a stock market ticker board. The board displays various financial data points in Arabic, including company names and numerical values. The text is primarily in green and red, indicating price movements. The data is organized into columns and rows, typical of a financial market display.

Company Name (Arabic)	Price	Volume	Change	Other Data
شركة طيران أبوظبي	2.930	27,000	2.180	4,500
أبو ظبي	2.160	1,225	5.350	5.690
شركة أبوظبي الوطنية للتقانة	5.340	0	0.000	584,494
شركة أبوظبي الوطنية للتقانة	0.450	30,393	2.440	92,464
شركة أبوظبي الوطنية للتقانة	2.600	5,000	1.600	56,512
شركة أبوظبي الوطنية للتقانة	1.600	73,778	2.300	128,544
أبوظبي	0.951	0	0.000	874,820

# The financial system in the Principality of Andorra

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## 1. Definition of the sectors forming the Andorran financial system

This section of the NRA's sectoral level analyses the Andorran financial system's vulnerability to money laundering (ML). Consequently, its scope is focused on the banking groups, financial entities, insurances companies and other entities which fit the definition that FATF gives of financial institutions.

Applying this standard, the Andorran legal framework defines financial reporting entities in Article 2.1 of Law 14/2017, of 22 June, on prevention and the fight against the laundering of money or assets and terrorist financing.

The financial sector in Andorra directly contributes about 20% of the Andorran GDP and mobilizes the country's economy through the credit granted by banking entities.

As regards the labour market, the financial sector employs 4.5% of the country's wage-earners, although it has lost positions for the fourth consecutive financial year with respect to the rest of the economy. As from 2015 there has been a drop in the total number of people employed in the financial sector and this is explained, among other factors, by the sector's overall strategy based on cost efficiency.

Moreover, all these significant facts are mainly determined by the banking entities and the economic groups which they form since the rest of the entities are little companies which, in most cases, employ a small number of people.

For the purposes of this assessment, the following sectors have been defined, on the basis of the type of preventive systems that have been implemented in the entities:

### *Banking sector*

This sector comprises the Andorran banking entities as well as the managers of undertakings for collective investment (UCIs) and the insurance companies which form part of the banking groups.

### *Non-banking financial sector*

For its part, this sector comprises the managers of independent undertakings for collective investment and the likewise independent financial investment entities (which do not form part of a banking group).

The financial agents linked to these entities should be considered to form part of the reporting entity by virtue of the provisions of Article 18.6 of Law 14/2017.

### *Non-banking insurance sector*

This sector comprises the Andorran insurance companies as well as the local offices of foreign companies, which do not form part of an Andorran banking group.

The agents of the insurance companies should be considered to form part of the reporting entity to which they are linked, by virtue of the provisions of Article 18.6 of Law 14/2017.

Insurance brokers have been taken into consideration indirectly since in many cases both insurance companies and brokers apply due diligence measures or insurance brokers provide documents to insurance companies. Consequently, specific information has not been requested from these intermediaries.

### **Postal sector**

This sector comprises the offices of the foreign postal entities established in the Principality of Andorra.

## **2. How the various sectors of the Andorran financial system have been assessed**

To carry out the NRA, the World Bank (WB) methodology has been followed. The overall risk of each sector assessed is a combination of the ML threats that they face and their vulnerability to ML.

The assessment of vulnerability to ML is based on the analysis of various products and general variables. The general variables assess the quality of the AML controls for each sector, specifically:

- Exhaustiveness of the AML/CFT legal framework.
- Effectiveness of the supervisory practices and procedures.
- Availability and application of administrative sanctions.
- Availability and application of penal sanctions.
- Availability and application of entry controls.
- Staff integrity.
- Staff AML knowledge.
- Effectiveness of the compliance function (organization).
- Effectiveness of suspicious transaction detection and reporting systems.
- Level of market pressure to comply with AML standards.
- Availability of and access to beneficial owner information.
- Availability of a reliable identification infrastructure.
- Availability of independent information sources.

The variables which assess the inherent risk criteria linked to the activity should be analysed in each and every one of the various business lines of each of the sectors. The variables are as follows:

- Total size / volume of the product or service.
- Average transaction size of the product or service.
- Complexity and diversity of the portfolio.
- Use of agents.
- Usual customer profile.
- Existence of an investment/deposit characteristic.
- Cash activity level.
- Frequency of international transactions.
- Other vulnerability factors.
- Existence of specific AML controls relating to the product or service.

Although further on a brief description is given of the criteria used to define the business lines to be analysed, the following table provides a sector-based summary of each of the products, services or channels analysed.

Sector	Producte, servei o canal amb vulnerabilitat inherent
Banking sector	<u>Product 1:</u> Private banking <u>Product 2:</u> Retail banking <u>Product 3:</u> Corporate banking <u>Product 4:</u> Loans with mortgage guarantee <u>Product 5:</u> Loans with securities guarantee or monetary guarantee <u>Product 6:</u> Loans without guarantee <u>Product 7:</u> Transfers of funds <u>Product 8:</u> Subsidiaries abroad <u>Product 9:</u> Safe deposit boxes
Non-banking financial sector	<u>Product 1:</u> Assets management <u>Product 2:</u> Financial consultancy <u>Product 3:</u> Investment funds management <u>Product 4:</u> Financial intermediation
Non-banking Insurance sector	<u>Product 1:</u> Unit linked <u>Product 2:</u> Life-savings <u>Product 3:</u> Life-risk <u>Product 4:</u> Pension and retirement plans
Postal sector	<u>Product 1:</u> Postal giros <u>Product 2:</u> Remittance of funds <u>Product 3:</u> Account deposits and withdrawals

### 3. How the data and information have been collected

The information used in the analysis of the aforementioned variables comes from various sources: specific requests for information, systematic conveyance of information, records based on financial and AML/CFT supervisory actions, and meetings between authorities and the sector, among others. The following information sources should be pointed out in particular:

#### *Specific requests for information for the National Risk Assessment 2020*

The data to be requested in different specific requests by sectors were defined in order to assess the variables defined in the WB methodology. The drafts of the resulting information requests were submitted for consultation to the respective entities of each sector in question. The purpose of this consultation was to homogenize the criteria to be used for the replies of the entities, and to take into consideration the comments of the sectors.

All the consultations and the supply of information to the authority were channelled through the professional associations, except in the postal sector. These groups were: the Association of Andorran Banks (ABA) for the banking sector, the Association of Investment Financing Entities (ADEFI) for the non-banking financial sector, and the Association of Andorran Insurance (AAA) and the Association of Andorran Insurance and Reinsurance Companies (ASAAR) for the insurance sector. All the entities which form part of the Andorran financial system are associated in one of these groups.

In the case of the postal sector, the communication and supply of information to the authority was carried out on a direct individualized basis.

### ***AML/CFT audit reports***

As financial reporting entities, the entities analysed in this section have the obligation to contract annually an independent external audit in order to verify compliance with the legal precepts.

Consequently, the information contained in the audit reports submitted to UIFAND for the years 2017 to 2019 have been used, as well as the reviews carried out by said authority. It is important to point out that the audit reports should comply with some criteria as to their content and presentation which have facilitated the processing and aggregation of the information submitted.

### ***Periodic conveyance of information***

In response to the UIFAND Technical Communiqué no. CT-05/2018, the banking entities provided both individual and consolidated information on the years 2018 and 2019. Among the information provided, of special significance for this analysis have been the data on managed customer resources, on the international activity of Andorran banking entities, and on the transfers of funds.

### ***On-site inspections***

Aside from the statistics of the on-site inspections carried out during the period under study, the content of the inspection or follow-up reports has provided information on common practices or generalized deficiencies in the various sectors. In this respect, the thematic inspections which cover an entire sector or a large part of it are especially useful for a national risk assessment.

### ***Meetings between authorities and with the sector***

The working group formed by the members of UIFAND and representatives of the Andorran Financial Authority (AFA) has allowed a fluid communication between the authorities. Moreover, the sector has provided its assessment of the various business areas and of the current legal framework. To this end, sectoral meetings or individualized meetings with entities were held, as necessary.

## **4. Composition according to typology of entities on 31 December 2019**

The financial system of the Principality of Andorra is formed by the following typologies of entities:

<b>Banking entities</b>	<b>Number</b>	<b>UCI management companies <sup>(c)</sup></b>	<b>Number</b>
Without foreign participation	4 (1 under resolution)	Participated by Andorran banking entities	5
With foreign participation	2	Not participated by Andorran banking entities	2
<b>Total</b>	<b>6</b>	<b>Total</b>	<b>7</b>

<b>Insurance<sup>(a)</sup></b>	<b>Number</b>	<b>Financial investment entities<sup>(d)</sup></b>	<b>Number</b>
Andorran companies <sup>(b)</sup>	15 (1 under liquidation)	Financial investment companies	1
Foreign companies	15	Financial investment agencies	1
<b>Total</b>	<b>30</b>	Asset management companies	3
		Financial advisors	6
		<b>Total</b>	<b>11</b>

<b>Postal sector</b>	<b>Nombre</b>
Andorran entities	0
Offices of foreign entities	2
<b>Total</b>	<b>2</b>

<sup>(a)</sup>Does not include 63 mediators.

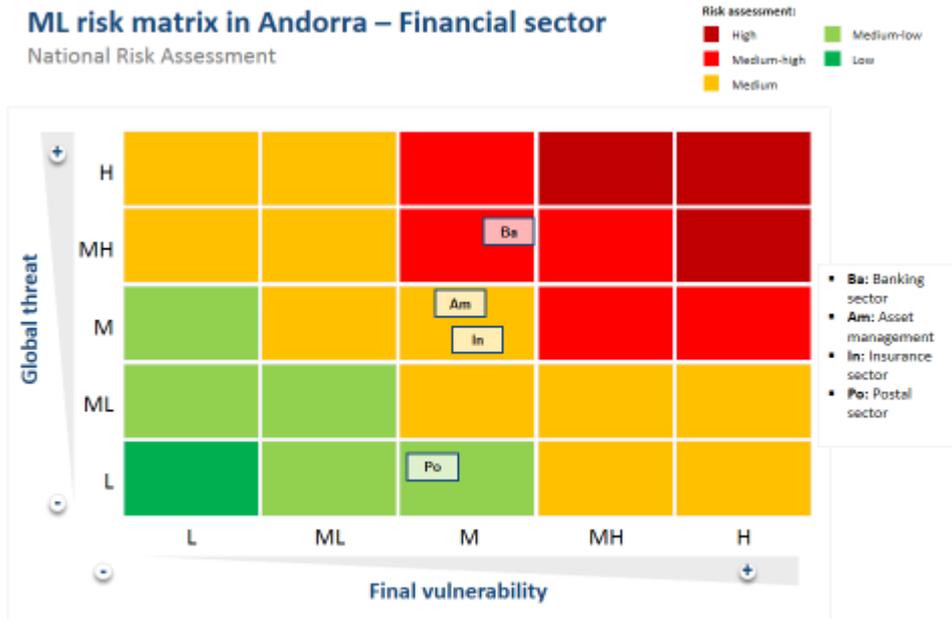
<sup>(b)</sup>6 of which are bank-insurance companies.

<sup>(c)</sup>Does not include 1 financial agent who acts only for one UCI management company.

<sup>(d)</sup>Does not include 6 financial agents who act only for financial investment entities.

On the basis of the foregoing, the ML risk matrix determined as a result of the NRA analysis is as follows:

Figure 1. Matrix of money laundering risk in Andorra (financial sector)



# Banking sector

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## 1. General description of the sector

The banking sector is formed by a total of five banking groups and has over 85 years of experience in this activity. Three of the banking entities are of Andorran capital, one is a subsidiary of a listed Spanish bank under the supervision of the European Central Bank with a 50.97% participation, and the other belongs to an international private capital group.

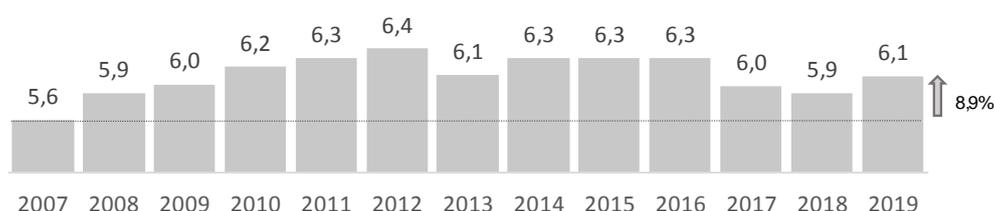
Aside from the aforementioned banking groups, it should be pointed out that there is one banking entity that has been under resolution since 2015. In practice, this entity under resolution does not form part of the banking sector and any customer who migrates from this entity to the banking sector must do so in compliance with a decision of the respective authority and must submit himself to the same due diligence applicable to new customers according to such migrating customer's risk profile. Consequently, for the effects of this assessment, the positions of the entity under resolution are not taken into consideration.

The main features of the activity of the Andorran banking financial sector are presented in detail below:

### *Added value banking services*

The main business areas are private banking and assets management, insurance, merchant banking and payment services, for both private persons and companies. The range of products and services that is offered, which includes private banking, is not complex and has evolved towards higher value-added services such as assets management (and particularly intermediation and discretionary individualized management of portfolios). Likewise, the business model is also based on strengthening the dynamism of the real economy through merchant banking focused on private persons and companies. The following graph shows the evolution of credit investment since 2007, reaching 6,094 million euros with an 8.9% growth since that year.

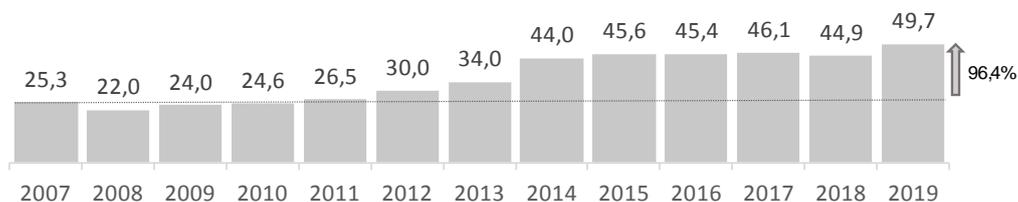
Total credit investment in customers (in thousands of millions)



### *Sustainable growth*

In overall terms, the Andorran banking sector has reached a consolidated figure of 49,713 million euros in managed resources. The total resources managed by the Andorran banks are formed by customer deposits (balance sheet) and custodied and uncustodied (off the balance sheet) customer mediation. This figure has doubled in the last decade, primarily as a result of the ambitious growth strategy based on a universal banking model and a strong internationalization. Despite this accelerated growth, however, the banking entities have maintained healthy liquidity and solvency ratios, a historical characteristic of Andorran banking.

Total customer resources managed (in thousands of millions)



### Human capital

The number of human resources employed in Andorran banking as a whole in 2019 was 2,563 people. About 53% of these people worked in Andorra, that is to say, 1,359 employees.

### Managed customer resources

The table below shows the total managed assets and resources according to the typology of entities belonging to the Andorran banking groups:

(Thousands of euros)	Assets 31/12/2019	Managed resources 31/12/2019	Number of entities
Banking entities <sup>(1)</sup>	Consolidated: 14.840.692	Consolidated: 49.713.197	5
	Individual: 12.392.046	Individual: 21.032.403	5
Management companies of undertakings for collective investment	35.358	3.078.708 <sup>(2)</sup>	5

Note: The financial data given here are based on the audited financial statements.

<sup>(1)</sup> The entity under resolution is not included.

<sup>(2)</sup> The managed resources are those of undertakings for collective investment.

On 31 December 2019, the resources managed by banking entities totalled 21,032 million euros (49,713 million euros at consolidated level). In this respect, 8,616 million euros are customer deposits and 12,416 million euros of assets are administered (off the balance sheet) by banking entities (at consolidated level, 10,209 million euros and 39,504 million euros, respectively).

The banking sector manages 3,079 million euros through its management companies of undertakings for collective investment. It should be pointed out that the total resources managed by all the management companies of undertakings for collective investment of the Principality of Andorra (including non-banking companies) total 3,135 million euros. Consequently, 98% of the resources managed through undertakings for collective investment correspond to entities that belong to a banking group.

The following should be pointed out with respect to the provision of investment services by

banking groups:

- The banking groups are present in the financial intermediation business, in which they carry out the execution, custody, liquidation and deposit of their customers' orders. The banking entities centralize the orders for execution through international intermediaries in order to obtain access to markets, since Andorra does not have its own securities market.
- Although the majority of customers' funds are under the custody of each banking entity, third parties are occasionally contracted for the services of custody, liquidation or deposit, which adds additional pressure to the sector as concerns compliance with the international standards on AML/CFT.
- The Andorran banking entities also commercialize their own investment products (undertakings for collective investment) among their own customers.
- As part of their private banking business, the Andorran banks offer financial advice to private customers through their relation with the account managers. In this case, it is the customer who makes the investment decisions on the basis of the entity's recommendations.
- Assets management –the discretionary individualized management of portfolios– implies a management mandate in favour of the banking entity, formalized through a signed contract and on a specific account in the customer's name.
- The Andorran banks carry out discretionary management for both residents and non-residents, and once the commercial relation has been established, their funds are always managed centrally from Andorra. They are usually invested in:
  - Investment vehicles belonging to the bank, which may be located in Andorra or in other countries where the bank has operative investment vehicles (for example, Luxembourg);
  - Other international investment products which are not the property of the bank (for example, international equities, fixed income, derivatives).
- In contrast to individual customers, institutional customers usually have direct contact with management companies of undertakings for collective investment of the banking entity, although it is required that a specific bank account should be opened and, consequently, that the institution should become a customer of the banking entity.

With respect to insurance activity, it is important to point out that the Andorran banking groups represent 85.24% of the total issued life insurance premiums of all the companies which operated in Andorra in 2019.

<i>(Thousands of euros)</i>	Total issued life Insurance gross premiums	Number of entities
Bank Insurance entities	89.703	6

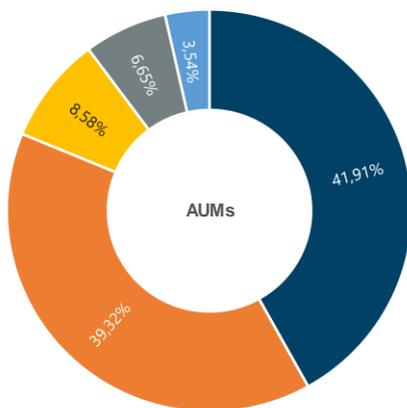
The business of these entities, which belong to a banking group, is concentrated on life-savings products (especially those known as unit-linked or insurance contracts linked to a participation in an investment fund). The primary distribution channel is the banking network (bank-insurance), although in some cases they also commercialize life-risk insurance products through intermediaries but to a much smaller extent.

### International presence of the banking sector

The banking sector has demonstrated its resilience over the course of the years and especially in the last decade, during which it has become internationalized. The ambitious growth and diversification strategy of the Andorran banks is based on a universal banking model, without overlooking services and a strong internationalization. The Andorran banking sector is present in Europe, the United States, Latin America and the Middle East.



**Geographical distribution of Assets Under Management**



The internationalization of the financial sector has been considerable. In this respect, over 50% of the customer resources are managed by the subsidiaries of the Andorran banking groups.

The banking groups' activities abroad reflect the nature of the activities which these groups carry out in Andorra, that is to say: (i) banking; (ii) assets management, intermediation, buying and selling, and consultancy; (iii) management of undertakings for collective investment; and (iv) insurance.

■ Andorra ■ EU ■ US ■ South&Central America ■ Israel

## 2. Inherent vulnerability of the sector

As a starting point, the inherent vulnerability of the banking sector should first be considered, subsequently going on in the next section to compare the quality of the implemented controls. These aggregated concepts imply the joint consideration of prevention systems which may differ between banking entities. Despite this, however, the common nexus between all the banking entities is that the ML/TF prevention system of any entity applies at group level, that is to say, in the banking entity itself, in the management entity of undertakings for collective investment of the group, and in the group's insurance entity. Each customer has to pass some acceptance controls regardless of the entity of the group in which he has been engaged<sup>1</sup>. Likewise, with respect to foreign subsidiaries, the legislation in force requires the application of the measures at group level and the assessment of the equivalence of the jurisdiction in which they operate (Art. 41 of Law 14/2017).

With this joint outlook, the vulnerability analysis has to refer to the sector formed by the banking groups in the Principality of Andorra, including the managers of undertakings for collective investment and the insurance companies which belong to banking groups, as well as to the vulnerability added by the international business carried out through subsidiaries abroad. Applying the same principle, the banking entities are not included in the analysis of other sectors in this assessment (financial sector and insurance sector).

Having made these preliminary considerations, the selection of the products, services or channels<sup>2</sup> with inherent risk is of decisive importance in the analysis of the overall vulnerability of the banking sector. The National Risk Assessment of 2016 considered 7 risk factors specific to banking activity and these factors shed light on the performance of specific actions aimed at mitigating risk by managing the detected vulnerabilities. Nevertheless, the experience acquired in the first National Risk Assessment, the change in the threats which existed in 2016 with respect to those which currently exist in the Principality of Andorra, and the recommendations or observations made in the final report, especially by Moneyval, have prompted the review of the factors with inherent risk in order to structure the risk analysis of the banking sector.

The first group of products considered for this assessment is formed by a segmentation of customers between private banking, corporate banking and retail banking, and the main variable that has been used has been the managed customer resources.

The second group of products is formed by the loans and credits to customers, itemizing them by typology of guarantee. In this respect, the products which were decided to be included in this assessment are loans and credits with mortgage guarantee, with monetary or securities guarantee, or without guarantee.

Aside from this, the rest of the products do not form a segmentation group as such, although they are highly significant for the assessment of the ML/TF risk, bearing in mind the characteristics of the Andorran banking sector. These products are transfers of funds, subsidiaries abroad, and safe deposit boxes.

Indirectly, the NRA of 2016 considered the additional risk entailed by these factors, while in this assessment it was decided that they would be treated as products for the measurement of the inherent risk which they entail.

We will now give a description of the characteristics of the inherent risk of each of the

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<sup>1</sup> The various products or services provided by the banking groups require the holding of an account in the respective banking entity, except in the case of some business relations with life-risk insurance products, in which the account is held in some other banking entity of the Andorran financial system.

<sup>2</sup> Henceforth in this section, "product" should be understood in a general way, including services, channels or other types of commercial activities with the customer.

aforementioned products and make an analysis of this risk.

### *Private banking*

Private banking is a very significant business within the Andorran banking sector and it is also a significant aspect of the Andorran economy.

In the period under study, the managed resources of private banking customers represented about two-thirds of the total managed resources of customers in the banking sector, and totalled about five times the Andorran gross domestic product. With respect to other indicators, it should be pointed out that the number of private banking customers was equivalent to between 30% and 40% of the population of the Principality of Andorra during the period under study and that they represent about 20% of the overall customers of the banking sector. The current accounts of the private banking customers are equivalent to one-third of the total accounts of the sector.

Despite this, however, a drop is observed in the aggregate volume of private banking business during the period with which we are dealing (-4.9%), while the number of customers and particularly the number of private banking accounts show an even greater drop (-18.8% and 20.7%, respectively). These indicators denote an increase of the average balances in terms of both customers and accounts, giving a total of an average 220 thousand euros in managed resources per private banking account and an average 540 thousand euros of managed resources per private banking customer.

In order to contextualize these monetary sums, it should be pointed out that the references of international entities require a minimum of one million dollars in order to consider a customer to be a high net worth individual (HNWI). For example, the American SEC establishes that a customer is classified as an HNWI if it has at least 750 thousand dollars in managed resources of the customer in the entity or, in the event in which such amount is less, if the entity knows that the person possesses a net worth in excess of 1.5 million dollars. All these references are above the Andorran average per private banking customer, which could indicate that many customers classified as private banking customers would not be so considered according to international standards.

Aside from this, with respect to the risk profile of private banking customers, several different aspects should be pointed out.

Firstly, as regards geographic risk, the data for 2019 show that only 38.1% of the private banking customers are residents in Andorra, although this set of customers possesses 53.7% of the overall managed private banking resources. Likewise, the Andorran customers comprise the majority of the customers identified as PEPs.

The typology of customers adds risk on a limited basis since, in 2019, 87.8% of the private banking customers were natural persons. Nevertheless, the legal entity customers of banking in general possessed average managed resources of almost 1.1 million euros in 2019, which is a significantly higher sum than the private banking average.

The use of cash in the accounts of private banking customers showed a significant drop during the period under study, with a higher incidence in withdrawal transactions. The volumes of international transfers also showed a drop in their evolution, although they continue to be very significant as a method for moving funds.

Bearing in mind the various criteria analysed, the private banking's inherent vulnerability, without considering the contribution of the banking entities' control systems, is rated as medium-high.

## *Retail banking*

The assets under management of the retail banking customers within the banking sector as a whole (individual basis) were equivalent to 1.1 times the Andorran GDP during the period with which we are dealing. Nevertheless, the significance of retail banking in monetary terms with respect to the overall banking business is only moderate: the retail banking customers' resources represent 15% of the total customer assets under management since they have not undergone much change in the last 3 years.

As concerns other indicators, the retail banking business comprises 71% of the customers of the banking entities and 59% of the customer accounts.

With respect to the evolution of the business, retail banking has undergone a considerable increase in the aggregate volume of managed customer resources during the period under study (+9.1%), while the number of customers and the number of retail bank accounts have shown a smaller increase (+4.6% and +2.4%, respectively).

In terms of risk profile, the majority of the customers have Andorran residence (87.6%), and a significant group of customers has Andorran political exposure (713 persons in 2019), being natural persons according to the segmentation criteria.

The use of cash in retail banking customers' accounts showed a drop during the period which concerns us here. Within the overall volume, the greater part is comprised by withdrawal transactions (62% of the total cash movements), which are primarily carried out through ATMs.

The volumes of international transfers also showed a drop in their evolution, although they continue to be a significant method for moving funds. Likewise, the average amount per international transfer was quite low compared to the average for the banking sector as a whole.

Bearing in mind the various criteria analysed, retail banking's inherent vulnerability, without considering the contribution of the banking entities' control systems, is rated as medium-low.

## *Corporate banking*

The assets under management of the corporate banking customers of the banking sector in general (individual basis) were equivalent to 1.5 times the Andorran GDP during the period under study. Nevertheless, corporate banking is only of relative significance within the overall banking business: the resources of the corporate banking customers are equivalent to 20% of the total customer assets under management, since they have not undergone much change in the last three years.

With respect to other indicators, the corporate banking business comprises 12% of the customers of the banking entities and 10% of the customer accounts.

With respect to the evolution of the business, corporate banking underwent a small increase in the aggregate volume of the managed resources of corporate banking customers during the period with which we are dealing (+4.3%), and a likewise small increase in the number of customers (+3.2%), while the number of corporate banking accounts remained unchanged.

In terms of risk profile, the majority of the customers have Andorran residence (94.7%), and only a small group has been detected with Andorran political exposure (92 persons in 2019), being legal entities according to the segmentation criteria.

The use of cash in the accounts of corporate banking customers showed a drop during the period which concerns us here. Within the overall volume, the greater part is comprised by deposit transactions (92% of the total cash movements), primarily involving the activity of cash-intensive companies (supermarkets, restaurants, bars, hotels, etc.).

On the other hand, international transfers are a highly significant method of moving funds in terms of volume, showing an upward trend in their evolution during the period under study. This circumstance may be explained, in part, by the transfers used to pay the international trade transactions of Andorra (the values of the imports and exports declared for the period under study are equivalent to 60% of the total international transfers of corporate banking).

Bearing in mind the various criteria analysed, corporate banking's inherent vulnerability, without considering the contribution of the banking entities' control systems, is rated as medium-high.

### ***Credit investment in customers with mortgage guarantee***

In 2019, the volume of credit investment with mortgage guarantee of the banking sector as a whole (individual basis) was equivalent to 1.1 times the Andorran GDP. For their part, the loans and credits with mortgage guarantee represented 61% of the total credit investment in customers since there has been little change in the last 3 years.

With respect to other indicators, the credit investment with mortgage loan comprised 19% of the banking entities' loan customers and 27% of the current transactions at the close of 2019.

The customers are primarily natural persons (90.9%) and resident in Andorra (90.8%). The presence of customers with political exposure is quite small and limited to the local sphere.

The use of cash or movements of funds by means of international transfers by customers with mortgage loans and credits do not present any notable risk features.

What should be pointed out is that the credit investment with mortgage guarantee contributes an added instance of control since it requires the formalization of the transaction in a public document and, consequently, the participation of a notary.

Bearing in mind the various criteria analysed, the inherent vulnerability of credit investment with mortgage guarantee, without considering the contribution of the banking entities' control systems, is calculated as medium-low.

### ***Credit investment in customers with monetary or securities guarantee***

In 2019, the volume of credit investment with monetary or securities guarantee of the banking sector as a whole (individual basis) was 0.3 times the Andorra GDP and represented 18% of the total credit investment in customers since it has not changed much in the last three years.

With respect to other indicators, the credit investment with monetary or securities guarantee comprises 4% of the credit investment customers of the banking entities and 5% of the current transactions at the close of 2019.

The risk profile of customers has some features which should be mentioned. Although most of the customers are residents of Andorra (67.8%), foreigners present an average live risk per customer for an amount which is over twice as large as that of the residents. Likewise, the typology of customers is mainly that of natural persons (78.1%), but the average live risk per legal entity customer is for an amount which is over twice as large.

The use of cash, similarly to other factors analysed, showed a considerable drop during the period with which we are dealing.

On the other hand, the movements of funds by means of international transfers are significant within this group of customers. Worthy of note are the transfers received from abroad (62%) which exceed the transfers sent out, and in overall terms they are for amounts which are substantially higher than for the banking sector as a whole.

All told, the risk characteristics of credit investment customers with monetary or securities guarantee are more similar to those of private banking customers than to those of any other credit or loan typology. Indeed, the most typical product of this typology (investment leverage policy) is mainly addressed to private banking customers.

Bearing in mind the various criteria analysed, the inherent vulnerability of credit investment with monetary or securities guarantee, without considering the contribution of the banking entities' control systems, is rated as medium.

### *Credit investment in customers without guarantee*

The volume of credit investment without guarantee of the banking sector as a whole (individual basis) was 0.4 times the Andorran GDP in 2019, comprising 22% of the total credit investment in customers, a figure which has not undergone much change in the last three years.

With respect to other indicators, the credit investment without guarantee comprises 75% of the banking entities' loan customers and 68% of the current transactions at the close of 2019.

No noteworthy risk characteristics of the customers have been detected.

Bearing in mind the various criteria analysed, the inherent risk of credit investment without guarantee, without considering the contribution of the banking entities' control systems, is rated as medium-low.

### *Transfers of funds*

In 2019, the total volume of transfers (including transfers between accounts) in which the Andorran banking entities have taken part, comprising both transfers sent and received, were 7.3 times the Andorran GDP. It should be pointed out that this figure is quite similar to the volume of assets under the management of the banking sector at the close of the year in question.

The international transfers represent 13% of the total in terms of number and 27% in terms of amount. The main countries which are the source or destination of the transfers of funds are listed below:

International transfers							
2018				2019			
#	Country	% amount	Accumulated	#	Country	% amount	Accumulated
1	Spain	39,3%	39,3%	1	Spain	43,5%	43,5%
2	France	10,7%	50,0%	2	France	10,2%	53,7%
3	United Kingdom	8,7%	58,7%	3	United Kingdom	7,2%	60,9%
4	United States	6,9%	65,6%	4	United States	7,2%	68,2%
5	Switzerland	5,8%	71,5%	5	Switzerland	4,2%	72,4%
6	Luxembourg	4,4%	75,8%	6	Russia	3,1%	75,5%
7	Mexico	2,7%	78,5%	7	Germany	2,6%	78,1%

8	Panama	2,2%	80,8%	8	Netherlands	2,4%	80,5%
9	Germany	2,2%	82,9%	9	Luxembourg	2,4%	83,0%
10	Netherlands	1,4%	84,3%	10	Panama	2,1%	85,1%

59.5% of the volume in 2019 corresponded to transfers sent abroad, while the remaining 40.5% were transfers received. The distribution of these figures in 2018 was quite similar.

As regards the use of cash, it should be pointed out that the banking entities of the Principality of Andorra do not allow the sending of transfers on cash basis, requiring that the respective funds should be previously deposited in an account, after which they proceed to make the transfer. Likewise, there are limitations on the transfers received inasmuch as it is not allowed to collect them directly in cash; rather, the amount received is paid into the customer's account. One implicit characteristic that greatly limits the risk is that transfers of persons who do not hold an account in the entity (passers-by) are not permitted.

Bearing in mind the various criteria analysed, the inherent vulnerability of the transfers of funds, without considering the contribution of the banking entities' control systems, is rated as medium-low.

### ***Subsidiaries abroad***

The total sum of the customer resources managed by the Andorran banking entities' subsidiaries abroad was 12.5 times the Andorran GDP. This figure showed an upward trend with respect to 2017 and 2018.

With respect to other indicators, the subsidiaries abroad had a customer portfolio in 2019 that was equivalent, in terms of the number of persons, to 53% of the business in Andorra. Likewise in relative terms and in a similar way, in 2019 all the accounts maintained by the subsidiaries abroad<sup>3</sup> represented 45% of the number of individual accounts in Andorra.

Considering the endeavour of international expansion, as may be expected the resources per customer of the subsidiaries are similar to those of the private banking segment of the business in Andorra.

With respect to the customer risk profile, several points should be mentioned.

To a large extent these are natural persons with residence in the country of the subsidiary to which they belong. This fact denotes a high level of onshore activity of the subsidiaries.

As regards the customers with political exposure, the number of customers identified as PEPs is not significant with respect to the total. Nevertheless, it is important to point out that, although persons so identified in Andorra have their exposure in the local sphere, in the bank subsidiaries 30.6% of the identified PEP customers are not nationals of the subsidiary's jurisdiction.

The use of cash and the movements of funds by means of international transfers are similar to what is observed in the private banking segment of the business in Andorra.

Nevertheless, mention should be made of the complexity involved by the provision of services in different jurisdictions, a factor which adds greater risk to the activity, hence the need to develop a prevention system at group level.

Bearing in mind the various criteria analysed, the inherent vulnerability of the provision of

<sup>3</sup> These include contracts in the cases of entities which do not provide custody services and which consequently cannot maintain accounts with their customers.

services through subsidiaries abroad, without considering the contribution of the banking entities' control systems, is rated as high.

### ***Safe deposit boxes***

Without differentiating them by capacity, service or characteristics, the Andorran banking sector had 15,503 safe deposit boxes in 2019. This figure represents an average of one safe deposit box for every 9 customers.

Despite this large availability of safe deposit boxes, their use is limited and has followed a negative trend over the course of time. The rented boxes in 2017 represented 20% of the available total, in 2018 this figure was 15%, and in 2019 it was only 12%.

Aside from this, it should be pointed out that all rented safe deposit boxes must be linked to a bank account of the same entity, but in 2019 only 1% of the bank accounts were linked to a safe deposit box.

As regards the customer risk profile on the basis of the data for 2019, the main aspects are that the boxes correspond, to a large extent, to natural persons (78.2%), who are mostly resident in Andorra (57.3%), and that the exposure of the respective customers identified as PEPs is in the local sphere.

Moreover, the use of cash by customers with safe deposit boxes is the characteristic which entails the greatest risk since the average volume of such use is greater than that of the banking sector's customers as a whole. On the other hand, the international transfers linked to these customers are not especially significant.

Bearing in mind the various criteria analysed, the inherent risk of the safe deposit box service, without considering the contribution of the banking entities' control systems, is rated as medium-low.

## **3. Quality of AML controls**

The following are the primary features of the implemented controls:

### ***Internal control systems***

#### ***Internal control bodies***

The banking groups establish their control structures on the basis of their size and of the risks to which they are exposed, among other factors. Consequently, the design of these structures differs between entities, although they all need to possess bodies or functions linked to AML as required by the laws in force, such as may be the board of directors, the internal control and communication body (ICCB), the regulatory compliance function, the risk management function and the internal audit function.

#### ***Staff integrity and AML knowledge***

The banking groups have implemented measures to ensure the honourability and integrity of their staffs of personnel. These measures are aimed, on the one hand, (i) to protect the personnel from being used by criminals for the purpose of money laundering, and on the other, (ii) not to allow criminals or persons related with criminals to join the respective entity's staff of personnel or to remain on its staff of personnel.

Moreover, the legal framework in force requires a prior authorization from the Andorran

Financial Authority (AFA) for the appointment of a person to a top management position or a control function position. The verifications carried out by AFA in cooperation with UIFAND comprise, among others, an assessment of the experience and integrity of such persons. During the period under study, this legal framework has been modified, granting more capacity to AFA, which has resulted in a re-rating as Largely Compliant with Recommendation 26, on the regulation and supervision of financial institutions.

As regards the knowledge of AML matters possessed by personnel, it should be pointed out that all the banking entities have implemented programmes for the performance of different training actions conceived to include all the personnel. The fitness of these programmes is assessed yearly by an external auditor.

#### *Customer due diligence measures*

The customer due diligence measures require the identification and the verification of the identity of the customer, the beneficial owner and any person acting in their name. Likewise, all the measures are applied to both natural person customers and legal entity customers. The banking entities have not delegated the fulfilment of these obligations to third parties.

This new legal framework has been rated by Moneyval as Largely Compliant with FATF Recommendation 10. One of the most significant aspects of the improvement has been the adoption of the definition of beneficial owner established in the FATF standards, which includes the beneficial owners of trusts and of other legal instruments.

Moreover, a large effort has been made during the period under study to improve the risk-based approach with the aim of calibrating the intensity of the application of customer due diligence measures.

#### *Record keeping*

The obligation to keep documents for a minimum period of 10 years covers all the documents, data, records and other information on customers, as well as the results of all the analyses carried out.

Additionally, the banking entities, as financial reporting entities, are obliged to digitise all the customer data and information obtained in application of the due diligence measures, and to ensure access to the information in their keeping in order to be able to respond to the requests of the authorities.

This new legal framework achieved an improvement, to Compliant level, of the rating granted to Andorra for FATF Recommendation 11.

#### *Ongoing monitoring and suspicious transaction detection systems*

A common situation in all the banking entities of the Principality of Andorra has been the investment of resources in the development of customer transaction follow-up systems in order to detect suspicious transactions to be reported. This is a crucial control for what may be called the country's ML prevention system since many ML processes that involve different reporting entities are detectable when the criminals or persons linked to criminals carry out a set of transactions, present an atypical pattern of conduct, or act differently than may be expected.

Likewise, these more precise detection instruments and the personnel engaged in the management of the warnings which are generated, require the design of scenarios corresponding to potential suspicious transactions and of specific procedures to improve the effectiveness of this instance of control in an ongoing way. UIFAND emphasizes the importance of ensuring that the entities manage their risks as efficiently as possible, defining the risk scenarios which are best adapted to the characteristics of their respective business.

### *Suspicious transactions reports*

89% of the suspicious transaction reports submitted between 2017 and 2019 came from the Andorran banking sector.

As was mentioned in the previous point, the banking entities possess warning systems, based on defined scenarios or fixed rules, for transactions potentially linked to ML; as well as personnel trained to manage such warnings.

It is also important to point out the direct communication with the UIFAND Operational Area, which has provided an improvement in the quality of the reports submitted.

### *Control by the competent authorities*

#### *Controls of access to the activity*

The applicable rules on the controls of entry into the banking sector are as follows:

- *Law 35/2010, of 3 June, on the regime of authorization for the creation of new operative entities of the Andorran financial system.*
- *Law 7/2013, of 9 May, on the legal system of the operative entities of the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra.*
- *Law 8/2013, of 9 May, on the organizational requirements and the operating conditions of the operative entities of the financial system, investor protection, market abuse, and financial guarantee agreements.*

This legal framework includes an exhaustive control system that has been rated by Moneyval as Largely Compliant with Recommendation 26, although during the period under study the Andorran Financial Authority (AFA) has not received any request for the creation of a banking entity.

#### *Supervisory actions*

UIFAND's supervisory actions include on-site inspections and remote supervisory actions.

In the period between 2017 and 2019, UIFAND carried out seven on-site inspections, five of which were part of a thematic inspection which covered the entire banking sector. Each on-site inspection entailed the drafting of an inspection report with conclusions, detected incidents, and suggestions for recommendations. UIFAND carries out annually a follow-up of the implementation of the issued recommendations.

As regards remote supervision, the main actions involve an analysis of the AML/CFT audit reports and the response to UIFAND's request for periodic information.

#### *Sanctioning regime*

The implemented legal framework establishes a sanctioning regime that codifies the infringements of obligations in matters of AML/CFT according to their importance as minor, serious or very serious infringements. The most recent legislative amendments have enhanced and improved this sanctioning regime. As a result of this, the Moneyval assessment assigns a rating of Largely Compliant with Recommendation 35, on sanctions, considering that the established sanctions are proportional, dissuasive, and applicable to reporting entities as well as to top management personnel.

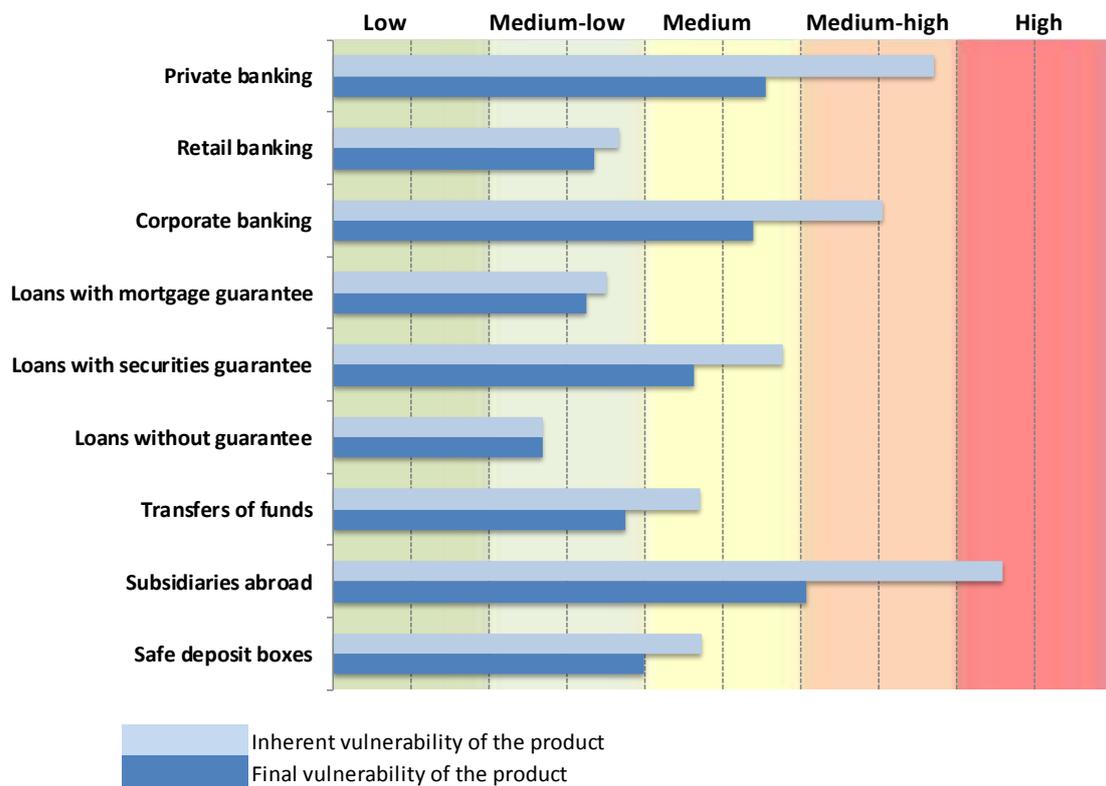
During the period under study, UIFAND carried out four sanctioning procedures on banking entities. Two corresponded to 2017, entailing a total amount of sanctions of 160 thousand euros; one was for 2018 and it concluded with the shelving of the respective sanctioning

procedure; and one was for 2019, resulting in a sanction of 200,000 euros.

#### 4. Vulnerability rating

Applying the World Bank methodology, the variables analysed determine a high level of quality of the AML controls in the Andorran banking groups sector, and this affects the calculation of the inherent vulnerability described for each of the products in the following way:

##### Mitigation of the inherent vulnerability of the products



Accordingly, the aggregation and summary of conclusions for the banking sector is as follows:

<b>Quality of AML controls</b>	<b>Medium-high</b>
<b>Final vulnerability of the sector</b>	<b>Medium</b>

# Non-banking financial sector

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## 1. General description of the sector

In the Andorran financial system there are other types of actors who do not belong to banking groups. These entities are management companies of undertakings for collective investment or financial investment entities, which may carry out the management of undertakings for collective investment and/or certain auxiliary and investment services, depending on the typology of entity involved.

The number of management companies of undertakings for collective investment has remained stable in recent years, comprising two companies which are independent with respect to Andorran banking groups. The offices of these entities are located in Andorra and they do not have subsidiaries or any other presence abroad.

Typology of entity	Number of entities on 31/12/2019
Management companies of undertakings for collective investment	2

As regards the financial investment entities, the total number came to 11 active entities at the end of 2019. With respect to the previous National Risk Assessment, the changes have been the cessation of operations of an assets manager, the conversion of a financial consultant into an assets management company, and the establishment of four new financial consultants.

Typology of entity	Number of entities on 31/12/2019
Financial investment companies	1
Financial investment agencies	1
Assets managers	3
Financial advisors	6
<b>Total financial investment entities</b>	<b>11</b>

These entities are also independent and focus their activity mainly on the discretionary individualized management of portfolios and the provision of financial consultancy services. The offices of these entities are located in Andorra and they have no subsidiaries or other presence abroad.

## Managed customer resources

<i>(Thousands of euros)</i>	Assets on 31/12/2019	Managed resources on 31/12/2019	Number of entities
Independent management companies of undertakings for collective investment	1.647	87.002 <sup>(1)</sup>	2
Independent financial investment entities	9.156	920.688	11

Note: The financial data given here are based on the audited financial statement.

<sup>(1)</sup> This figure refers to resources managed by undertakings for collective investment (55,957 thousand euros) and to resources managed according to instructions given by customers (31,045 thousand euros).

Lastly, it should be pointed out that on 31 December 2019, registered in the respective register of the Andorran Financial Authority (AFA) were 6 financial agents who act exclusively for financial investment entities and 1 financial agent who acts exclusively for a management company of undertakings for collective investment.

## 2. Inherent vulnerability of the sector

As previously stated, the analysis of this sector includes only the non-banking financial entities since the analysis of the managers of undertakings for collective investment which form part of banking groups is included in the analysis of the banking sector.

This preliminary consideration having been made, the selection of the products, services or channels<sup>4</sup> with inherent risk is a decisive factor in the analysis of the overall vulnerability of the non-banking financial sector. The four risk factors which are considered are the same ones which were taken into account in the National Risk Assessment of 2016: services involving assets management, financial consultancy, investment fund management, and financial intermediation. Nevertheless, as will be seen in the analysis, the non-inclusion of the entities of banking groups has a different significance in the services provided: while the greater part of the business channelled by the entities of banking groups is primarily concentrated in financial intermediation and investment fund management, in the case of the non-banking financial entities, the overall activity of the sector is focused on assets management and financial consultancy.

We will now describe the characteristics and analyse the inherent risk of each of the aforementioned products.

### Asset management

In 2019, the resources managed by the non-banking financial entities within the scope of the assets management activity came to 440 million euros, an amount representing about 15% of the Andorran GDP. Authorized to carry out this activity are the financial investment entities, with the exception of financial consultants, and the management companies of investment funds, but with express authorization from AFA and only as an activity accessory to their main

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<sup>4</sup> Hereafter in this section, the term "product" will be used in a general way to include services, channels or other types of commercial activities with customers.

activity.

If the managed customer resources of all the non-banking financial entities are considered, the volume of asset management activity represented 43.6% of the total in 2019, which is a level similar to those of the preceding years.

The total number of asset management customers of all the non-banking financial entities is about 350 persons for the last three years, which is equivalent to an average portfolio of 1.2 million euros per customer.

The investments are almost entirely made in non-complex products and the positions in listed investment funds form the greater part of them (78.6% in 2019). Generally speaking, the main characteristic of the portfolios managed by the non-banking financial entities is that they do not show positions in financial instruments which cannot be realized in the market or in other investments, apart from financial derivatives, which entail other risks in addition to their liquidity (for example, virtual assets).

As regards the risk profile of customers, it should first be pointed out that most of them are natural persons (63% in 2019) with larger managed volumes than the legal entity customers. Aside from this, the political exposure of customers is almost inexistent.

In relation to the geographical risk, only 40% of the customers are residents in Andorra but their resources represent 52% of the assets of the activity. The most significant risk lies in the remainder of legal structures created in other jurisdictions as vehicles for the customers' investments.

The use of cash is linked to the assets management activity in the direct management modality, that is to say, by means of omnibus accounts. This modality has been shrinking quite considerably in recent years, with a very limited remainder of business relations remaining in the sector. In this respect, cash withdrawals were made for substantial amounts during the period under study.

The risk of direct entry of funds into the financial system is also linked to assets management through omnibus accounts, so it is consequently quite limited at present. The new licenses granted to assets management companies are for the indirect management modality, which only allows the management of assets deposited in accounts held by the customer.

The accounts of assets management customers present movements involving deposits and withdrawals of funds which represented 24.1% of the managed resources comprised by this activity in 2019, showing a downward trend with respect to the previous years.

Bearing in mind the various criteria analysed, the inherent vulnerability of the assets management activity, without considering the contribution of the non-banking financial entities' control systems, is rated as medium.

### ***Financial advisory***

In 2019, the resources advised by the non-banking financial entities came to 434 million euros, an amount that represented about 15% of the Andorran GDP. All the non-banking financial entities are authorized to carry out this activity, although for some typologies it must be accessory to the main activity and the respective entities require an express authorization from the financial authority.

If the managed customer resources of all the non-banking financial entities are considered, the volume of the financial consultancy activity represented 43.1% of the total in 2019, which is a level similar to those of the preceding years.

The overall number of financial consultancy customers of all the non-banking financial entities was 133 persons in 2019, which was equivalent to an average portfolio of 3.3 million euros per customer.

The financial consultancy activity consists in personalized recommendations on financial instruments. In 2019, 97.4% of the recommendations issued were for non-complex products, mainly including investment funds. The recommended financial instruments are commercialized in regulated markets and they consequently provide good liquidity.

As regards the customer risk profile, it should first be pointed out that the majority of the customers are natural persons (81% in 2019) and that the political exposure of the customers is almost inexistent.

In relation to the geographical risk, 73% of the customers are residents in Andorra, with advised assets that are equivalent to 61% of the total.

The selfsame characteristics of the activity do not allow the entry of funds into the system, nor movements, transformation or placement of resources since the financial consultant cannot execute or participate in the customers' transactions.

Bearing in mind the various criteria analysed, the inherent vulnerability of the financial consultancy activity, without considering the contribution of the non-banking financial entities' control systems, is rated as medium.

### ***Investment funds management***

In 2019, the investment funds management activity represented about 5% of the Andorran GDP.

If the managed customer resources of all the non-banking financial entities are considered, the assets of the investment funds managed by these entities represented 13.3% of the total in 2019.

The complexity of the products may be analysed on two levels: (i) from the standpoint of undertakings for collective investment (UCIs), in which importance is held by the legal precepts limiting the investment capacity of the assets of the UCIs; and (ii) from the standpoint of the composition of the portfolios in which the UCIs are invested.

As regards the first level of the 19 UCIs with portfolio which were managed by financial entities that did not belong to a banking group, only two were non-complex products (UCITS), while the rest were of complex character (of the typology Other UCIs-others). In monetary terms, in 2019 the assets of these 17 UCIs of the Others type were equivalent to 83% of the total UCIs managed by entities which did not form part of banking groups.

As regards the second level, that is to say, from the standpoint of the complexity of the investments, it should be pointed out that, in 2019, complex products represented 15.2% of the assets of the UCIs, while this figure was 27.6% in 2017. All the investments in complex products correspond to investments in units of UCIs that are not considered UCITS, except for some positions in fixed income (about 6%) in 2017 and 2018 that were not maintained in 2019. Likewise, the cash levels of these investment vehicles were 30% in 2017, 33% in 2018 and 25% in 2019, which are significant values adding direct liquidity to the investment funds.

With respect to the risk profile of the customers, it should be pointed out that most were natural persons (80% in 2019) and that their political exposure was inexistent.

Regarding the geographical risk, 46% of the customers were residents in Andorra, with advised assets corresponding to 22% of the total. As may be observed, the incidence of foreign customers is significant.

Another characteristic is that the activity could allow the entry of funds into the system. If the entity itself distributes the units of the investment funds which it manages, it is creating a direct channel for the incorporation of funds into the financial system and it should possess robust systems for detecting possible suspicions of ML/TF. In the case in which distribution is delegated to one or more external entities, the financial entity should carry out the due diligences of such external entities with respect to the maintenance of omnibus accounts.

In most of the managed investment funds which have been the object of this analysis, the management entity maintains distribution within the entity itself.

Bearing in mind the various criteria analysed, the inherent vulnerability of the investment funds management activity, without considering the contribution of the non-banking financial entities' control systems, is rated as medium.

### ***Financial intermediation***

According to what is established by law, the typologies of non-banking financial entities which are authorized for financial intermediation are the financial investment companies and the financial investment agencies. Notwithstanding, no entity stated that it provided this investment service in the financial year 2019.

The remaining risk of the activity is that non-banking financial entities continue to be authorized to provide this service and have full capacity of execution. In any case, the customer risk profile would be limited to the customers who are already comprised in other activities.

Moreover, the characteristics of the activity could allow the entry of customer funds into the financial system. Consequently, this service requires a specialization of the financial entity in the custody and administration of financial instruments, in addition to the tasks of identifying the most suitable channels for processing the customers' orders.

The figures reported show an exit from the financial intermediation activity through withdrawals over the course of the last three years under study (2017 to 2019).

Bearing in mind the various criteria analysed, the inherent vulnerability of the financial intermediation activity, without considering the non-banking financial entities' control systems, is rated as medium.

## **3. Quality of AML controls**

The primary characteristics of the implemented controls are as follows:

### ***Internal control systems***

#### ***Internal control bodies***

Although the non-banking financial entities assess the risks to which they are exposed and define the measures to be implemented on the basis of such assessments, the size of many entities does not allow, in many cases, the establishment of different control lines or the creation of specific bodies for the performance of functions, which may indeed be performed in the banking entities.

Nevertheless, as operative entities of the Andorran financial system, the non-banking financial

entities which are in the form of legal entities<sup>5</sup> should possess a board of directors with at least three members and with a specific function of supervising the management of the entity. Moreover, the AML/CFT audits are submitted to the board of directors for its consideration.

For their part, the non-banking financial entities should possess an Internal Control and Communication Body (ICCB) in charge of watching out for the compliance of the AML/CFT system implemented in the entity. At the close of 2019, all the non-banking financial entities possessed a fully constituted ICCB, with one to five members between management staff and other members of the top management, holding periodic formally established meetings.

#### *Staff integrity and AML knowledge*

The non-banking financial entities have a staff of employees that is limited in number and quite stable over time. Nevertheless, they possess employee hiring controls that assess job candidates' integrity, as well as measures for protection of the entity which are maintained by means of awareness actions that include training and information courses for their personnel.

Although each entity establishes the training programme for its personnel which it considers most fitting, the Association of Financial Investment Entities (ADEFI) periodically holds AML/CFT sessions for its associates, contracting some consulting firm or company specialized in this subject to impart it. In this respect, this association has also stated that it is hard to find firms with the required knowledge of Andorran law and of case histories connected with the activity.

#### *Customer due diligence measures*

Customer due diligence measures require the identification and the verification of the identity of the customer, of the beneficial owner and of any person acting on their behalf. Moreover, all the measures are applied to both natural person customers and legal entity customers. The non-banking financial entities have not delegated the compliance with these obligations to third parties.

This new legal framework has been rated by Moneyval as Largely Compliant with FATF Recommendation 10. One of the most significant aspects of the improvement has been the adoption of the definition of beneficial owner established in the FATF standards, which includes the beneficial owners of trusts and of other legal instruments.

Despite this, the supervisory actions have shown that the customer portfolio of the non-banking financial entities is quite stable and limited in number. Likewise, although customers made their investments through foreign corporate structures in the past, natural person customers and companies under Andorran law have now become more significant. The identification measures for this typology of customers should in principle be simpler than for foreign companies or complex structures.

#### *Scrutiny of transactions*

Although the greater part of the activity is carried out by following the positions in accounts held by the customer, whether for the management of assets or for financial advice, and such accounts are the object of control by the banking entities where they are maintained, the non-banking financial entities are fully aware of the obligation to carry out a scrutiny of customer transactions and to verify the source of funds in the cases in which this may be required.

#### *Keeping of documents*

The obligation to keep documents for a period of at least 10 years applies to all documents, data, records and other information relating to customers, as well as the results of all the analyses

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<sup>5</sup> During the period under study, only one non-banking financial entity was incorporated under the form of a natural person and the typology of financial consultant.

carried out.

Additionally, the non-banking financial entities, as financial reporting entities, are obliged to digitize the customer data and information obtained in application of the due diligence measures, and to ensure access to the information which they keep, in order to respond to the authorities' requests.

This new legal framework entailed an improvement and Andorra obtained a Compliant rating for FATF Recommendation 11.

#### *Suspicious transaction reports*

The non-banking financial entities submitted only four suspicious transaction reports during the period under study, two of which corresponded to 2019.

The thematic inspection of continuous follow-up and keeping of documents which was carried out in 2019 and which covered a very significant part of the non-banking financial sector, showed that the entities possess systems for the follow-up of transactions that analyse the most significant movements in terms of risk. Even so, in the business relations in which the activity is carried out on accounts for the specific purpose of investment, to a great extent the transactions involved advised or managed investment or disinvestment orders.

#### *Control by the competent authorities*

##### *Controls of access to the activity*

The applicable rules in relation to the controls on entry into the non-banking financial sector are as follows:

- *Law 35/2010, of 3 June, on the regime of authorization for the creation of new operative entities of the Andorran financial system.*
- *Law 7/2013, of 9 May, on the legal system of the operative entities of the Andorran financial system and other provisions regulating the exercise of financial activities in the Principality of Andorra.*
- *Law 8/2013, of 9 May, on the organizational requirements and the operating conditions of the operative entities of the financial system, the protection of investors, market abuse and financial guarantee agreements.*

This legal framework includes a system of exhaustive control that has been rated by Moneyval as Largely Compliant with Recommendation 26. As has been mentioned in the description of the sector, the latest requests for the creation of entities have been for financial consultants.

##### *Supervisory actions*

UIFAND's supervisory actions comprise on-site inspections and remote supervisory actions.

In the period of 2017 to 2019, UIFAND carried out 9 on-site inspections, eight of which were comprised in the thematic inspection carried out over the course of 2019, which was focused on the financial investment entities. Each on-site inspection entailed the drafting of an inspection report, with the pertinent conclusions, detected incidents, and suggestions for recommendations. UIFAND carries out an annual follow-up of the implementation of the issued recommendations.

As regards remote supervision, the main actions have the aim of analysing the AML/CFT audit reports and the response to the request for periodic information issued by UIFAND.

### Sanctioning regime

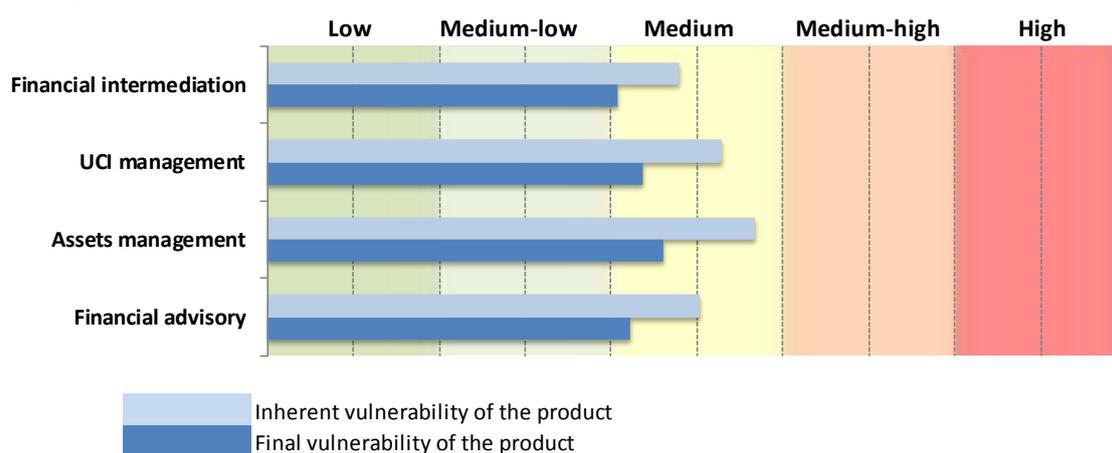
The implemented legal framework establishes a sanctioning regime that codifies the infringements of obligations in matters of AML/CFT according to their importance, as minor, serious or very serious. The latest legislative amendments have enhanced and improved this sanctioning regime. As a result, the Moneyval assessment gives a rating of Largely Compliant with Recommendation 35, on sanctions, considering that the sanctions are proportional, dissuasive and applicable to reporting entities and to members of the top management.

During the period under study, no sanctioning administrative proceeding was brought against any non-banking financial entity as a possible infractor.

## 4. Vulnerability rating

According to the World Bank methodology, the analysed variables determine a high level of quality of AML controls in the non-banking financial entity sector, which is something that affects the calculation of inherent vulnerability described for each of the products in the following way:

### Mitigation of the inherent vulnerability of products



Accordingly, the aggregation and summary of conclusions for the non-banking financial sector are as follows:

<b>Quality of AML controls</b>	<b>Medium-high</b>
<b>Final vulnerability of the sector</b>	<b>Medium</b>

# Non-banking Insurance sector

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## 1. General description of the sector

The insurance sector that does not form part of a banking group is composed of 24 insurance companies (one of which is currently under liquidation), of which 8 are Andorran entities and 15 are local offices of foreign entities which are authorized to operate in Andorra.

All these companies or local offices form part of one of the professional associations existing in Andorra: AAA (Insurance Association of Andorra) or ASSAR (Association of Andorran Insurance and Reinsurance Companies).

Number according to activity	Andorran entities	Local offices of foreign entities	Total
Entities operating in the life Insurance field	2	3	5
Entities operating in non-life Insurance fields	2	9	11
Entities operating in the life Insurance and non-life Insurance fields	4	3	7
<b>Total by typology</b>	<b>8</b>	<b>15</b>	<b>23</b>

The insurance and reinsurance companies which are considered reporting entities according to the present Andorran legislation on prevention and the fight against the laundering of money and assets and terrorist financing, are the entities authorized to operate in the Principality of Andorra in the life insurance field. Consequently, the scope of the analysis of the National Risk Assessment is limited only to these companies in this field in particular.

The main insurance business has traditionally and to a large extent been limited to activities which are carried out with Andorran residents, comprising a domestic market of approximately 70,000 residents.

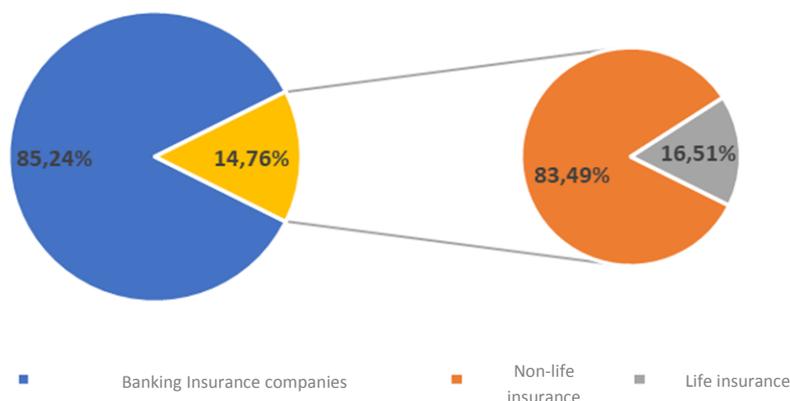
Reinsurance, which is not available locally, is usually taken out with internationally prominent reinsurance firms.

With respect to the non-banking insurance sector, on 31 December 2019 the total gross premiums came to 94 million euros, 16.51% of which corresponded to the life insurance field, which is the object of analysis within the framework of the National Risk Assessment, and 83.49% corresponded to the non-life insurance field.

These figures denote that the life insurance business of the non-banking insurance companies is quite small with respect to the total, and especially so if one bears in mind the presence of the bank investee entities. The development of an overall AML/CFT system for a hardly significant part of the business poses difficulties of scale which have led the companies to consider abandoning some lines due to the costs of controlling regulatory compliance. This is intensified by the fact that a large part of this small business corresponds to life-risk policies for small amounts, with a very limited exposure to ML/TF risks and with very scant margins. UIFAND insists that the solution in these cases is a risk-based approach, defining the controls with

simplified due diligence measures in the cases which are so allowed by law.

Significance of life Insurance in non-banking Insurance companies



Getting back to the business figures, the breakdown according to gross premiums issued is as follows:

<i>(thousand of euros)</i>	<b>Andorran entities</b>	<b>Local offices of foreign entities</b>	<b>Total</b>
Gross premiums issued – life Insurance	7.781	7.752	<b>15.533</b>
Gross premiums issued – non-life Insurance	41.750	36.796	<b>78.546</b>
<b>Total gross premiums issued</b>	<b>49.531</b>	<b>44.548</b>	<b>94.079</b>

The life insurance premiums are equally distributed (50% of the volume) between the Andorran local insurance companies and the local offices of foreign entities:

- the local insurance entities are entities with their registered office in Andorra which do not do any business outside Andorra. The sector is formed by 8 entities, two of which operate only in the life insurance field and four of which operate in both the life insurance field and in the non-life insurance fields. The total volume of the life insurance premiums of this typology of entities came to 7,781 thousand euros;
- of a total of 15 local offices of foreign entities authorized to operate in the Principality of Andorra, three operate only in the life insurance field and three operate in both the life insurance field and in the non-life insurance fields. The total volume of premiums in the life insurance field of this typology of entities came to 7,752 thousand euros.

Additionally, registered in the Register of Mediators of the Andorran Financial Authority (AFA) on 31 December 2019 was a total of 63 mediators, forty-five of whom are insurance brokers and 18 of whom are insurance agents.

## 2. Inherent vulnerability of the sector

In carrying out the assessment, consideration has only been given to the Andorran insurance companies and the local offices of foreign insurance companies which operate in the life insurance field and which do not form part of a banking group. The reason for establishing this criterion lies in the fact that the insurance companies of banking groups are exposed to the various business risk factors relating to bank customers and they fall within the scope of the preventive systems of the respective economic groups.

The analysis of the inherent vulnerability of the sector includes the mediators of insurance products on a partial basis alone, that is to say, for the risk which they contribute to the insurance companies and not for the quality of the controls in the cases in which they are reporting entities (insurance brokers in the life insurance field).

With respect to the products provided by these companies or local offices of insurance companies which operate in the life insurance field, for the purposes of this assessment of their general and inherent vulnerabilities, four groups may be distinguished: unit linked, life-savings (which includes both policies in which the investment risk falls to the customer and those in which it falls to the company), life-risk, and pension and retirement plans. Despite this, the non-banking insurance sector as a whole is not characterized by the life insurance products since the non-life insurance products are of a much greater significance within its business.

In this respect, the non-banking life insurance sector is one of the sectors which is least exposed to money laundering, mainly because the nature of its activities and the overall size of the sector make it scantily attractive for laundering illegal funds.

### *Unit Linked*

This is a life-investment product in which the insured assumes the risk entailed by the investment, and it guarantees a coverage in the event of decease. The investment/accumulation capacity and the subsequent early redemption, if the customer so desires, are the main characteristics of this product that make it vulnerable to ML. A very limited number of insurance companies authorized to operate in the life insurance field offer this product which, with a very small percentage of customers with respect to the total customers who have taken out a life insurance policy (0.79%), represents more than one-third of the total gross premiums (36.9%). This circumstance means that a very limited number of customers have policies for very large amounts in comparison to the rest of the products and, consequently, they cause the product's vulnerability to increase.

The unit linked customers may make early redemptions with great agility and, as opposed to the rest of the life-risk products, such redemptions may be made in cash and for large amounts. In this respect, considering the small number of customers involved, the companies review all redemptions and, consequently apply different measures such as those established in Technical Communiqué CT-3/2019, among others.

The cross-border component in the use of this product is highly significant since the majority of the customers who contract it are not Andorran residents (76%). From this fact it may be deduced that neither the taker nor the beneficiaries are residents. Even though, generally speaking, the funds are transmitted by means of the banking financial system for both the contracting of the policy and its duration, and subsequently at the time of its cancellation or of the materialization of the risk, on many occasions these movements involve foreign banking entities such as those of Switzerland, France or Spain, among others.

The analysis concludes that the inherent vulnerability of the product is situated on a medium-high risk level.

### *Life-savings*

The main characteristic of this type of products is savings, although they do contain a strong investment component. Since this category includes both policies whose risk is assumed by the customer, and policies whose risk is assumed by the insurance company, its vulnerability has been increased by the first category of policies which, as a general rule, involve larger amounts. The entities which offer these products do so in various modalities, which consist in single-premium products or in savings plans with regular contributions, and on some occasions it is the customer himself who decides where to invest.

It should be pointed out that, of the three suspicious transaction reports submitted by the insurance sector, two were linked to the life-savings product.

The analysis concludes that the inherent vulnerability of the product is on a medium-low risk level.

### *Life-risk*

Almost all the insurance companies and local offices that operate in the life insurance field offer this product. Although the volume of the premiums with respect to the total does not reach 30%, the percentage of customers who have contracted this product is higher than the number of customers for the rest of the products analysed and it is situated at 79.71%. This is a product that is linked in most cases to a loan (mortgage loan or consumer loan), whose beneficiary, in the event in which the risk envisaged in the policy materializes, will be the Andorran banking entity which has granted the loan. Moreover, the life-risk product may only be redeemed in the case of death, invalidity or serious illness (circumstances which generate the payment of a loss).

Just as was previously explained, the internal policies of the insurance entities limit the use of this product to Andorran residents with a bank account in Andorra. The principal exception to this requirement consists in providing the life-risk product to persons who are in the process of requesting passive residence since this is one of the requirements for obtaining the respective administrative permit.

The analysis concludes that the product's inherent vulnerability is situated on a medium-low risk level.

### *Pension and retirement plans*

Among all the life insurance products, this is the one that represents the lowest percentage of customers and volume. These products are considered life-savings products and the circumstance that generates the payment of the policy is retirement (although hypotheses of illness, death or departure from the country are also contemplated). The goal is to save in order to obtain a capital or some income during retirement. Investment is not the aspect which most characterizes this type of product, which is contracted for the purpose of long-term savings and small amounts which make it less attractive for persons who seek to launder money.

The analysis concludes that the product's inherent vulnerability is situated on a medium-low risk level.

### 3. Quality of AML controls

The main characteristics of the implemented controls are as follows:

#### *Internal control systems*

All the insurance entities that operate in the life insurance field in the Principality of Andorra are legal entities and they have internal procedures and policies in matters of AML/CFT which are the object of an annual review by an external auditor who assesses the fitness of the internal controls according to the nature, complexity and size of the entity. Despite this, on some occasions these controls are excessively extensive and they are not always adapted to the reality of the business or effectively applied.

With respect to the functions of regulatory compliance and of internal audit, some Andorran entities are still in the process of developing these control functions, mainly for the transition period provided by Law 12/2017.

The internal control and communication body (ICCB), for its part, is formed in most cases by a director, coincides with the representative before UIFAND, and exercises other functions within the entity at the same time. This circumstance also translates into the resources devoted to this matter, and although they are not large, they are considered sufficient in view of the characteristics and small size of the sector.

With respect to the local offices of foreign insurance companies, aside from the controls which are carried out in Andorra, in most cases the control functions are performed by the parent company, the same as the functions of the ICCB, by specialized teams with large resources at their disposal.

#### *Obligations in matters of AML/CFT:*

- In the sphere of due diligence, the insurance entities apply the same measures to all their customers, with the exception of PEPs, owing to the low risk entailed by the type of product which they commercialize. For this reason, the due diligence documentation of the customers of life-risk products is limited, a great deal of it is reused and, generally speaking, an inquiry into the source of funds is not required. With respect to the rest of the products, these products have a savings component which, in some cases, entails the disbursement of significant amounts. Nevertheless, the only transactions that entail this type of insurance are precisely the contributions and withdrawals which the companies supervise according to various criteria (for example, as from a specific amount, carrying out a historical analysis of withdrawals or contributions, comparing the economic capacity of the customer with the amounts of transactions, etc.).
- As regards the keeping of documents, some companies and local offices of insurance companies do not possess suitable systems for the digitization of customer information and data that would allow such information and data to be provided in due time and form to meet the requests of the authorities. This circumstance could affect the capacity to detect suspicious transactions, due to the impossibility of applying automated systems.
- Practically all the insurance companies carry out the follow-up of transactions manually, above all in the case of those which commercialize a small number of life insurance policies. The local offices of foreign insurance companies in Andorra, for their part, possess more complex systems for identification and information with respect to suspicious transactions.
- In the smaller insurance companies, the separation of functions is not usually defined in a clear way, so cases may arise in which the person who approves the business relation, who analyses operations and who is on record as the representative before UIFAND is one and the same person. In companies with more employees and local offices, the internal channel

of communication of suspicions is established orally, given the constant inter-relation between employees, and written communication is also used, both on paper and by email to the ICCB which, after making the pertinent analyses, submits a suspicious transaction report (STR) to UIFAND if reasonable indicative evidence is found. In terms of numbers, the insurance sector submitted three STRs during the period under study, which is a consistent figure considering the risk characteristics of the products.

- The knowledge in matters of AML/CFT of the personnel of the insurance entities differs according to the size of the entity and the share of the entity's business represented by the life insurance field. In this respect, the insurance entities offer their employees AML/CFT training courses in different modalities (internal/external, online/in-person, etc.) to meet different needs.

#### *Other aspects affecting the quality of AML controls*

- Lack of regulation and supervision of agents: the exercise of the profession of mediator has been subjected to the compulsory requirement of registration in the Register of Mediators kept by the Andorran Financial Authority (AFA), with the entry into force of Law 12/2017 (see Additional Provision 3). Nevertheless, aside from the compulsory status of registration, there have been no other legal developments aimed at regulating the profession.

With respect to the use of intermediaries, agents or brokers, the contracting of policies in the insurance sector varies greatly between the various companies. In some cases, all customer acquisition is carried out by means of an attached agent, while in other cases this is so to a much smaller extent. In this respect, it should be pointed out that, although due diligence is applied by the mediators in almost all cases, the insurance companies obtain and register the information derived from such controls.

- Usual customer profile: The target market of the insurance companies and of the local offices of insurance companies which operate in the life insurance field is formed by natural person customers who are residents in Andorra. The legal entities which have contracted any life-risk product are not complex structures and, consequently, they do not add opacity with respect to their beneficial owners. Special significance is acquired by the extremely small percentage of PEP customers with respect to the total, which would lead one to think that the PEP detection system in most of the entities is not efficient. The other recurrent negative aspect in the insurance entities is the fact that the verifications on the United Nations lists are limited and centred on the start of the business relation.
- Use of cash: In their policies and procedures, some insurance entities envisage the possibility of using cash to collect and/or pay policies, in the event of loss or redemption, with certain requirements or limitations (for example, limitation of amount, authorization by the management, etc.) Despite this, in practice these transactions are usually carried out by means of cheques or bank transfer, except in specific cases.
- Typologies of ML linked to the product: The life insurance products that have investment characteristics (life-savings and unit linked) are usually more attractive for the criminals who use them for the purpose of laundering illegal funds since they allow them to make investments and redemptions very quickly despite the possible commissions or penalizations envisaged by the insurance companies. Two of the suspicious transaction reports submitted by insurance entities to UIFAND were precisely related to life-savings products.

## ***Control by the competent authorities***

### *Effectiveness of entry controls*

At the present time, AFA is the authority for the prudential supervision and for the activity of the insurance and reinsurance sector. To carry out the tasks entrusted to it, AFA cooperates with the national authorities (UIFAND, Police, etc.) and foreign authorities in authorization processes, above all when assessing the fitness of shareholders, of members of the administration body and of the general management, and of the persons in charge of control functions. Likewise, the process for the creation of an insurance company requires compliance with all the organizational requisites, including the development of internal procedures and policies of AML/CFT and the appointment of an internal control and communication body. In this respect, the framework of licensing and registration requirements in the sector is quite exhaustive, and AFA has the knowledge and tools to assess the ML/TF risks of the insurance sector.

### *AML/CFT supervision system*

UIFAND is the supervision body in the field of AML/CFT of the insurance and reinsurance companies. Since they are financial reporting entities, these companies submit each year an external audit report based on the requirements established in the technical communiqués issued to this effect, for their analysis by UIFAND. Aside from this regular remote supervision, UIFAND also carries out on-site inspections, applying a risk-based approach, which numbered five in the period under study. Both modalities of supervision give rise to a series of recommendations and of aspects to be improved for both the specific reporting entities concerned and the sector in general.

As a result of all these supervisory tasks and awareness-raising actions based on the publication of guides and informative notes, it has been observed that a greater effort is being made to comply with the applicable legal norms on the part of the insurance companies, and that there has been an enhancement of the systems for detecting suspicious transactions and an increase in the number of staff training programmes.

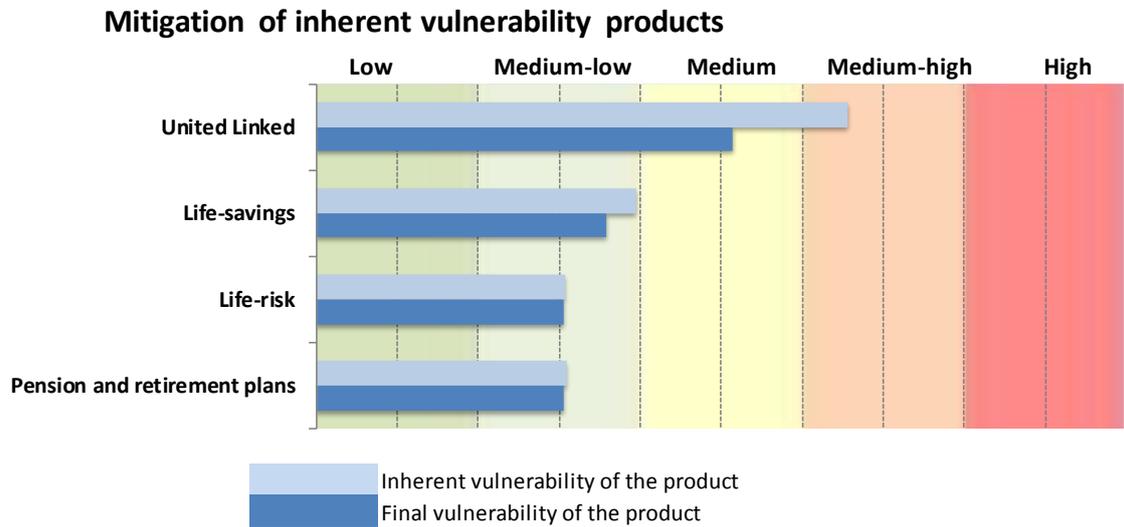
### *Sanctioning regime*

With respect to administrative sanctions, Law 14/2017 establishes different types of infringements (minor, serious and very serious) according to their importance as regards non-compliance in matters of AML/CFT, and the respective sanctions depending on the type of reporting entity (financial/non-financial, or natural person/legal entity) and on the position held within the reporting entity. Between 2017 and 2019, two administrative sanctions have been imposed on two insurance companies, one for a serious infringement (unsuitable and insufficient control procedures), and the other for a very serious infringement (the obligation to submit to UIFAND, in due time and form, all the information which the Unit requests in writing in the exercise of its functions). Both proceedings were resolved with pecuniary sanctions of 10,000 and 60.001 euros, respectively (the latter amount had initially been set at 90,001 euros but it was later reduced in accordance with the stipulations of Article 86.1 of Law 14/2017).

No sentences have been passed and no criminal proceedings have been conducted by the authorities in relation to non-compliance with the AML requirements in the insurance sector in the last three years.

## 4. Vulnerability rating

According to the World Bank methodology, the analysed variables determine a medium-high level of AML control quality in the non-banking insurance sector, which is something that affects the calculation of inherent vulnerability described for each of the products in the following way:



Accordingly, the aggregation and summary of conclusions for the non-banking insurance sector is as follows:

<b>Quality of AML controls</b>	<b>Medium-high</b>
<b>Final vulnerability of the sector</b>	<b>Medium</b>

# Postal sector

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## 1. General description of the sector

The two entities that form the postal sector are offices of important State companies (Spanish and French) which are considered financial reporting entities according to the provisions of Article 2 of Law 14/2017. Both entities were established in Andorran territory as a result of the trilateral agreement signed in 1930. Their activity in Andorran territory is very limited and subject to both the rules of the respective countries of the parent entities and the Andorran rules. Between these two entities, services involving postal giros, the remittance of funds, and deposits in and withdrawals from accounts are provided.

These two entities carry out their activity on an in-person and non-anonymous basis. This activity is mainly based on the use of small amounts of cash which are subject to specific control systems. The various types of transactions are subject to limitations with respect to amounts, modality (for example, only in French cheques), and persons who may carry them out (for example, the holder of the respective account or his attorney-in-fact, Andorran residents, etc.).

Neither of the entities has submitted any suspicious transaction report during the period under study. Neither have they reported any other situation which could lead one to understand that they have been used to commit ML acts, or any predicate crime, fraud or tax evasion.

Aside from payment services, both entities are engaged in the sending of packages and letters.

## 2. Inherent vulnerability of the sector

The conclusions with respect to inherent vulnerability, according to the risk factors analysed, are given below.

### *Postal giro*

This service is only offered at present by one of the entities. The total volume of this transaction is very small and the average amount of the giros is under 300 euros. Almost all the customers are natural persons and the most frequent sources or destinations are OECD countries. Moreover, as a general rule, the customers are employed persons who state, as the purpose of the transaction, "Family-personal aid/reason".

The analysis concludes that the inherent vulnerability of the product is situated on a medium-low risk level.

### *Remittance of funds*

This service is also only offered at present by one of the entities and it is channelled through the platform of an international provider. The volume of this transaction, although relatively small, has increased a good deal over the course of recent years. The main difference with respect to postal giros is that this system provides access to a broader variety of countries with which the entity in question does not maintain any agreement and, consequently, they are outside the scope of the OECD. Likewise, the average amounts of the fund remittance transactions are slightly higher than those of postal giros.

The added risk posed by this type of service in comparison to the postal giro is that whereas, in the case of the latter, the reporting entity maintains contact with both the person who sends the money and the person who receives it and can apply the pertinent controls, in the case of remittances the service provider only has control of one of the aspects depending on whether money is received or sent.

Likewise, it should be pointed out that the platform only allows funds to be sent to natural persons who act on their own behalf, which is something that substantially mitigates the risk. What's more, the transaction is limited, in the case of both sending and receiving, to a maximum amount of 3,000 euros per person and calendar quarter, for both the sender and the beneficiary.

The analysis concludes that the inherent vulnerability of the product is situated on a medium risk level.

### ***Deposits into an withdrawals from account***

One of the entities allows Andorran nationals or residents to request the opening of an account in an office located in the territory of its parent entity, although this proceeding must be carried out entirely abroad. Once compliance has been made with all the formalities and controls, including the identification and the verification of the identity of the beneficial owner, the customer may use the service of deposit into or withdrawal from the account through the office located in Andorra. The total volume of this type of transaction is quite small and has undergone a large decrease in the last three years. There is a large number of restrictions on the use of this service (for example, linking to the account, amounts, etc.). The number of legal entity customers is also quite small. The natural person customers are mainly French pensioners, wage-earners or students.

In 2018, the other entity began to offer the payment into and withdrawal from account service but only for accounts at specific banking entities with which the entity had signed the respective agreements and which are located in the territory of the parent entity. This is a recently implemented service and the data available on it to date are extremely scant. Moreover, the entity in question applies the same due diligence measures to these transactions as to national giros. This means that it verifies the identity of the person who comes to its offices, and records his details.

All the payments and withdrawals are limited to bank accounts in France or Spain, which significantly reduces the geographical risk since the customers who use this service are nationals and/or residents of Andorra, France or Spain inasmuch as a bank account must already be held in one of various specific entities.

The analysis concludes that the inherent vulnerability of the product is situated on a medium-low level.

## **3. Quality of AML controls**

The main characteristics of the implemented controls are as follows:

### ***Internal control systems***

Both entities possess policies and procedures based on detected risks, which are addressed to AML/CFT both at group level and specifically for the offices located in Andorra.

The respective internal control and communication bodies and the regulatory compliance and

internal audit departments of both entities are totally assumed by the respective parent entities, which possess the necessary resources to carry out the pertinent functions and to ensure their independence within the scope of the entity.

#### *Obligations in AML/CFT matters*

With respect to due diligence, some transactions of transfer of funds made by both reporting entities are defined in Article 29.7 of Law 14/2017. Most of the transactions carried out do not reach 1,000 euros and, in accordance with Article 8.b,ii), they are probably not even subject to the obligation to carry out due diligence measures. Nevertheless, the entities apply them and verify the identity of natural person customers on the basis of identity documents (residence permit, passport, etc.) at the time of establishing the business relation and, if a continuous relation is involved, during the course of the relation, if it were to be necessary (for example, due to expired documentation). Legal entity customers are identified and the identity of the customer and of the beneficial owner is verified on the basis of documents such as the deed of incorporation, the deed of the purchase and sale of shares, the articles of association, the consultations and certificates of the Registers, etc.

Law 14/2017 requires that reporting entities should keep for a period of 10 years the documents, data or information obtained in application of due diligence measures. This is an obligation that conflicts with the internal rules of the offices' countries of origin since the transposition of the 5th Directive establishes a term of 5 years for keeping these items. Despite this circumstance, documents are kept by the respective subsidiaries and they are periodically scanned and sent to the central archive.

As has been previously stated, the second and third level controls are assumed by the respective parent entities, which possess robust warning and follow-up programmes that allow the detection of unusual transactions, which are subsequently processed in detail by the respective regulatory compliance departments. Both entities have established different degrees of customer risk classification depending on customers' intrinsic characteristics, the countries linked, the amount and/or frequency of transactions, or others, and they consequently apply different due diligence measures according to such risk. The main difference between the two entities is that one has customers with whom it maintains a business relation of a certain duration, while the other establishes occasional relations with its customers in most cases. Likewise, it should be pointed out that the parent entities of both postal entities are served by suppliers of public or private sources of information with a high level of reliability. These sources allow the identification of designated or politically exposed persons, or the procurement of significant data for the knowledge of customers.

During the three years covered by this assessment, the postal entities did not submit any suspicious transaction reports. Nevertheless, it is considered that this is due to a lack of pertinent cases rather than to any lack of knowledge of the sector, since before the period under study, various suspicious transaction reports had been submitted.

Both entities possess internal procedures and policies that require that high ethical standards should be ensured in the contracting of managers and employees. In order to ensure the honourability of personnel, consideration is given, among other aspects, to the absence of a criminal record and of administrative sanctions. Likewise, they possess deontological codes for combating corruption, and/or reporting channels which allow employees to submit information on possible non-compliances with this code or with the AML/CFT norms, which may lead to various sanctions depending on the seriousness of the acts committed.

The respective AML/CFT committees of the entities approve an annual training plan which sets out the content of the training, the training modality (in-person/online), the number of hours, the trainers (internal/external), etc. There are usually general training sessions which are addressed to all the members of the group, and other more specific training programmes

adapted to the functions of the employees within the respective entity, and to the location of the respective office.

### ***Control by the competent authorities***

#### *Effectiveness of the entry controls*

Law 8/2018, of 17 May, on payment services and e-money, in its Article 4.1,f), authorizes the two postal entities to provide payment services. Even though these entities are exempt from the "ordinary" authorization process, they are obliged to register themselves in AFA by virtue of Article 7.1,c) of said law.

In the event that a new payment entity were to wish to accede to the market, it would have to do so under Law 35/2010, of 3 June, on the regime of authorization for the creation of new operative entities of the Andorran financial system, and after AFA were to carry out the pertinent verifications (assessment of the fitness of the shareholders, of the experience of the members of the administration body, of the sworn statement in which it is declared that the contributions which are made by the partners to the entity comply with the requirements established by the law relating to international criminal cooperation and to the fight against the laundering of money or of assets which are proceeds of international crime and against terrorist financing, among others), AFA will determine whether to grant the respective operating license.

#### *AML/CFT supervision system*

Just as all the other financial reporting entities, the postal entities are subject to supervision by UIFAND in matters of preventing and combatting the laundering of money and assets and terrorist financing. They are obliged to submit an external audit on AML/CFT to UIFAND, which then issues an informative note with the pertinent recommendations.

The technical communiqués on audits addressed to these two institutions request the submission of an audit report (which may be specific to the Andorran office or general for the entity with specific reference to the office established in Andorra), of the internal rules of the group in matters of prevention of money laundering and terrorist financing, and of the opinion of the auditor to the effect that the internal rules allow compliance with the requirements established in Andorran Law. In this respect, it should be pointed out that Article 40.1,a) provides that this audit shall be carried out annually and that it shall be external and independent.

Both entities show themselves to be fully aware of the ML/TF risks to which they may be exposed, considering the importance of their respective parent entities, the knowledge possessed by these entities and the tools with which they are endowed.

With respect to on-site supervision, an inspection was carried out on one of the entities in 2019 and the respective recommendations were issued, without any significant deficiency having been observed in the AML/CFT procedure.

#### *Sanctioning regime*

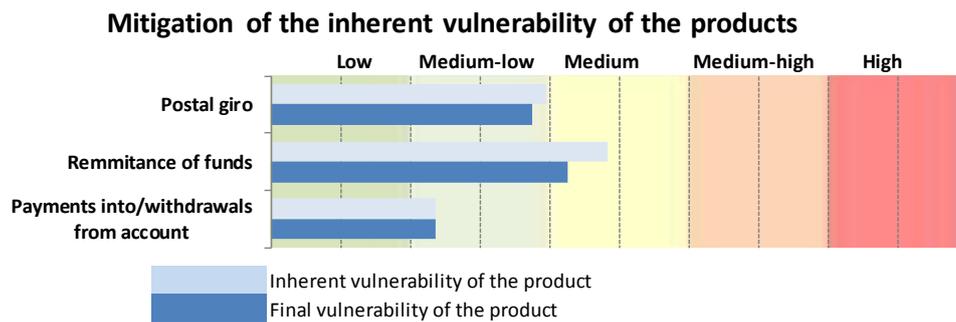
Even though the laws provide for different types of sanctions (administrative and penal), none have been imposed on the offices of the postal sector.

With respect to the parent entities, it should be pointed out that in the course the period under study (2018), one of the entities was sanctioned by its local authorities for the amount of 50 million euros for deficiencies in its system for preventing and combatting ML/TF, since it did not carry out the verification of the United Nations sanctions lists when making postal giros and it made funds available to 10 designated persons between 2009 and 2017. It is important to point out that, as a result of this fine, the entity in question has ceased to offer the postal giro service

in Andorra since January of 2018 and has moreover undergone many changes, including organizational changes, tripling its staff devoted to AML.

#### 4. Vulnerability rating

According to the World Bank methodology, the analysed variables determine a medium-high level of AML control quality in the postal sector, which is something that affects the rating of inherent vulnerability given for each of the products in the following way:



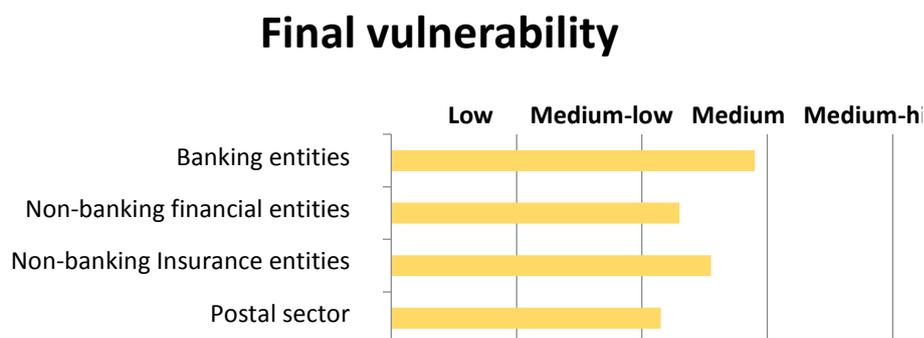
Consequently, the aggregation and summary of conclusions for the postal sector is as follows:

<b>Quality of AML controls</b>	<b>Medium-high</b>
<b>Final vulnerability of the sector</b>	<b>Medium</b>

# Final conclusions on the financial sector

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## Vulnerability rating of each sector



## Improvement actions

As a result of the analysis carried out on the reporting entities, various deficiencies were detected which increase vulnerability, and some possible aspects of improvement were observed which would allow the mitigation of these deficiencies. All these aspects are listed below:

### *Legal framework of AML/CFT*

- 1) A clear guide addressed to the reporting entities should be prepared for the purpose of specifying the documents, data and information which are required to be kept according to Article 37 of Law 14/2017.
- 2) A regulation of the activity of virtual assets services providers should be implemented, which should include an accurately prepared definition, the requirements for entry into the market, the legal system of such providers, etc. Likewise, guides and typologies adapted to the sector should be prepared.
- 3) The insurance and reinsurance mediation activity should be regulated, determining, among other aspects, the services which are offered by insurance brokers, in order to delimit the AML/CFT risks (for example, they may only offer insurance from Andorran companies, or only offer specific products, etc.).
- 4) A regulation should be promoted which is focused on defining the various insurance products offered by the entities which operate in Andorran territory.

### *Supervision*

- 5) Primarily in the insurance sector, joint actions should be carried out between the authorities and the sector to improve the understanding and assessment of the ML risks associated with the sector.
- 6) The introduction of a periodic submission of information based on the information requirements set out in this National Risk Assessment should be evaluated, for the purpose of carrying out a follow-up of the analysed risk indicators.

### **Administrative sanctions**

- 7) The sanctioning regime should be revised in order to improve its effectiveness in the application of sanctions, especially with respect to their calibration.
- 8) Article 88.4 of Law 14/2017 should be amended to include the reference to “*insurance and reinsurance, brokers*”.

### **Penal sanctions**

- 9) The introduction of the criminal liability of legal entities into the Andorran Penal Code should be evaluated.

### **Entry controls**

- 10) It should be checked that the controls which are applied to acts subject to prior authorization by AFA, which are submitted by the operative entities of the Andorran financial system, suitably assess the ML/TF risks and take into consideration the expert judgement of UIFAND.

### **Staff integrity**

- 11) Directives or indications should be given to the banking entities to have them implement measures for the detection of potential links or business relations between customers and account managers. Likewise, in the field of supervision, the procedures for the management of conflicts of interest should be reviewed in order to ensure that account managers are obliged to report any personal business relation with customers which may affect the control bodies or mechanisms.
- 12) Each sector should be encouraged to adopt a code of ethics or, in the event in which it already has one, emphasis should be placed especially on the adoption of principles of honourability and integrity of employees and managers.
- 13) Specific measures should be developed to ensure that criminals do not take advantage of linked authorized financial agents for ML/TF purposes. Emphasis should be placed on this matter in the regulation and the supervisory actions which are carried out.
- 14) Bearing in mind that the requirement for the reporting channel remains to be developed, the proportionality of its application to small-sized reporting entities should be considered.
- 15) In the case of the local offices of foreign insurance companies, an evaluation should be made of the issue of a specific differentiated technical communiqué on audits, in order to more closely adapt it to the reality of the business and of the controls.

### **Staff knowledge of AML/CFT**

- 16) The training plans of the banking entities which have an international presence, should incorporate some measure that ensures the knowledge on the part of the top management and especially on that of the members of the boards of directors of the banking entities, with respect to the risks and the laws in force in matters of AML/CFT, in the jurisdictions where they carry out activities.
- 17) Specific training which is adapted to the needs of the reporting entities should be promoted.

### **Compliance function**

- 18) The legal framework in force for the internal audit function and the role of verification of the internal control system in matters of AML/CFT should be reviewed and developed. The cases in which this requirement is to be excepted, should be evaluated.
- 19) It should be ensured that the entities apply a risk-based approach and that they calibrate the due diligence measures applied to customers.

- 20) There should be an improvement in the contribution of the audit reports in the AML/CFT systems, and especially in the external auditor's mission of verifying that the prevention system implemented in the entity is suitable in view of the reality of the business.
- 21) An evaluation should be made of the periodicity of the requirement for an annual audit of AML/CFT in the case of financial reporting entities with limited risk activities (for example, financial consultancy) and a small size (for example, natural persons), in order to develop Article 40.7 of Law 14/2017.

#### ***Systems for detectin and report suspicious transactions***

- 22) UIFAND should revise the ML typologies, preferably breaking down specific typologies for the activities posing the greatest risk.
- 23) The banking entities should improve the defined warning system in order to make it more effective/efficient, and they should devote resources to the revision of the transactions posing the greatest risk, and to the generation of an overall view of the customer.

#### ***Availability of and access to information of the beneficial owner***

- 24) UIFAND should ensure that permanent dissemination and training measures are maintained (with case histories) for the requirements relating to beneficial owners, in order to allow companies and other legal structures to apply them for their self-assessment and to ensure that the reporting entities correctly identify the beneficial owners of customers in their business relations.
- 25) The necessary measures should be taken to correct the deficiencies detected in the Report of the Moneyval 5th Evaluation (R.24, R.25 and IO.5) and in the Global Forum's EOIR Report (especially compliance with the registration obligations on the part of inactive companies).
- 26) As regards the information on beneficial owners contained in the Registers: (i) control mechanisms should be established that validate the accuracy of the information and/or detect, exhaustively or minimally with a risk-based approach, the cases of falsehood or missing information; (ii) specific dissuasive sanctions should be incorporated into the existing regime; and (iii) verification should be made of compliance of the obligations with respect to the declaration of beneficial owner.
- 27) Actions should be carried out immediately to ensure that the trusts or analogous instruments operating in the Principality of Andorra are duly identified and registered in the respective Public Register.
- 28) The authorities' capacity to establish deadlines for information requirements should be explicitly introduced into the Andorran legal framework.

#### ***Availability of a reliable identification infrastructure***

- 29) Reporting entities should be required to incorporate the characteristics of the administrative permits for residence in Andorra into their suspicious transaction detection system.

#### ***Availability of independent sources of information***

- 30) The access of the reporting entities to the basic information of the Registers of Companies and of Commerce should be ensured.
- 31) A study should be made of the financial information which could be made public in the Registers, such as, for example, whether or not a company has deposited its accounts in the respective public register.

# NON-FINANCIAL SECTOR



# Designated non-financial businesses and professions (DNFBPs) in Andorra

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This section of the sectoral level of the NRA analyses the ML vulnerability of Andorra's non-financial sector. Consequently, the scope of this section is focused on the non-financial entities and, specifically, on the designated non-financial businesses and professions, according to the FATF definition.

The non-financial reporting entities are established in Article 2.2 of Law 14/2017, of 22 June, on prevention and the fight against the laundering of money or assets and terrorist financing.

For the purposes of this assessment, the following non-financial businesses and professions were taken into consideration:

- Lawyers
- Notaries
- Real estate agents
- Gambling (analysed separately)
- External accountants, tax consultants and auditors
- Economists, administrative services agent (*gestors*) and other providers of services to companies and other legal structures.
- High value dealers (vehicle dealers and dealers in precious metals and Stones [DPMSs])

## 1. Assessment methodology for the non-financial sectors

In order to carry out the NRA, the World Bank (WB) methodology has been followed. The overall risk of each sector assessed is a combination of the threats<sup>6</sup> posed to them in relation to ML and their ML vulnerability.

The assessment of ML vulnerability is based on the analysis of various products and general variables. The general variables are related to the strength of the AML controls for each business/profession. Specifically:

- Exhaustiveness of the AML/CFT legal framework.
- Effectiveness of the supervision practises and procedures.
- Availability and application of administrative sanctions.
- Availability and application of penal sanctions.
- Availability and effectiveness of entry controls.
- Integrity of the staff of the business/profession.
- AML knowledge of the staff of the business/profession.
- Effectiveness of the compliance function (organization).
- Effectiveness of the suspicious transactions detection and reporting systems.
- Availability of and access to information on beneficial owners.
- Availability of a reliable identification infrastructure.
- Availability of independent information sources.

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<sup>6</sup> In the section of the NRA on ML threats, the threats posed to each sector are analysed in detail.

The product-based variables are related to the vulnerabilities inherent to each and every one of the businesses/professions. Specifically, these indicators are as follows:

- Total size/volume of the non-financial sectors.
- Customer profile of the business/profession.
- Cash activity level associated with the business/profession.
- Other vulnerability factors of the business/profession:
- Anonymous use of the product.
- Money laundering typologies.
- Business relations without physical presence of the customer.
- Use of agents, prescribers, introducers and other intermediaries.
- Use of the business/profession in fraud schemes or tax evasion.
- Difficulty in establishing the traceability of transactions.
- Other significant characteristics (these vary according to the product and sector analysed)

These inherent vulnerability factors may be assessed for a type of profession as a whole, or a detailed product-based assessment may be carried out. Different methods have been applied depending on the profession or business analysed.

The table below shows the method used for each non-financial sector analysed.

Non-financial sector	Products analysed
<b>Lawyers and membres of other independent legal professions</b>	<p><u>Product 1</u>: Creation, operation or management of companies.</p> <p><u>Product 2</u>: Creation, operation or management of associations, foundations, trusts or other analogous structures.</p> <p><u>Product 3</u>: Purchase and sale or other acts of disposal of immovable property or entities.</p> <p><u>Producte 4</u>: Management of funds, securities or other assets of customers. Opening or management of bank accounts, savings accounts or securities accounts.</p>
<b>Notaries</b>	<p><u>Product 1</u>: Creation, operation or management of companies.</p> <p><u>Product 2</u>: Creation, operation or management of associations, foundations, trusts or other analogous structures.</p> <p><u>Product 3</u>: Purchase and sale or other acts of disposal of immovable property or entities.</p>
<b>Real estate agents</b>	<u>Product 1</u> : Activities relating to the purchase and sale of properties.
<b>Gambling-Bingo</b>	The whole sector
<b>External accountants, auditors, tax consultants</b>	<p><u>Product 1</u>: Accounting services and accounting consultancy..</p> <p><u>Product 2</u>: Auditing services</p> <p><u>Product 3</u>: Tax consultancy</p>
<b>Economists, administrative services agents and other providers of services to companies and other legal structures</b>	<p><u>Product 4</u>: Creation, operation and management of, and provision of services to companies.</p> <p><u>Product 5</u>: Creation, operation and management of, and provision of services to legal instruments of fideicommissa, trusts or other analogous structures, and associations, foundations or other legal structures.</p>

### High value dealers<sup>7</sup>

Product 1: Purchase and sale of vehicles.

Product 2: Purchase and sale of precious metals and precious stones.

Product 3<sup>8</sup>: Purchase and sale of other high value goods (for example, works of art, antiques, philately, collector's objects, etc.)

## 2. Approach to collecting data and information

Different strategies and methods have been applied to collect data and information on the non-financial sectors assessed, such as questionnaires, meetings and other sources of information.

### Questionnaires

The following types of questionnaires were developed:

#### *Questionnaires addressed to professional associations and bodies*

The purpose of these questionnaires was to analyse matters relating to market entry controls, integrity or risks detected at overall level for each of the non-financial sectors.

The professional associations and bodies were:

- Bar Association of Andorra (CADA),
- Chamber of Notaries,
- Professional Association of Real Estate Agents and Real Estate Managers of Andorra (AGIA),
- Association of Accountants of Andorra,
- Association of Fiscal and Tax Consultants of Andorra (AATF),
- Professional Association of Economists of Andorra (COEA), and
- Association of Vehicle Importers of Andorra (AIVA)

The questionnaires were sent out in March of 2020 and they were all duly answered.

#### *Online Qüestionaris en línia adreçats als integrants dels diferents sectors no-financers*

- General questionnaire: relating to the quality and efficiency of the AML controls applied by the various professionals in each non-financial sector analysed. This questionnaire was the same for all the professions and all the businesses assessed.
- Product-based questionnaire: relating to specific products of the various professions or businesses.

These questionnaires were sent out through the respective professional associations and bodies, to all their members, between July and August of 2020.

It should be kept in mind that there are professions for which membership in an association or body is not compulsory, and also that some members of a professional association or body may not carry out activities subject to AML/CFT obligations in accordance with Law 14/2017. For this reason, before carrying out the analysis of the replies to these questionnaires, we filtered out those which were not valid for various reasons, such as duplications, general questionnaires answered but not product questionnaires or vice versa, replies provided by professionals who

<sup>7</sup> Only to the extent in which payments are made or received in cash for an amount equal to or greater than 10,000€ or its equivalent in foreign currency, regardless of whether this is done in a single transaction or in various transactions between which there would appear to be some sort of relation.

<sup>8</sup> No replies were received for this product. For this reason, the analysis has been limited to vehicle dealers and to dealers in precious metals and stones (DPMSs).

are not reporting entities, etc.

Likewise, consideration has been given to other sources of information, such as the internal records on reporting entities of UIFAND and information of the Registers of Companies and of Commerce (the corporate purposes and CAEA (Classification of Economic Activities of Andorra) codes allowed the identification of natural persons and legal entities in relation to whom there is indicative evidence that they are carrying out activities within the scope of Law 14/2017) in order to include within the scope of the study the greatest possible number of professionals who carry out activities subject to AML/CFT but who do not belong to any professional association or body.

Once these professionals had been identified, they were sent directly the respective questionnaires. In this case as well, the non-valid replies were filtered out on the basis of the factors mentioned above.

Consequently, bearing in mind all these considerations, the percentage of replies to the online questionnaires by each sector was as follows<sup>9</sup>:

Non-financial sector	Type of questionnaire	Number of replies <sup>10</sup>	Number of respondents	Percentage of replies <sup>11</sup>
<b>Lawyers and members of other independent legal professions</b>	General questionnaire	107	203 (CADA members)	54,17%
	Product questionnaire	110		53,69%
<b>Notaries</b>	General questionnaire / Product questionnaire	3	3	100%
<b>Real estate agents</b>	General questionnaire / Product questionnaire	128	227	56,38%
<b>External accountants, auditors, tax consultants / Economists, administrative services agents and other providers of services to companies</b>	General questionnaire / Product questionnaire	150	433 (244 members <sup>12</sup> + 189 sent directly)	34,64%
<b>Vehicle dealers</b>	General questionnaire / Product questionnaire	10	16	62%
<b>Dealers in precious metals and stones</b>	General questionnaire / Product questionnaire	16	55 (16 members + 39 sent directly)	29%

<sup>9</sup> The number of members of each of the professional associations and bodies was proportional to the respective associations and bodies.

<sup>10</sup> The replies which were not valid due to duplication or other factors were excluded from the number of replies.

<sup>11</sup> The percentage of replies is calculated on the basis of the total number of members of the various professional associations and bodies, and of all the questionnaires sent directly to persons and entities who do not belong to any professional association or body, even though activities subject to AML/CFT are not carried out by them in all cases.

<sup>12</sup> Between COEA, AATF and the Association of Accountants, without taking duplications into consideration.

Independently of the percentage replies of each of the sectors, it is considered that, in volume, the main actors of the various sectors provided the information requested through the questionnaires.

## ***Meetings***

### ***Professional associations and bodies***

Once the information received through the online questionnaires had been analysed, various meetings were held in November of 2020 with the representatives of the professional associations and bodies. The purpose of these meetings was to share the conclusions of the analysis of the aggregate data of the questionnaires, to assess their consistency and to take into consideration the standpoints of the representatives of the non-financial sectors. The main results of these meetings were taken into account for the assessment of the different variables of this NRA, together with the information provided by the sectors through the questionnaires.

### ***Qualitative and quantitative information provided by UIFAND***

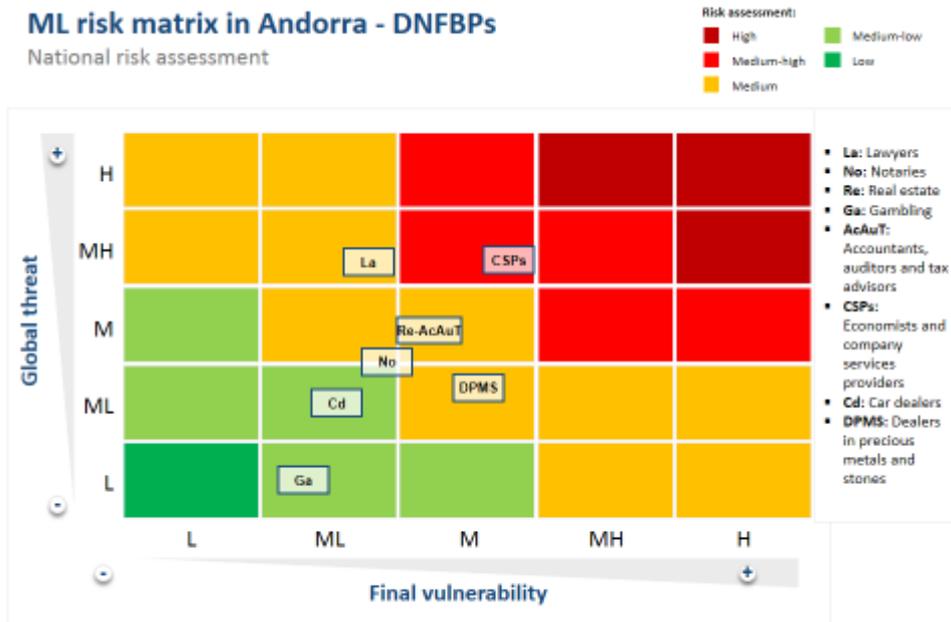
In order to conduct the study of the non-financial professions, consideration was also given to the qualitative and quantitative information of the operational and supervisory areas of UIFAND, such as information relating to the quality and number of STRs received, the ML risk profile of specific products or businesses, or information extracted from the on-site inspections of reporting entities, which is especially significant for contextualizing the data obtained through the questionnaires and for assessing the variables relating to the quality and effectiveness of the AML controls and supervision.

### ***Information provided by the competent authorities and other bodies***

Lastly, also taken into consideration was information provided by various bodies, departments and competent authorities, including public registers (of companies, commerce, and professions requiring an academic degree) or by the statistics department (to obtain data relating to the volume which the various professions and businesses represent for the country's economy). Likewise, we also took into account the specific information of the various sectors (such as deontological rules or articles of association) and legal references in both the AML/CFT sphere and in the sectoral sphere.

Bearing in mind the foregoing, the ML risk matrix obtained from the analysis of the NRA is as follows:

Figure 2. Money laundering risk matrix in Andorra



# Lawyers and membres of other independent legal professions

## 1. General description of the sector

The lawyers sector in Andorra is generally formed by small practices and by lawyers who are self-employed, carrying out their activities in the various fields of law, mainly including the representation of their customers in civil and criminal proceedings. Consequently, not all the members of the profession belong to the group of designated non-financial professions in accordance with the FATF definition, since they do not all carry out activities subject to obligations in matters of AML/CFT.

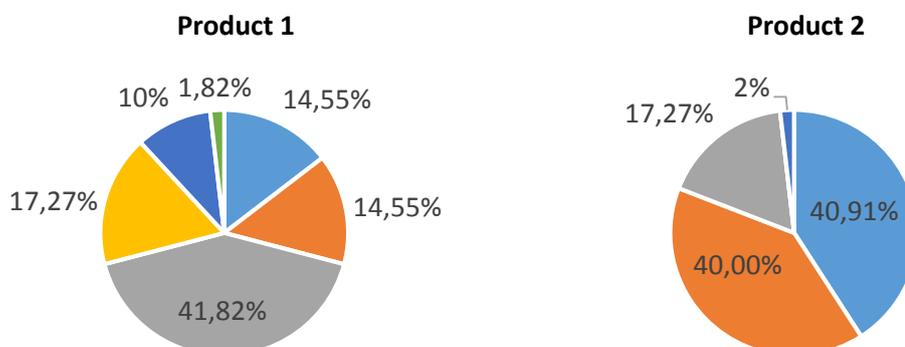
It is estimated that the number of professionals of the sector with the status of reporting entities in matters of AML/CFT comes to about 138 of the total of 203 members of the bar, on the basis of information obtained from the internal records of UIFAND and from the Registers of Companies and of Commerce. Nevertheless, the scope of the activities of each of the members of the sector can only be definitely confirmed by direct contact with the professionals in question, including supervisory actions.

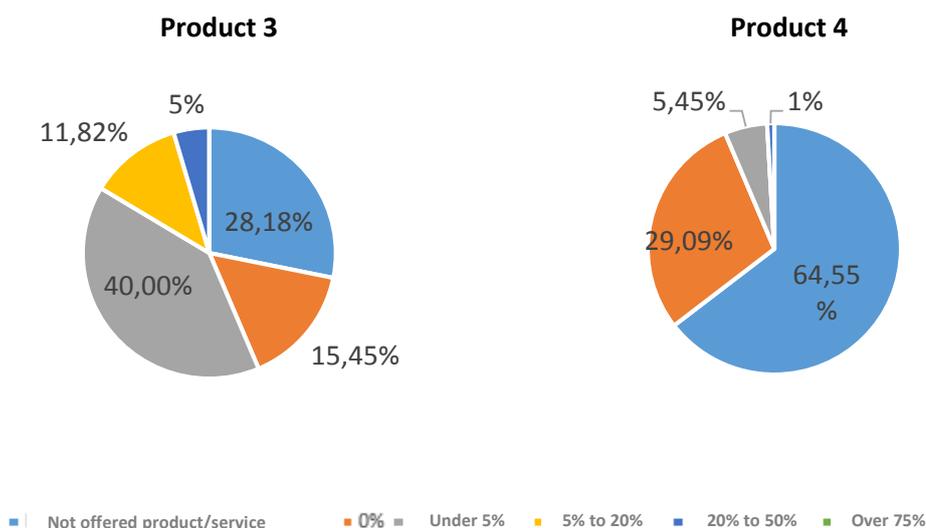
In order to analyse the sector, the following products and services offered by lawyers were taken into account, in order to determine their overall and inherent vulnerability as well as their share of the volume of business of the sector. The established products are in line with the activities provided by Article 2.2.b) of Law 14/2017 for a party to hold the status of reporting entity:

- Product 1: Creation, operation or management of companies.
- Product 2: Creation, operation or management of associations, foundations, trusts or other analogous structures.
- Product 3: Participation in acts of purchase and sale or other acts of disposal of immovable property or entities.
- Product 4: The management of funds, securities or other assets of customers, and the opening or management of bank accounts, savings accounts or securities accounts.

The presence of the aforementioned products within the volumes of business of the consulted lawyers gave the following results:

**Figure 3. Distribution of products and services of the lawyers sector**





It may be observed that, among the products which have been analysed and which are consequently subject to AML/CFT obligations, those which hold the greatest weight within the sector are the creation, management and operation of companies, and intermediation in acts of purchase and sale or disposal of immovable properties and entities, although these services rarely come to entail significant volumes of business within the total business of the lawyer or practice. Accordingly, it may be concluded that the activities which define the lawyers in Andorra are not those subject to AML/CFT obligations but rather other activities belonging to other fields of law.

Similarly, the activities specific to the providers of services to companies, which are consequently related to the products of creation, management or operation of companies or other legal structures (for example, providing an address for created structures, holding shelf companies, creating financial vehicle companies or shell companies or companies mainly focused on providing intragroup services, exercising trustee functions, etc.), are not widespread in the sector and, consequently, it may be concluded that such services do not define or characterize the sector in Andorra.

The usual customer profile of the sector for these products is mainly formed by Andorran natural persons or legal entities, although this varies to a greater or lesser extent depending on the pertinent activity in question.

## 2. Inherent vulnerability of the sector

### *Creation, management and operation of companies*

The volume of companies created by the Andorran lawyers is generally low, and only in a very small number of cases (approximately between about 2% and 4% of the replies) are the figures slightly significant, with lawyers participating in the creation of up to 42 Andorran companies or up to 13 companies abroad.

Although the usual customers and the usual countries of residence of the beneficial owners as well as of the incorporation of companies are mainly Andorra, Spain and France, this product has a greater exposure to geographical risk than the rest of the products offered by lawyers. Accordingly, whether it is through the beneficial owner or through the created structure itself, in a small number of cases (between 7% and 13% of the replies), there is an exposure to jurisdictions such as, among others, the United States, the United Kingdom, the Netherlands,

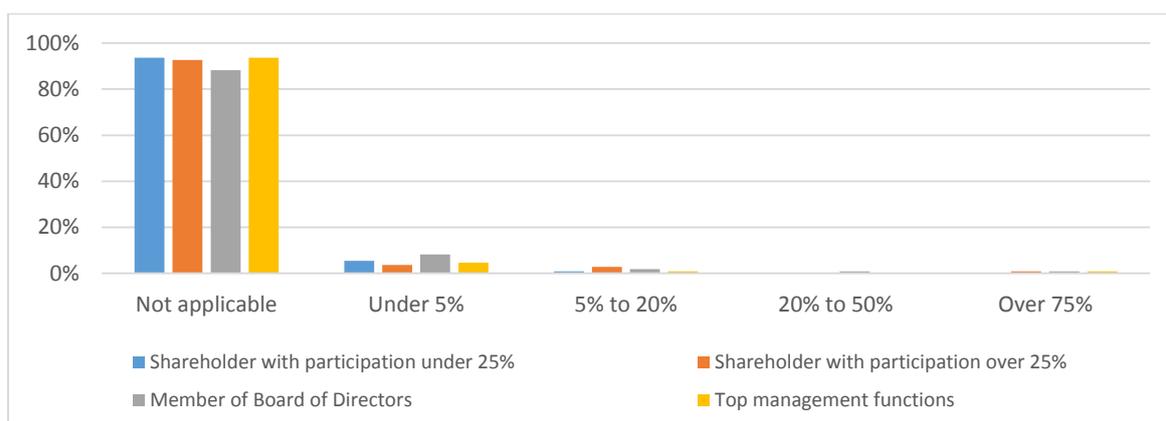
Malta, Canada, Italy, Luxembourg, Hungary, Bulgaria, Norway, Morocco, Dominican Republic, Panama, Cyprus, Mexico or Switzerland. The ML/TF prevention systems of these jurisdictions present different degrees of equivalence with respect to that of Andorra, although none of them has the status of high risk according to either international bodies (such as FATF or the European Union) or the lawyers' or law practices' own internal classifications.

The presence of complex structures (that is to say, structures with various layers of ownership between different legal entities, multijurisdictional structures, etc.) and of customers with high purchasing power (that is to say, with net worth or assets of more than one million euros) is somewhat widespread with respect to this product (between 25 and 54% of the replies, while the weight held by these types of customers is usually less than 5% of the total for the product).

As regards the possibility that the product may be used in fraud schemes or tax evasion, no cases of this have arisen. The sector considers that, although low taxation is an undeniable attraction when it comes to deciding to create a company in the country, tax optimization is rarely the main reason for creating a company, but rather the aim is to carry out a real commercial or economic activity in Andorra or else to separate and manage personal assets.

Lastly, the service is usually limited to the incorporation of companies and it is not recurrently found that other services are provided to the respective companies or that participation takes place in their management, operation or share capital in some way, as may be observed below:

**Figure 4. Degree of participation of lawyers in incorporated companies**



***Creation, management and functioning of other legal structures (associations, foundations, trusts or other analogous structures)***

The distribution of this product is quite limited in scope, and in the cases in which it is provided, it is limited to volumes of one or two structures, always corresponding to small associations and foundations, of public or private interest, which are 100% Andorran. There are no cases of structures abroad or of any other nature, such as trusts or fideicommissa.

Applicable in this case are the same conclusions as those reached in the previous section with respect to the reasons for incorporating these structures, and with respect to the provision of other services to the incorporated structures and their participation, management and operation.

### ***Participation is acts of purchase or sale or other acts of disposal of immovable property or entities***

This is one of the products that is most widely provided among those analysed, together with that of incorporation, management and operation of companies. The usual customer profile is that of an Andorran natural person or a natural person resident in Andorra, usually with high purchasing power. The volumes of participation range from 2 to a maximum of 25 transactions, for amounts ranging from 150,000 euros to 25 million euros.

As regards vulnerability factors, such as the presence of complex structures, high-risk customers, business relations without physical presence of the customer, use of intermediaries, or tax optimization reasons, these factors are of limited scope or, on occasion, inexistent.

### ***Management of funds, securities or other assets of customers and opening or management of bank accounts, savings accounts or securities accounts***

The provision of these services is not widespread in the lawyers sector (a little under 6.5% of the replies, and in terms of volume, usually under 5% of the total business). Consequently, we have received information on the management of funds, securities or other assets for amounts of between 6,000 euros and 15,000 euros, on the opening or management of between 1 and 35 bank, savings or securities accounts, and on actions as account holder, representative or attorney-in-fact of between 1 and 6 accounts of customers, with positions ranging from 15,000 euros to 150,000 euros, for the period under study.

The usual profile of the customers of these services is that of Andorran natural persons or natural persons resident in Andorra, followed by non-resident natural persons, but in no case from risk jurisdictions. The rest of the vulnerability factors, as set out in the previous point, are likewise very limited in scope or inexistent for this product.

## **3. Quality of AML controls**

The inherent vulnerability levels of the products of the previous section are mitigated by the AML controls implemented either by the members of the sector or by the authorities and professional associations. These controls include the following:

### ***Control systems implemented by members of the sector***

#### ***Availability of internal control procedures***

In the great majority of cases, lawyers possess implemented internal control policies and procedures in matters of AML/CFT, and they are aware of the need for their application, even if a customer were to have established business relations with other reporting entities, such as banking entities.

The implemented internal procedures itemize the actions that each reporting entity carries out in terms of due diligence measures (including the definition of enhanced due diligence measures, even if they do not subsequently come to be implemented in practice), and in terms of customer acceptance policy, risk classification criteria, detection and reporting of suspicious transactions, keeping of documents, and criteria of identification of beneficial owners, among other procedures.

The identification of beneficial owners is facilitated by the fact that the majority of customers are natural persons and that, in the case of the provision of services to legal entities, the

ownership of these structures is always defined by nominative ownership instruments. Likewise, a generalized trend in the sector is that, on being faced with the impossibility of identifying the beneficial owner, the business relation is not started or it is terminated.

It is recurrently found that lawyers base their internal procedures manuals on those provided by the Bar Association of Andorra (CADA). In this respect, greater efforts could be made to adapt these general policies to the reality of each of the businesses.

With respect to the practical application of internal procedures, in most cases it falls to the lawyer who acts on his own account or to the lawyer or lawyers in charge of the practice who form in turn the internal control and communication body (ICCB) of their business. It is less commonly found that the application of the measures is shared with other members of the practice, such as the administrative personnel, or that there are specific figures or departments responsible for compliance with the internal policies and the obligations in matters of AML/CFT, although this circumstance is consistent with the size and complexity of the businesses.

#### *Application and calibration of due diligence measures*

The practical implementation of the procedures described in the previous point implies that the whole sector recurrently applies due diligence measures to its customers. Nevertheless, on many occasions there is no differentiation between the type of due diligence measures applied, that is to say, measures of the same type are applied to all the customers, indistinctly, or there is an incorrect calibration of the measures with respect to the risk.

Consequently, although in the majority of situations the due diligence measures which are applied are consistent with the risk level assigned to the customer (that is to say, simplified measures for low-risk customers, conventional measures for medium-risk customers, and enhanced measures for high-risk customers), there are also cases in which the calibration of the due diligence measures depends on two situations:

- Prudential criteria, such as higher percentages of application of enhanced measures to high-risk customers, or lower percentages of application of simplified measures to low-risk customers.
- Cases in which the lack of correlation between the risk level and the type of measures applied may denote an incorrect calibration of due diligence measures, applying insufficient measures for the management of the assigned risk level, or else assigning a higher or lower risk level than would be appropriate.

Both these situations may entail vulnerabilities due to the fact that risks are not suitably managed, that resources are not assigned to the risk scenarios for which they really should be used, or that enhanced measures cease to make sense on being implemented in a large number of lower-risk cases.

#### *Customer risk classification systems*

In general terms, lawyers classify their customers according to the ML/TF risk which they present, by means of more or less formalized classification systems. Nevertheless, there are minority cases (about 5.5% of the surveyed lawyers), in which such classification is not carried out.

#### *Customer knowledge*

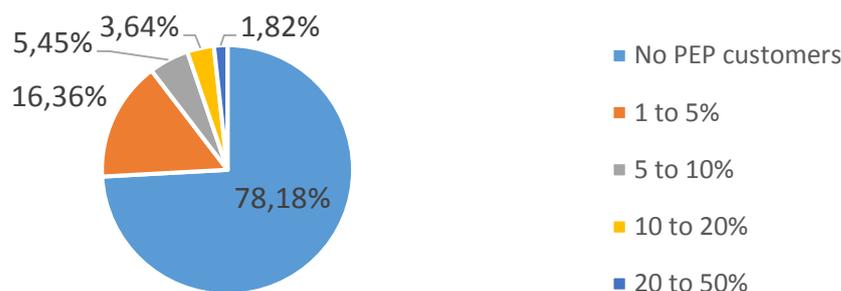
As mentioned above, the application of AML/CFT measures falls mainly to the lawyer or lawyers in charge of the practice, which may be assumed to mean that a thorough knowledge of the customers is possessed. Consequently, the application of due diligence measures is not often delegated to third parties (whether prescribers or others), and neither are business relations often established without the physical presence of the customer. In the event that business

relations are so established, they are limited to the initial contact with the customer, and afterwards in-person contacts are made and, in any case, the customer is identified and is known.

#### *PEP detection and identification systems*

Generally speaking, the sector possesses systems of this type. Nevertheless, the presence of PEP customers is of limited scope, regardless of the product or service offered, as may be seen below:

**Figure 5. Percentage of PEP customers with respect to total customers**



These low figures may be a warning, on some occasions, of potential deficiencies in the PEP detection systems, or of not giving the same consideration (in terms of classification and adoption of enhanced measures) to foreign and domestic PEPs.

#### *Identification of risks*

There is a widespread conception among the members of the sector that, with respect to the sector itself and to its businesses, activities and customers, the ML/TF risk is low. Consequently, even though lawyers may identify risks specific to their sector, the general opinion is that these sectoral risks are of a theoretical nature and on very few occasions is it considered that they may materialize within the scope of action of any of the professionals or practices in particular.

This fact is reflected in the self-assessments of risks of the sector (through the individual risk assessment [IRA], in the terms established by Law 14/2017), since, although the great majority of the lawyers have carried out their assessments, these assessments are mainly focused on justifying their low risk, setting out the implemented mitigation measures, and pointing out the low-risk profile of customers and of the products offered, rather than on identifying risks. The Bar Association of Andorra (CADA) does not identify ML/TF risks specific to the sector which it represents, and its actions are more closely addressed to facilitating compliance with the AML/CFT obligations on the part of its members.

In conclusion, even though the sector is quite familiar with its AML/CFT obligations and can identify general risks, there is a certain negative perception associated with the concept of ML/TF "risk", which may cause these risks to not be assessed in a more detailed way, particularly in the case of the risks specific to the sector.

#### *Suspicious transaction detection and reporting systems*

At formal level, the sector is aware of its reporting obligations (and of the fact that reporting prevails over professional secrecy, except in the cases provided in Law 14/2017, such as the legal defence of a customer), and it possesses, to a large extent, established internal procedures for communication to the Internal Control and Communication Body (ICCB) (in larger practices in which these functions do not fall to the selfsame lawyer who is exercising on his own account) and to UIFAND, even if these procedures may not regularly be put into practice. For the

detection of suspicious transactions there are not usually automated systems for the control and follow-up of customers and of their transactions and risk profiles, although this aspect is consistent with the activity and services of the lawyers, which involve occasional commissions and jobs rather than continuous business relations, within the framework of a lack of transactions to be monitored.

Despite the foregoing, in practice the capacity of suspicious transaction detection and reporting is of quite limited scope, as may be observed from the figures for STRs submitted by the sector in recent years:

	2017	2018	2019	TOTAL
Number of STRs submitted	1	-	-	1

Consequently, the small number of reported suspicious transactions may be explained, for the most part, by the sector's perception of low risk, as previously mentioned, and by the fact that specific non-majority aspects such as the circumstance that the potential customer does not fit the usual customer profile of the lawyer or practice, mistrust with respect to a customer, doubts with respect to aspects of knowledge about the customer such as the source of funds, or the reluctance of customers to provide specific documents or explanations with respect to the transaction or project in question, do not hardly ever translate into suspicions to be reported to the competent authority.

#### *Use of independent sources of information*

The members of the sector generally have access to reliable independent sources of information such as commercial databases of external suppliers (which may or may not be provided by the Bar Association) or open sources of information. These sources of information, however, are not used recurrently, but rather they are usually an enhanced measure to be applied in above-average risk situations, in addition to the information obtained from customers. Consequently, in order to make compliance with the AML/CFT obligations, there is a large reliance on information provided by the customer.

#### *Establishment of limitation on the use of cash*

About 90% of the lawyers possess an established limitation of the amounts of cash which they accept, amounts ranging from non-acceptance to 10,000 euros, the latter amount being the most widely established limit. Aside from this, the presence of cash or of cash-intensive customers is not widespread in the sector. All these circumstances mitigate the risks associated with the use of cash.

### ***Controls implemented by the authorities and the professional associations***

#### *Controls of access to the profession*

The framework that regulates the access to the profession is clear, robust and effective, with respect to preventing persons associated with criminal activities from acceding to and using the profession for ML/TF purposes. This framework includes the following aspects:

- The obligation to obtain the respective certificate of aptitude, to become a member of the Bar Association of Andorra (CADA), and to register in the Register of Professions Requiring an Academic Degree, in order to be able to exercise the profession.
- Law 48/2014, on the exercise of the profession of lawyer and on the of Bar Association of Andorra, which provides the necessary requirements (academic training,

honourability, passing of tests, etc.) in order to be able to obtain certification and membership in the Association, as well as the situations of professional disqualification, expulsion and other types of sanctions.

- The Bar Association (CADA), which has as its purpose the regulation and planning of the exercise of the professional activity of lawyers, as well as the protection of its ethical and deontological principles.

#### *Measures to ensure the integrity of the sector*

The profession of lawyer possesses various mechanisms which regulate ethical and deontological conduct and which ensure the integrity of the sector. These mechanisms mainly include the following:

- Deontological rules.
- Law 48/2014, on the exercise of the profession of lawyer.
- Articles of Association of the Official Bar Association of Andorra (CADA).

These mechanisms contain provisions aimed to ensure the integrity of the members who exercise the profession, through the codification of conducts which constitute infringements and which are subject to sanctions, both pecuniary and of other types, and which may come to include disqualifications or expulsions from the profession. Conducts of this type include such circumstances as exercising the profession without the due authorizations; exercising it under conditions of disqualification, suspension or conflict of interests; conviction for criminal acts; breach of professional duty or obligations; disclosure of professional secrecy; or concealment of acts of unauthorized or illegal practice of the profession; among others.

CADA is the body which ensures that the exercise of the profession concords with Law 48/2014, with the Bar Association's Articles of Association, and with the deontological rules and practices. In the period 2017-2019, the Association processed a total of 23 proceedings for deontological breaches.

Other mechanisms, which do not pertain exclusively to the sector, such as prosecutions and/or convictions for money laundering, or administrative sanctions for non-compliances with Law 14/2017, were not applied during the period under study.

#### *Training on AML/CFT matters*

The Bar Association is especially proactive with respect to organizing and promoting training actions on matters of AML/CFT. More specifically, the training provided during the period with which we are concerned here is itemized below:

<b>Year</b>	<b>Number of trainings</b>	<b>Title/main subject of the training</b>	<b>Number of participants</b>
2017	1	Prevention of money laundering and terrorist financing	82
2018	3	Prevention of money laundering and terrorist financing for secretariats of law practices	57
		Updates of the manual on prevention of money laundering and terrorist financing	61
		Prevention of money laundering and terrorist financing for notaries	12
2019	1	Individual risk assessment on ML matters	71

Numerous training programmes are offered and a large number of people take part in them. They cover many different subjects and some are adapted to situations which are especially relevant to the sector. The great majority of lawyers (as well as of members of other non-financial sectors) have made use of these training sessions, either alone or as a complement to other training provided by external entities or bodies, such as other law practices, domestic and international auditing and consulting firms, banking entities, online training organizers, domestic and international universities, or international associations.

Aside from in-person training provided by the Bar Association through the Standing Committee for the Prevention of Money Laundering and Terrorist Financing, other services are offered to its members, such as models of commission sheets and customer identification sheets, regulatory compliance manuals, supplementary identification sheets or access to databases of external suppliers.

Consequently, even though the main recipients of these training programmes and accessory services are usually the lawyer or lawyers in charge of law practices, and this circumstance is the reason why, on occasion, not all the staff of the law practice with relevant functions as regards AML/CFT have been trained or have received training with the same intensity, the aforementioned training components help, generally speaking, to reduce the risk of the sector being used for ML/TF purposes, since this training increases the knowledge and awareness of lawyers and law practices in these matters.

#### *AML/CFT supervisory action*

Like any other non-financial reporting entity, lawyers are subject to the supervision of UIFAND in matters of AML/CFT. During the period under study, the following on-site inspections were carried out on the sector:

	2017	2018	2019	TOTAL
Number of inspections carried out on the sector	6	3	1	10

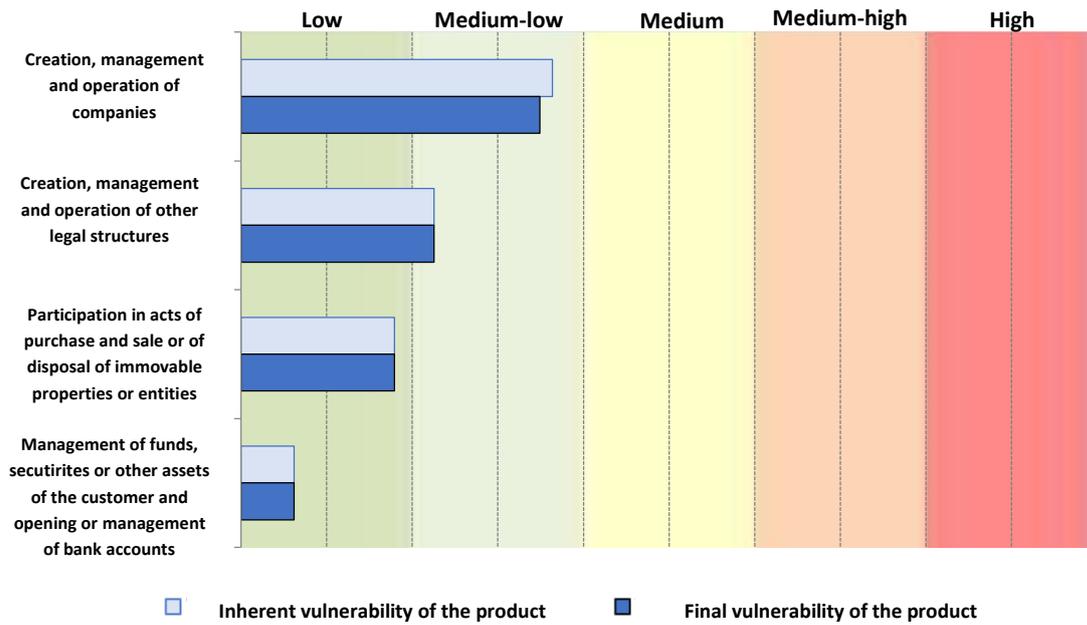
The supervised reporting entities consider that the inspection and the subsequent report with recommendations to be implemented, have contributed significantly or very significantly to improving their prevention systems in matters of AML/CFT, leading them to implement such actions as changing their AML/CFT internal procedures manuals or enhancing their customer controls (of documents and of searches in external sources), among others.

Moreover, these inspections allowed the detection of a series of aspects subject to improvement which have been considered to be common to the great majority of the sector, and which were gathered in an informative note published in June of 2018, with the aim of increasing the degree of knowledge and awareness of these aspects, as well as of which recommended actions and good practices may be implemented in order to mitigate these potential risks.

#### **4. Vulnerability rating**

D'acord amb l'anàlisi duta a terme, es pot considerar que la vulnerabilitat inherent de cadascun dels productes analitzats pel que fa al sector d'advocats és la següent:

**Figure 6. Inherent and final vulnerabilities of the products of the lawyers sector**



As may be observed, the inherent vulnerability is reduced slightly by the quality of the AML controls implemented, in overall terms, in the profession of lawyer, and it is considered medium-high. For its part, the degree of final vulnerability of the sector is assessed to be medium-low.

Quality of AML controls	Medium-high
Final vulnerability of the sector	Medium-low

# Notaries

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## 1. General description of the sector

Notaries are governed by Law 11/2017, of 25 May, on the corps of notaries. This law provides, in its Article 1, that “the corps of notaries, formed by all the notaries of the Principality of Andorra, exercises public attestation in all the relations of private law which are to be established or declared without the intervention of the jurisdictional bodies”. Consequently, “notaries are persons who are professionals of law, vested with public function, who have the authority to attest to contracts and other extrajudicial instruments, to conserve them in protocols, and to issue copies of them”, and “in their capacity as public attesting officials, they accurately establish, within the sphere of facts, what they see, hear and perceive with their senses, and they also establish, within the sphere of law, the authenticity and the probative value of the statements of will of the persons who grant a public instrument, which the notaries draft”.

In its article 33, Law 11/2017 defines the Chamber of Notaries as "a body under public law, of professional character, endowed with its own legal personality and with full capacity to fulfil its ends", to which all notaries shall belong, and Article 34 defines its functions.

During the period of reference, the sector was formed by four practising notaries.

### Activity

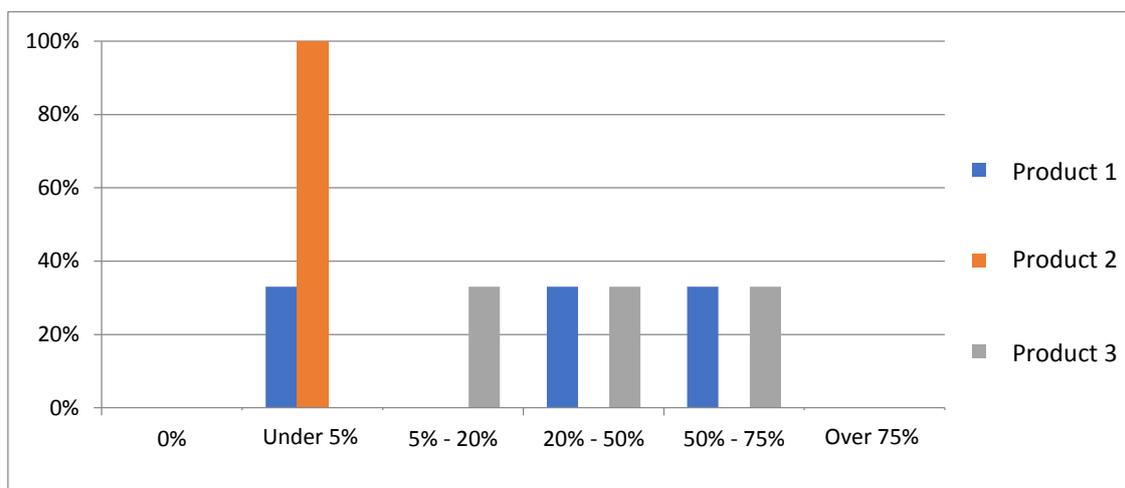
In their capacity as public attesting officials, the notaries authorize a large number of instruments each year and they are reporting entities when they carry out the activities listed in Article 2.b of Law 14/2017.

Consequently, in accordance with the activity carried out by the notaries, three different products have been defined on the questionnaires submitted to the sector, which are the three that will be assessed and rated according to the WB methodology:

- Product 1: The creation, operation or management of companies.
- Product 2: The creation, operation or management of associations, foundations, trusts or other analogous structures.
- Product 3: The purchase and sale or other acts of disposal of immovable property or entities.

With respect to Product 1, the creation and management of companies is a significant activity for only 33% of the respondents. Product 2, the creation and management of associations, foundations and other analogous structures, is an activity of very little significance in the sector since it represents less than 5% of the invoicing for all the respondents. Product 3, the purchase and sale or other acts of disposal of immovable property or entities, is a significant activity for 33% of the respondents, and it shows a greater presence in the sector than Product 1.

**Figure 7. Distribution of the products and services of the notaries sector**



On the basis of the replies to the questionnaire, it has been calculated that approximately two-thirds of the total activity of the notarial sector involves activities subject to AML/CFT obligations. The majority of these activities subject to AML/CFT obligations involve the purchase and sale of immovable property or entities and the incorporation of companies. Associations, foundations, trusts or similar structures are of very little significance in the notarial activity in Andorra, in relation to their incorporation, management or operation.

### *Volume*

Although a specific breakdown of the sector is not available, it may be inferred from the figures that the sector's weight with respect to the total economic activity (GDP) is not especially significant.

Likewise, it should be pointed out that there are over 11,000 companies in Andorra and the number of companies underwent a 12% increase during the period under study. The notaries authorize a large number of instruments for these companies in relation to the changes which commonly occur in the course of their existence, that is to say, changes with respect to shares, registered office, or corporate purpose, among others.

As regards the transactions connected with the purchase and sale of immovable property, in the period under study a total of 5,257 real estate transactions were carried out, in which a total of 13,689 properties were conveyed. The value of the properties conveyed increased significantly during the period, and in 2018 it represented almost 30% of the GDP. Despite the upward trend during these three years, a slight decrease was observed in 2019.

### *Customer profile*

Given their activity, the notaries have a very large number of customers who, in the case of activities subject to AML/CFT obligations, are primarily natural persons resident in Andorra who create a company or participate in the purchase or sale of an immovable property or an entity. The non-resident natural persons who are customers of the notaries and who carry out activities subject to AML/CFT obligations, are primarily nationals of neighbouring countries who decide to establish themselves in Andorra and to purchase a property or to incorporate a company. The Andorran legal entities which are customers of the notaries carry out activities that are subject

to AML/CFT obligations when they make some change which is to be authorized by a notary (changes relating to shares, registered office, or corporate purpose), or when they participate in the purchase or sale of a property or of some other entity. Almost no foreign legal entities are customers of the notaries sector in Andorra.

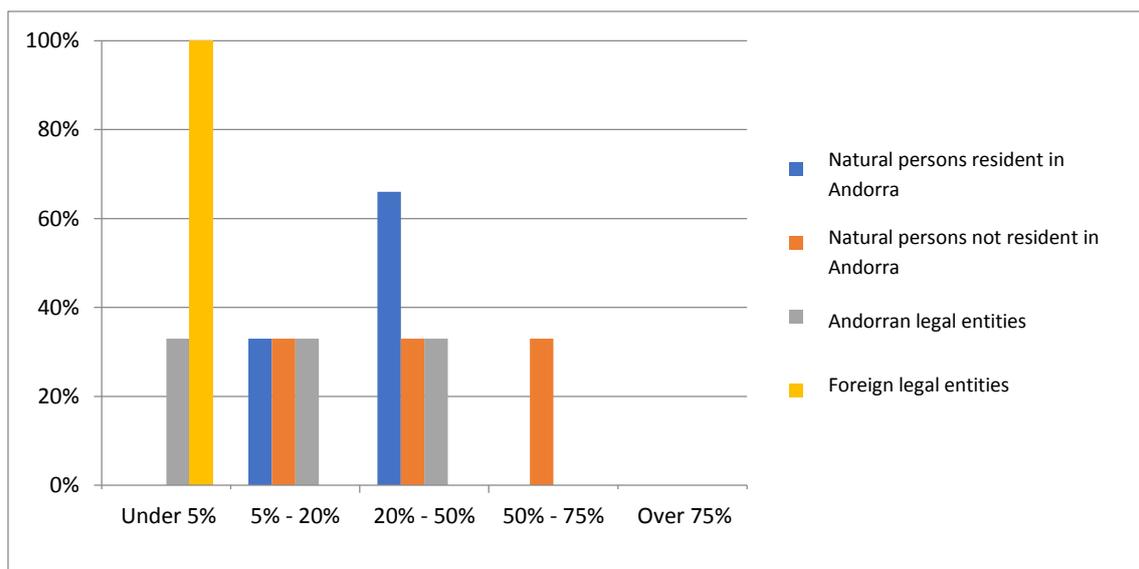
## 2. Inherent vulnerability of the sector

### *Creation, operation and management of companies*

As mentioned above, it should be pointed out that there are over 11,000 companies in Andorra, a figure reflecting a 12% increase during the period under study. The notaries authorize a large number of instruments for these companies, as a result of changes which commonly occur in the course of their existence, in relation to shares, registered office or corporate purpose, among other aspects.

The customers of Product 1 are primarily natural persons, who may or may not be residents. Andorran legal entities are also present, but to a lesser extent. Foreign legal entities have a very insignificant presence among the customers of Product 1.

**Figure 8: Typology of customers of Product 1**

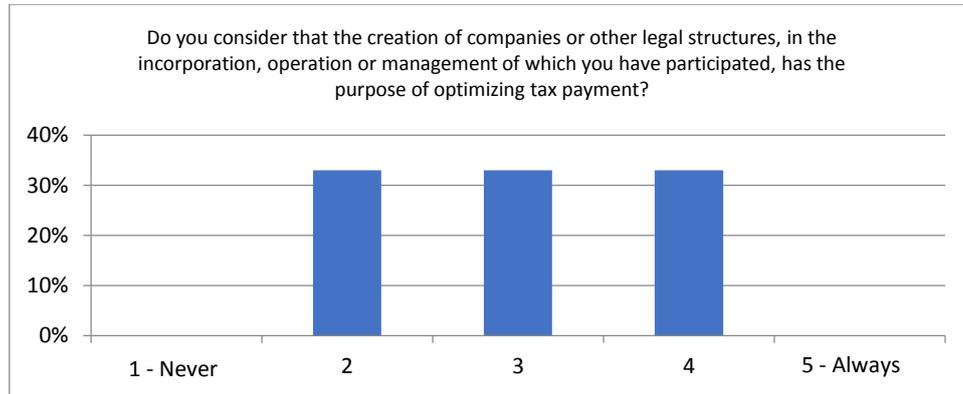


As may be inferred from the replies to the questionnaires, the customers with high purchasing power, who are considered to be those with a net worth of over 1,000,000 €, are significant for 33% of the respondents for this product.

For 33% of the notaries, the customers with opaque or complex control structures represent only 20% to 50% of their legal entity customers.

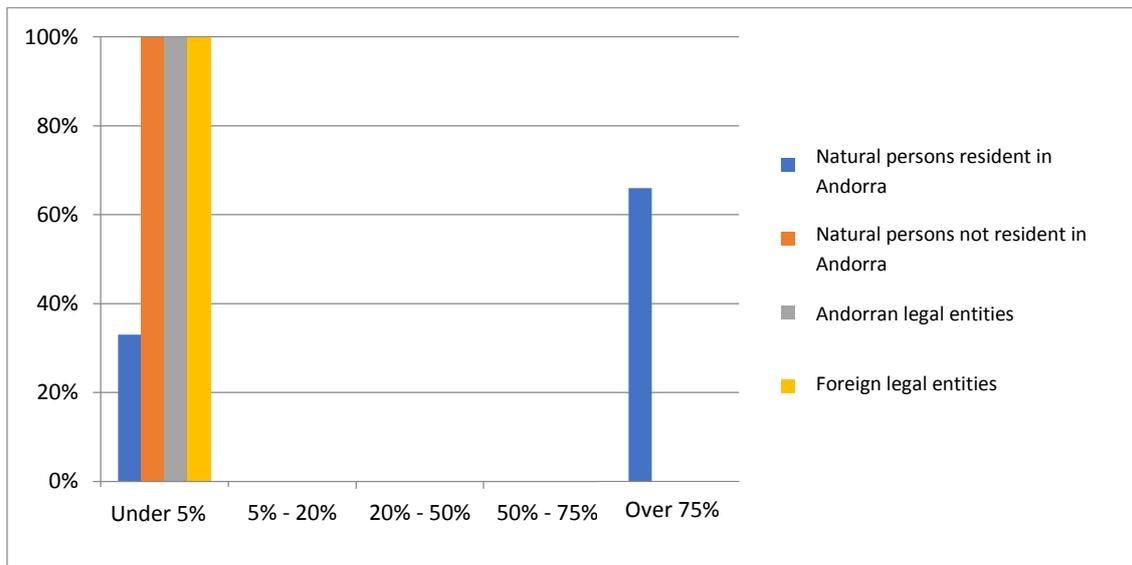
It may also be inferred from the replies to the questionnaires that the notaries consider that the creation of companies bears a relation, to a greater or lesser extent, to the optimization of tax payments.

**Figure 9: Tax optimization through companies**



*Creation, operation and management of associations, foundations, trusts or other analogous structures*

**Figure 10: Typology of customers of Product 2**



This product has very little presence in the sector since few associations and foundations are incorporated, and the incorporation of other legal structures is not permitted within the present legal framework. The typical customer of this product is a natural person resident in Andorra.

No vulnerability factor stands out with respect to customers, the use of cash, or other factors.

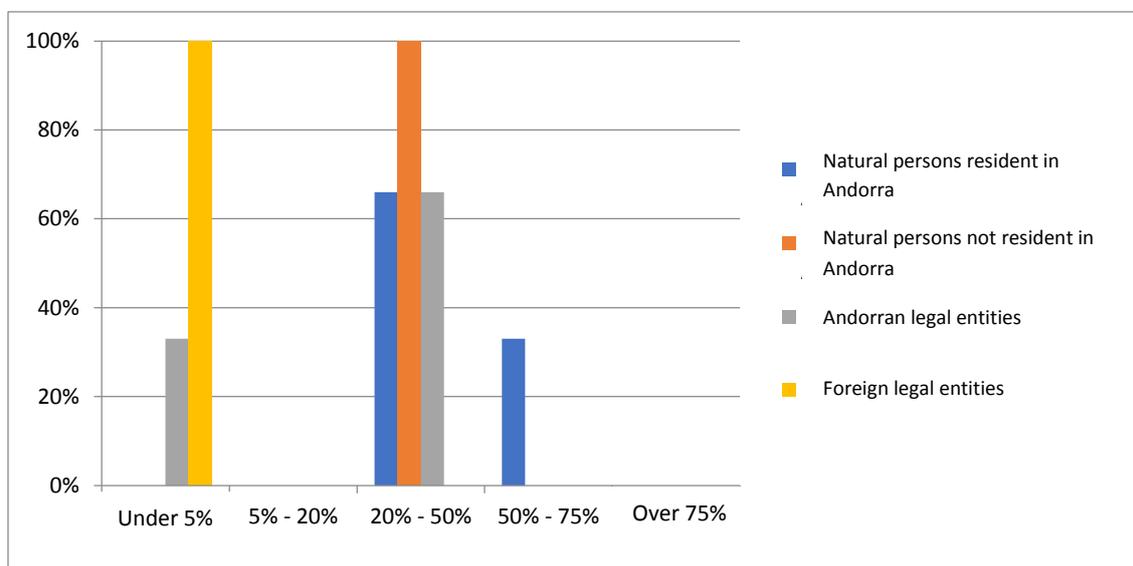
### *Purchase and sale or other acts of disposal of immovable property or entities*

The following aspects should be taken into account for this product, which includes both immovable property and companies:

- As previously mentioned, there are over 11,000 companies in Andorra, a figure reflecting a 12% increase during the period under study, which may entail a large number of purchase and sales.
- There were over 5,200 real estate transactions during the period under study, in which over 13,600 properties were conveyed. The value of the properties conveyed increased significantly during the period, representing nearly 30% of the GDP in 2018.

The customers of this product are primarily natural persons resident in Andorra, although non-resident natural persons are also present.

**Figure 11: Typology of customers of Product 3**



As may be inferred from the replies to the questionnaires, the customers with high purchasing power, who are considered to be those with a net worth of over 1,000,000 €, are significant for 33% of the respondents for this product.

For 33% of the notaries, the customers with opaque or complex control structures represent 20% to 50% of their legal entity customers.

As regards foreign investment, in the cases in which a property has been purchased, the customer is primarily from the neighbouring countries, Spain and France.

The number of cases in which the foreign investment has been direct is higher, and the two main nationalities are the same as mentioned, although the percentage with respect to the total varies slightly.

### 3. Quality of AML controls

#### *Controls implemented by the authorities and the professional associations*

##### *Law 11/2017, of 25 May, on notaries*

This law regulates the profession of notary in various aspects to be taken into consideration in matters of AML, such as may be the controls of entry into the profession, the sanctioning regime, or the keeping of documents.

##### *Access to the profession*

Article 7 of Law 11/2017 provides the various requirements for exercising the profession of notary, as well as the incompatibilities. Article 8 regulates the selection of notaries, which is made by resolution of the Government, by the competitive examination procedure, called by the Government of Andorra. In the competitive examination phase, a minimum of three tests are given: one is of theoretical character, one is of practical character, and the third is of languages. The subject matter of these aptitude tests is published beforehand by the Government in the conditions of the call of the examination, and it includes the laws in matters of AML/CFT which are applicable at the time. The selection process also includes a psychotechnical test, which is addressed to verifying that there are no impediments which disqualify the person in question from the exercise of the function of notary. The selection jury, which is to assess the tests, is formed by the Minister in charge of Justice (or the person to whom he delegates), the president of the Chamber of Notaries, the president of the Higher Court of Justice, the president of the Court of the First Instance, and two jurists of acknowledged capacity and experience, appointed by the Government.

The number of notaries is defined in Article 6 of Law 11/2017, of 25 May, on the corps of notaries, which provides that this number is to be set by resolution of the Government, with a minimum of four notaries and a maximum of one notary for every 10,000 inhabitants.

During the period under study, four notaries exercised in Andorra. One of them ceased his activity at the beginning of 2020. On 18 March 2020, the edict calling the selection process of two notaries by means of competitive examination was published. Consequently, in the course of 2021, there will be five exercising notaries in Andorra, following the completion of the selection process and the respective period of training involving practice supervised by an exercising notary.

##### *The regime of responsibility of the profession*

As regards the sanctioning regime, and in accordance with Article 20, notaries are subject to disciplinary responsibility derived from infringement of the Law of the corps of notaries and of the deontological rules proposed by the Chamber of Notaries and approved by the Government. In accordance with Article 21, the disciplinary authority is exercised by the disciplinary body, which is formed by the president of the Chamber of Notaries (or the person substituting him), two representatives of the Ministry of Justice and Interior, and one representative of the Ministry of Finances, appointed by the respective Ministers. The latest decree appointing the members (with respect to the Ministries of Justice and of Finances) of the disciplinary body dates from 22 January 2020.

The infringements which are the object of a disciplinary proceeding are covered in Article 25, and they are classified as very serious, serious and minor. Notable among the very serious infringements are the conducts which were to have entailed a firm administrative sanction as a result of a serious or very serious infringement of the provisions of law in matters of AML/CFT, which occur as a consequence of the exercise of the profession, as is established in Article 25.3. Likewise, Article 25.4 establishes as a very serious infringement the conducts which have entailed a firm administrative sanction as a consequence of a minor infringement of the

AML/CFT laws.

Moreover, the Chamber of Notaries possesses a Deontological Code and Internal rules of operation and self-financing, which are unanimously ratified by all the members of the Chamber. They establish a principle of internal democracy and the respect of the Law, of users, of notaries and of employees. Said rules include provisions relating to AML/CFT. The infringement of these internal rules may constitute a serious or very serious infringement, depending on the harm which such infringement were to cause to the persons who were to have contracted the services of the notary, in accordance with Articles 25.3 g) and 25.4.i) of the Law.

The sanctions imposable for these infringements comprise fines and professional disqualifications for variable amounts and durations depending on the seriousness of the infringement (the maximum amount being 50,000 euros and the maximum duration being five years), or even expulsion from the profession, the duration of which lasts until the sanctioned person obtains rehabilitation, in the event that it were to occur. The infringements relating to the sanctions imposed for serious and very serious breaches of the AML/CFT laws may be the object of such sanction in the form of expulsion from the profession, since such breaches are considered very serious infringements for the effects of the Law on the corps of notaries.

Consequently, the current legal framework contains the necessary mechanisms to ensure the performance of the profession of notary with integrity.

Despite this legal framework, in the period 2017-2019, one notary was fined as the result of a sanctioning proceeding of UIFAND for three serious infringements of Law 14/2017, although there is no record of its having entailed any sanction on the part of the disciplinary body.

### *Supervision*

In the period 2017-2019, an on-site inspection was carried out on a notary, specifically in June of 2018. As a result of this supervisory action, various areas were detected within the preventive measures implemented by the reporting entity which showed shortcomings and which were the object of UIFAND recommendations for improvement actions. These areas include the lack of identification or verification of customers or of their beneficial owners, deficiencies in the procurement of information proving the purpose or the nature of the business relation and the source of the funds which were the object of same, and a lack of internal control procedures duly formalized in a written document.

Considering the importance of the areas detected and of the function of the figure of the notary as a public attesting official, a plan of action was established with the reporting entity, under which the reporting entity undertook to report periodically to UIFAND on the progress made with respect to the implementation of the recommendations in the entity's internal control procedures. The plan of action, with its respective calendar, entailed that the status of the implementation of the recommendations was reported on two occasions, in October of 2018 and July of 2019. After the latter report, it was considered that compliance had been made with all the actions required by UIFAND. The implementation of the plan of action had a significant impact on the compliance function of the reporting entity and on this entity's internal organization in matters of AML/CFT.

Considering that the supervisory actions in the period under study were only addressed to one of the reporting entities in the sector, sufficient information was not collected to aggregate and to issue an informative note of public character. It is envisaged that such an informative note will be issued when additional information becomes available by performing inspections on other members of the sector.

It should be pointed out, however, that none of the areas in which shortcomings were detected bore any relation to a possible lack of integrity of the inspected reporting entity.

Likewise, in the course of the on-site inspection, potential infringements of the laws in force in matters of AML/CFT were also detected. Considering this situation and, once again, considering the importance of the functions of notaries, a sanctioning proceeding was initiated and it was concluded, in March of 2019, that infringements of Law 14/2017 qualified as serious had taken place, specifically involving non-compliance with the obligation to establish suitable and sufficient internal control procedures, the circumstance of not identifying or verifying the source of the funds which were the object of the respective business relation, and non-compliance with the obligations to keep documents. As a result of all this, an administrative sanction for the amount of 9,003 € was imposed.

### *Control systems implemented by the members of the sector*

#### *Record keeping*

Law 11/2017 provides, in its Article 13, that the notarial protocols belong to the Andorran State and that they comprise the set of public instruments which are recorded in the deeds and the original acts authorized by a notary in the course of a calendar year. Notaries are to number public instruments correlatively in the chronological order of their authorization, and likewise they are to number correlatively the folios of such instruments, and they are to incorporate such instruments into their protocol of the calendar year in course. Notaries are to bind their protocol of the previous year in volumes. Likewise, notaries are to watch out for the permanence and the good conservation of the public instruments which they keep.

Moreover, Law 11/2017 provides, in its Article 36, that the General Archive of Protocols, assigned to the Chamber of Notaries, is the archive where the protocols that come from the no longer operative notary's offices and the protocols which date back more than 25 years are deposited. The General Archive of Protocols possesses a list of notaries. Notaries have access to the General Archive of Protocols for the purpose of making copies of the protocols which are deposited there.

#### *Knowledge*

As regards the AML/CFT training plans of the sector, as a measure helping to increase the knowledge of this matter, particularly with respect to the detection of suspicious transactions, thereby ensuring that possible situations which should be reported to UIFAND will not be overlooked, the notaries and the employees of notaries regularly take part in the training programmes organized by the Bar Association, the Chamber of Commerce or other entities. According to what is stated by the sector, in the period 2017-2019, all the notaries and almost all the staff of the notary's offices were trained or received enhanced training in the prevention of money laundering, and it is foreseen that this trend will continue with the new incorporations.

The notaries consider that the main AML/CFT risks which may affect their sector are those related to legal entities and legal structures.

With respect to the assessment of risks at internal level, all the notaries have carried out a self-assessment of the AML/CFT risks to which they are exposed, in compliance with the legal obligation of carrying out an Individual Risk Assessment (IRA). Among the risks detected in these self-assessments, the notaries once again pointed out legal entities, this time with complex structures or non-collaborating jurisdictions.

In any case, a common trend in the notaries sector is that the notaries trust to a large extent in their own criterion and interpretation with respect to detecting suspicious transactions, due to their extensive knowledge of legal matters and their broad experience in the protocolizing of transactions of diverse nature.

#### *Regulatory compliance*

All the notaries possess internal control procedures. It should also be pointed out that all the

notaries consider that the appropriate due diligence measures are to be applied to customers if the latter have requested the services of some other reporting entity, financial or not.

66% of the notaries state that they have a person or a department specifically charged with ensuring compliance with the AML/CFT laws in their notary's offices. It should be understood that the remaining 33% consider that, since the notary himself is the person ultimately responsible for authorizing the transactions requested by customers, the notary himself is likewise responsible for ensuring compliance with the AML/CFT laws.

It should also be pointed out that none of the notaries have delegated the application of due diligence measures to third parties in any case.

Less than 5% of all the notaries stated that they had denied transactions at the start of a business relation. Among the reasons given for this, the respondents stated that proposed transactions lacked coherence, that the source of the funds was not proven, that the beneficial owner could not be identified, or that the customers had not provided all the requested documents.

As regards business relations which had been previously started up but which were terminated in application of internal procedures, 66% stated that they had so terminated a small number of business relations, giving as reasons for doing so the incongruence of the respective transactions or the lack of documents provided by the respective customers.

#### *Identification and reporting of suspicious transactions*

Fourteen suspicious transaction reports were submitted by notaries during the period under study (2 in 2017, 5 in 2018 and 7 in 2019). Bearing in mind that the sector had only 4 members during the period under study, and comparing these numbers with the majority of the rest of the non-financial professions, these are considered appropriate and proportionate numbers.

All the notaries possess specific tools for the control of customers, referring in this respect to tools from external suppliers, and on some occasions this information is supplemented by searches in open sources of information.

As regards IT systems that allow the detection of unusual or suspicious transactions with respect to AML/CFT, no such systems are possessed by the notaries. It should be pointed out that, as a result of the activity carried out by the notaries, it makes no sense to implement warning systems or tools which may be possessed by financial reporting entities, and that it is common in the notaries sector for notaries to trust to a large extent in their own criterion and interpretation for the purpose of detecting suspicious transactions, basing themselves on their knowledge of legal matters and their experience in the protocolizing and authorization of transactions of diverse nature.

With respect to systems for communication of suspicious transactions, 66% of the notaries possess implemented systems of this type, while 33% state that they do not possess such systems. This situation should be interpreted to mean that the inexistence of a defined communication channel would not affect the communication of a suspicious transaction by an employee of the notary's office to the notary himself, who in any case reviews all the transactions which he is to authorize.

Just as is provided by the regulations of the Chamber of Notaries in their Article 8.2, and the deontological code of the notaries, the respondents stated that their professional secrecy does not prevent them from submitting a suspicious transaction report to UIFAND.

#### *Beneficial owners*

The tools used by the notaries for the identification of beneficial owners are the data of the Register of Companies of Andorra (which include information on beneficial owners) and the foreign public registers, and, on a supplementary basis, open sources of information (Internet)

and private sources of information (commercial databases). All the notaries always identify the beneficial owner of their customers, and use all the available tools to do so.

According to the various replies, the difficulties observed in the identification of beneficial owners notably include the reluctance of customers to provide information (which must be interpreted as the customers' consideration that this information is excessive and not as a typology/suspicion of money laundering), and to a lesser extent, the complexity of the respective transactions (which may be understood to refer to the presence of foreign legal entities, complex structures, shell companies, etc.).

Lastly, with respect to the periodicity with which the status of beneficial owner of customers is reassessed, this is done in most cases each time the customer wishes to make a new professional commission subject to the AML/CFT laws, since in this sector there are more occasional transactions than continuous business relations.

Moreover, in accordance with the regulating regulations on the registering of and access to information relating to beneficial owners in the registers of legal entities, approved in September of 2018, the notary who authorizes a public instrument and conveys it to the Register may also submit the form with the information relating to the beneficial owner, and with the term of office of the members of the administration body. As may be inferred from the replies to the questionnaires, 66% of the notaries maintain this practice. Nevertheless, the information conveyed by the notaries involves only a very small part of the information of the registers since only about 1% of the reports to the registers are conveyed by notaries.

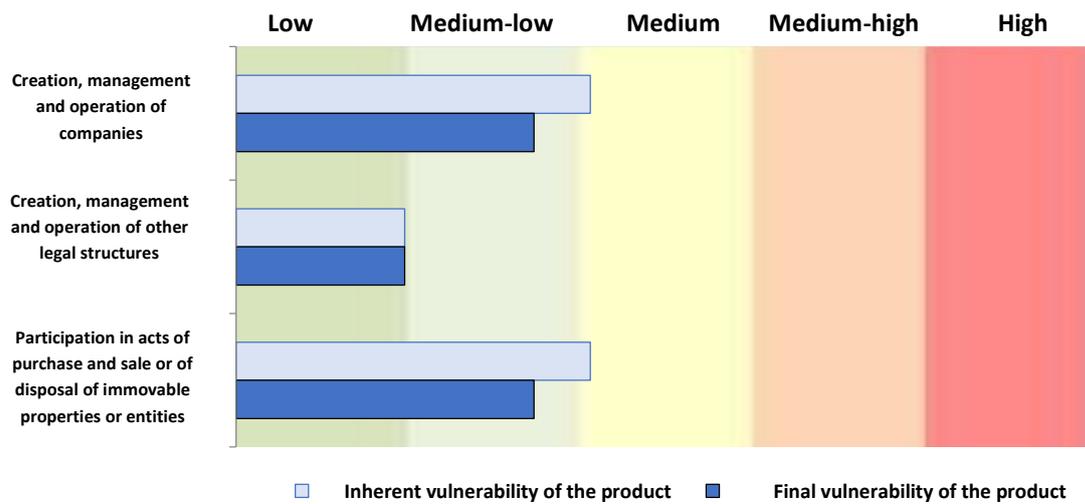
#### *Independent sources of information*

The notaries have access, on the one hand, to the information of the Register of Companies and Commerce through the "atol" tool, and on the other hand, to the information of the Chamber of Notaries for the marginal notes on the authorized instruments, and lastly, they all have access to private sources of information directly from the notary's offices. During the period under study, an important improvement took place. Namely, the Bar Association provided the notaries with access to these private sources of information from its offices, although at the present time each notary has his own access from his notary office itself. Consequently, the availability of reliable independent sources of information and the notaries' access to them are considered to be very positive developments.

## **4. Vulnerability rating**

In accordance with the analysis carried out, it may be considered that the inherent vulnerability of each of the products analysed in the notaries sector is as follows:

**Figure 12. Inherent and final vulnerabilities of the products of the notaries sector**



As may be seen, the inherent vulnerability of Products 1 and 3 is reduced by the quality of the implemented AML controls, in overall terms, within the profession of notary, and it is rated as medium-high. For its part, the degree of final vulnerability of the sector is rated as medium-low.

<b>Quality of AML controls</b>	<b>Medium-high</b>
<b>Final vulnerability of the sector</b>	<b>Medium-low</b>

# Real estate agents

## 1. General description of the sector

All the real estate agents and real estate managers form part of AGIA, the Association of Real Estate Managers of Andorra, which had 258 individual members and 227 member entities at the beginning of 2020, although they do not all effectively exercise this activity.

This sector is primarily formed by small companies. It is estimated that approximately half of the entities are single-member companies, in which the only person is the real estate agent himself; that as many as 80% of the companies of the sector have a maximum of three employees; and that less than 10% of the sector's companies have more than 10 employees.

The Andorran real estate market comprises a broad diversity of properties, ranging from modest apartments in buildings constructed a number of years ago, or large apartments in newly-built buildings, to deluxe single-family dwellings located in privileged areas of Andorran territory, as well as other types of immovable properties such as business premises, warehouses, industrial buildings, and others. In concordance with this wide range of properties, there is a wide range of prices, from under 100,000 € to over 10,000,000 € for a dwelling, depending on its location, size and features.

There is no record of any data on the purchases and sales of immovable properties in which a real estate agent has acted as intermediary, or of the transactions carried out without the intervention of a real estate agent.

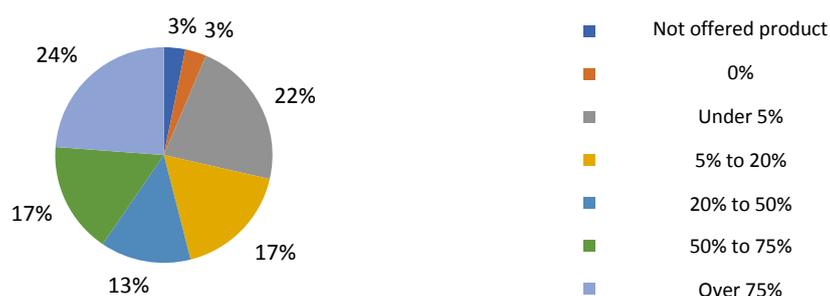
Likewise, it should be recalled that although it is considered that almost all the purchase and sale transactions of immovable properties involve a public deed authorized by a notary, the intervention of a notary is not compulsory.

### Activity

The activity subject to the effects of Law 14/2017 is the intermediation in the purchase and sale of immovable properties. This activity corresponds to "Product 1" on the questionnaires sent out to the sector.

While 97% of the real estate agents carry out the activity subject to said law, for 24% it represents almost all their invoicing, whereas for 22% it is almost insignificant.

Figure 13. Distribution of the products of the real estate sector



## Volume

During the period under study, and bearing in mind all the transfers of immovable properties and not only those in which a real estate agent has intervened, a total of 5,257 real estate transactions were carried out. The value of the conveyed properties increased significantly during the period, and in 2018 it represented nearly 30% of the GDP. Despite the upward trend during these years, a slight decrease was observed in the trend in 2019.

	2017	2018	2019
<b>Real estate transactions</b>	<b>1,772</b>	<b>1,864</b>	<b>1,621</b>
<i>Variation %</i>	<i>+11%</i>	<i>+5%</i>	<i>-13%</i>
<b>Value of conveyed immovable properties (in millions of Euros)</b>	<b>553</b>	<b>806</b>	<b>782</b>
<i>Variation %</i>	<i>-14%</i>	<i>+45%</i>	<i>-3%</i>
<b>GDP (in millions of Euros)</b>	<b>2,656</b>	<b>2,725</b>	<b>2,818</b>
<b>% represented by the value of the conveyed immovable properties with respect to the GDP</b>	<b>20.8%</b>	<b>29.5%</b>	<b>27.7%</b>

Source: DDE

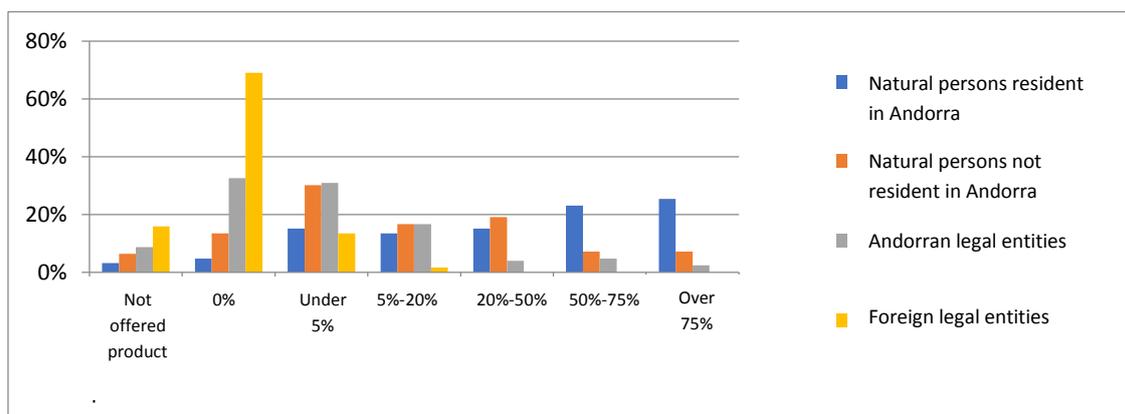
The real estate transactions during the period under study mainly involved apartments and parking places. In terms of volume, the relative importance of dwellings decreased significantly, to the benefit of plots and parking places.

Consequently, during the period under study the sector underwent a large growth, with a peak in the volume of transactions in 2018, registering over 800 million euros. During the period, a change was observed in the typology of the conveyed immovable properties: while in 2017, 62% of the value of the conveyed immovable properties corresponded to residential use, in 2019 this use totalled only 45%. Likewise, a change was observed in the financing of the conveyances since mortgages financed 81% of the transactions in 2017, but only 36% in 2019. Moreover, while only 30% of the mortgages financed properties conveyed for residential use in 2017, this figure was 46% in 2019.

## Customer profile

The customers of the real estate agents are primarily natural persons resident in Andorra who purchase an apartment for use as their main dwelling, with bank financing. There are also non-resident natural person customers, who are mainly nationals of the neighbouring countries who decide to install themselves in Andorra, and purchase a home. To a lesser extent, Andorran legal entities may also purchase an immovable property within the framework of their activity.

**Figure 14. Typology of customers of real estate agents**



## 2. Inherent vulnerability of the sector

### *Activities relating to the purchase and sale of immovable properties*

According to the answers to the questionnaires, only 13% of the surveyed real estate agents have had a PEP customer, and in all cases this would represent less than 5% of their total customers. They are mainly Andorran PEPs, although there is also a small number of French or Spanish PEPs. This very low number of PEP customers may also indicate a scantily efficient PEP detection system.

For the effects of this assessment, customers with high purchasing power are considered those with a net worth in excess of 1,000,000 €. As may be inferred from the replies to the questionnaires, 46% of the respondents state that their customers with high purchasing power represent a portion of their overall customers of very little significance. This is consistent with the market profile, in which wage-earning or self-employed workers purchase an immovable property that will be their own dwelling, with bank financing via a mortgage loan.

For 15% of the surveyed real estate agents, this type of customer represents more than half of their overall customers, and within this group, for 5% of the respondents, the customers with high purchasing power represent a significant percentage of their invoicing (over 75%). These are real estate agencies which are focused on this public, intermediating luxury properties situated in prestigious developments in Andorran territory.

It should also be pointed out that 16% of the respondents state that they do not possess this information, which may mean that they believe that a customer may have a high purchasing power but they are not certain that his net worth totals more than one million euros.

The purchases of immovable properties relating to a passive residence have a small presence in the sector. 64% of the real estate agents state that they have never taken part in a purchase and sale transaction involving a passive residence, and 13% state that they have done so in less than 5% of their transactions. This activity is significant for only 3% of the surveyed real estate agents, which are real estate agencies specialized in such transactions.

As regards customers from high-risk jurisdictions, to whom enhanced due diligence measures should be applied, according to Article 12 of Law 14/2017, and the jurisdictions of whom are identified by UIFAND in Technical Communiqués of compulsory compliance, only 1% of the real estate agents stated that they have had any customer of this type during the period under study.

Likewise, only 1% of the respondents stated that they have had customers from other countries which they consider to pose a risk.

As may be inferred from the replies to the questionnaires, 85% of the surveyed real estate agents have not had legal entity customers with complex structures. Among the remaining 15%, such customers represent less than 5% of their legal entity customers, except for 3%, for whom such customers represent between 5% and 20% of their overall customers. In such cases, the real estate agent is to identify the beneficial owner and should verify his identity.

Moreover, as may be inferred from the replies to the questionnaires, prescribers appear to have a small presence in the sector, and 67% of the surveyed real estate agents did not acquire any customer through a prescriber during the period under study, while 16% acquired very few.

Among those who stated that they had in effect acquired a substantial number of customers through prescribers (17%), it appears that there was a confusion between the figure of a professional intermediary prescriber and the figure of another real estate agent with whom the respondent cooperates occasionally, since such real estate agent's customer wished to purchase a specific property in the respondent's portfolio. Accordingly, few real estate agents acquire customers through prescribers, and when they do so the customers are mainly resident in the EU (only one real estate agent mentioned Russia and Ukraine), for the purpose of a foreign investment or a passive residence.

In any case, the application of due diligence measures was delegated in only 6% of the cases (involving the cases in which the real estate agent who provides the customer also provides the KYC), and no major differences are observed between the customers acquired through prescribers and the rest.

As may be inferred from the replies to the questionnaires, about 20% of the respondents do not classify their customers on the basis of risk. When they do so, the high-risk customers represent less than 5% of the customers, and the low-risk customers represent over 75% of the customers for the majority of the respondents.

As regards due diligence measures, over 20% of the respondents admit that they do not differentiate the type of measures to be applied to their customers. When they do indeed differentiate them, enhanced measures are applied to less than 5% of customers, and simplified measures are applied to over 75% of customers by 30% of the respondents, applying a distribution of customers on the basis of risk classification.

As may be inferred from the replies to the questionnaires, 65% of the surveyed real estate agents had established a maximum amount of money which may be accepted in cash. This limit ranges from 0 € to 15,000 €. Only 1% of the respondents has a limit higher than 10,000 €.

In the period under study, only 17% of the surveyed real estate agents stated a percentage of their invoicing paid in cash, and in most cases the figure was under 5%.

With respect to the payment of immovable properties, in 90% of the cases there was neither partial nor total payment in cash.

Moreover, for 95% of the surveyed real estate agents, a prohibition of cash payments of over 10,000 € would have no effect on them.

According to 90% of the surveyed real estate agents, there is no pattern with respect to cash payments in relation to the price of the immovable property, although it may be that cash payments are more common for immovable properties of lower value.

The ownership of an immovable property is registered in the Chamber of Notaries, in which the register is based on the deeds authorized by the notaries, and it may only be consulted by the notaries. For its part, the administration of each municipality possess the respective cadastre, to which the new owner of the property is to address himself for its registration.

In the replies to the questionnaires, the real estate agents point out the lack of an ownership register which may be accessed by the real estate agents, although the ownership deed or title of the immovable property to be sold is one of the documents requested from the seller.

As may be inferred from the replies to the questionnaires, 98% of the surveyed real estate agents do not offer relocating services. Accordingly, at the present time only 2% of the real estate agents offer relocating services, while 15% offered such services in 2016. This change is due to the fact that, in the period under study, a large number of administrative services agencies (*gestories*) specialized in this situation were opened, and now the real estate agencies focus on the job specific to the real estate agent, delegating other aspects to specialized professionals.

### 3. Quality of AML controls

#### *Controls implemented by the authorities and professional associations*

##### *Access to the profession*

Articles 3 and 4 of the Law on real estate agents and real estate managers, of the year 2000, establish the requirements for exercising the profession of real estate agent and real estate manager, which include obtaining the authorization of the Government, not having a criminal record, approving an aptitude test, and registering oneself as a member of the Association of Real Estate Managers of Andorra (AGIA).

As regards the aptitude test, it is called by the ministry which is competent in matters of commerce. It is organized jointly with AGIA. The subject matter includes the pertinent obligations in matters of AML/CFT.

The latest call of this aptitude test was on 4 December 2019.

In the period under study, AGIA received a total of 50 requests to join it, none of which were denied. It only occurred that the process was not completed for two of the requests for reasons of strictly personal nature of the applicants. No authorizations were revoked during this period.

At the beginning of 2020, AGIA had 227 member entities and 258 individual members. In the period under study, the member entities increased by 18%, and the individual members by 14%. The statistics department reports that in 2019, there were 148 companies in this sector, which means that not all the individual members actually exercise this activity.

Lastly, it is important to point out that AGIA has a specific commission for the detection and management of cases of unauthorized practice of the profession, which conveys denouncements to the ministry in charge of such matters for their subsequent investigation and sanction, if applicable.

##### *Integrity*

Article 8 of the Law on real estate agents and real estate managers establishes, among the goals of AGIA, that of watching out for compliance, on the part of the members, of the laws, regulations and other rules which are applicable to them; that of watching out for professional ethics; and that of exercising disciplinary authority within the scope of the deontology of the profession.

To this end, Article 9 of said Law establishes a series of infringements and administrative sanctions which may essentially be summarized as non-compliances with the requirements for exercising the profession and other conducts, such as having received, detained or disposed of money, properties, belongings or any type of asset without the knowledge and agreement of

the customer. The sanctions include fines of variable amounts depending on the infringement in question, and the cease of activity.

Additionally, AGIA has its own articles of association and deontological rules, which were approved in 2001, when the association was created. They establish that one of the goals of AGIA is to ensure and to preserve the ethics of the sector, likewise establishing the need to demonstrate the absence of a criminal record in order to be able to become a member, which is a indispensable requirement for exercising the profession.

All these mechanisms help greatly to ensure that the profession of real estate agent is exercised with integrity. It is considered that the sector possesses measures which are applicable in significant terms, making the lack of specific measures at internal level for each of the businesses less significant.

### *Supervision*

	2017	2018	2019	Total
Number of inspections carried out in the sector	4	4	1	9

Between 2017 and 2019, a total of 9 inspections were carried out on real estate agents and managers. In the course of those inspections, a series of shortcomings were observed in various areas of the AML/CFT prevention systems of the members of the sector, which shortcomings are aligned with those detected in other non-financial professions. Following the usual procedure, these areas and the recommended improvement actions were set out in an individualized report to each of the inspected reporting entities, as well as in a public way through an informative note issued in August of 2018, which collected the main conclusions of the on-site inspections carried out in the sector.

Consequently, in general terms, it may be concluded that the main areas of improvement detected through supervisory actions in the real estate sector during the period under study, include the enhancement of the knowledge of the transactions in which one participates, the need to identify all the parties intervening in a transaction and not only the customer party, the implementing or enhancement of the systems for classifying customers according to ML/TF risk, the enhancement of the procedures for identification and verification of beneficial owners, or the reduction of the degree of reliance on the due diligence measures applied by other reporting entities which intervene in the purchase and sale transaction of the respective immovable property.

Likewise, among the respondents, all those who had been the object of an inspection considered that the inspection and the recommended improvement actions significantly or very significantly helped to improve their prevention system. The aforementioned improvements include the improvement of the internal procedures manuals, of the KYC forms, or of the ML/TF risk classification. Moreover, 75% of the surveyed real estate agents consider that the UIFAND publications are useful or very useful for raising awareness of and mitigating the ML/TF risks in their sector.

### *Sanctions*

Among other functions, AGIA exercises the disciplinary authority within the scope of the deontology of this profession. In the period 2017-2019, it dealt with about ten cases, and it came to be considered that disciplinary measures were to be applied in only two of them. None of the cases was related to AML matters.

In the period under study, no administrative sanction was imposed on any real estate agent or manager for infringement of the laws in force on matters of AML/CFT.

As regards criminal cases, among the total judgements issued by the Criminal Law Court in the period under study for cases of money laundering and/or predicate crimes, the real estate sector was involved in two judgements, either on an exclusive basis or jointly with other economic sectors. In neither of these cases were reporting entities involved, but rather activities relating to this sector which were carried out by the respective accused parties in other countries.

## ***Control systems implemented by the members of the sector***

### *Regulatory compliance*

#### *Availability of internal control procedures*

67% of the surveyed real estate agents stated that they possessed internal control procedures, and among these agents 19% stated that an external expert had taken part in the development of the procedures. 16% of them admitted that the procedures were not formalized in writing, a circumstance which does not make compliance with Article 17.1 of the Regulations for application of Law 14/2017, and 17% of the respondents stated that they did not possess any type of internal procedure in this field.

71% of the respondents correctly considered that even if the customer with whom they were to be dealing, were to have requested the services of some other reporting entity, it is still their own responsibility to apply the pertinent due diligence measures to the respective customer. It should be pointed out that the remaining 29% of the respondents consider that measures of the same type are not to be applied in these cases. This is a high percentage, which UIFAND had already detected in August of 2018 and which it published in the informative aggregate feedback note to the sector. Efforts should continue to be made in this respect.

It should also be pointed out that, especially as a result of the publication of the informative note addressed to the sector in August of 2018, AGIA has increased its AML/CFT efforts with respect to its members and, among other things, it provides a model internal procedures manual. Nevertheless, efforts should continue to be made to raise the awareness of the fact that the real estate agents should adopt this manual, suitably adapting it to the size and complexity of their businesses and including only the procedures which are carried out in practice.

#### *Transactions denied to customers in application of internal procedures*

15% of the respondents stated that they had denied transactions at the start of a business relation or, in the case of a small number of respondents, in the course of a business relation, for diverse reasons including the failure of the customer to provide all the requested documents, the customer's wish to pay in cash, or the lack of proof of the source of the respective funds. These denials did not translate into the submission of suspicious transaction reports to UIFAND.

#### *Customer control tools*

As may be inferred from the replies to the questionnaires, only 32% of the surveyed real estate agents possessed specific tools for the control of customers, even though AGIA provides access to databases from external suppliers. 64% of the respondents stated that they used open sources of information, often at the same time as the specific tools. 21% stated that they did not possess any customer control tool.

The activity specific to the sector makes it unnecessary to implement such tools which are more specific to financial reporting entities, since the transactions in this sector are occasional, the entities are of limited size and complexity, and the type of transactions allows an individualized follow-up of customers.

## *Identification and Reporting of Suspicious Transactions*

### *Number of STRs*

In the period under study, only one suspicious transaction report was submitted in 2017 and none in 2018 or 2019. This is a very modest number in absolute terms and it does not follow any clear upward or downward trend.

It is also important to point out that all the respondents consider that professional secrecy would not be an impediment under any circumstances to submit a suspicious transaction report to UIFAND.

These modest numbers of the sector are attributed to a lack of transactions which may be the object of a report to UIFAND, rather than to any lack of awareness on the part of the sector, any deficiencies in the detection and reporting systems, or any "wilful omissions".

### *Systems for detecting and reporting suspicious transactions*

As regards IT systems for detecting suspicious transactions, 75% of the respondents stated that they do not possess systems of this type. As previously mentioned, the activity specific to the sector makes it meaningless to implement such systems, which are more specific to financial reporting entities, since in this sector the transactions are occasional, the entities are of limited size and complexity, and the type of transactions allows an individualized follow-up of customers to be carried out.

As regards the surveyed professionals' internal organization in this area, 47% possess an internal channel for communication, to the ICCB, of suspicious transactions which the employees may have detected. With respect to the 53% who do not possess such channels, this circumstance may be attributed to the fact that they are not implemented or, above all, to the fact that the professional does not have employees, working exclusively on his own account.

In conclusion, for the most part the sector does not possess specific systems for detecting suspicious transactions, or systems for the control or follow-up of customers. Moreover, a low overall number of suspicious transaction reports were submitted to UIFAND in the period under study, and the signs of "mistrust" almost never translate into suspicious transaction reports.

### *Record keeping*

As may be inferred from the replies to the questionnaires, 57% of the surveyed real estate agents keep the documents on matters of AML/CFT for 10 years or more. Accordingly, a substantial percentage do not comply with their obligations, either because they do not keep the pertinent documents in either physical format or digital format (10%), or else because they keep the documents for less than 10 years (33%), due to either a confusion with Article 6 of the Law on real estate agents and real estate managers of 15 December 2000 which establishes that the real estate agency contract should be kept for 5 years, or because that was the period for keeping documents provided in the former legal framework on matters of AML/CFT..

### *Training, knowledge and awareness of risks*

In the period under study, AGIA held a total of 11 training sessions, which brought together a total of 194 participants from 125 real estate agencies. All these sessions, their contents and the number of participants form a very important tool for increasing the degree of knowledge and awareness regarding AML/CFT matters of the members and employees of the sector, and consequently, a very important tool for decreasing the risk of their being used for money laundering or terrorist financing.

Additionally, AGIA provides other services to its members in connection with AML/CFT, such as KYC forms, facilities for the contracting of databases of external suppliers, or models of AML/CFT internal control procedures manuals.

As may be inferred from the replies to the questionnaires, 86% of the respondents attended training sessions on matters of AML/CFT in the period under study, to a large extent involving those held by AGIA, although they also attended training sessions which were likewise held by external experts, by the Chamber of Commerce, or by the University of Andorra. Accordingly, generally speaking, the percentage of attendance at training sessions is highly favourable, although it should also be kept in mind that 13% of the respondents stated that they had not undergone any training in AML/CFT in the period under study.

#### *Knowledge of the ML/TF risks in the sector*

As may be inferred from the replies to the questionnaires, half of the surveyed real estate agents are not aware of the ML/TF risks inherent to their sector. Among the real estate agents who are indeed aware of these risks, almost 40% consider that the selfsame purchase and sale of an immovable property constitutes an ML/TF risk, without specifying any details. Payments in cash are considered inherent risks of the sector by nearly 30%, and to a lesser extent the respondents also mentioned legal structures (complex, foreign, or of the shell type), tax fraud, multiple purchases and sales, or luxury immovable properties.

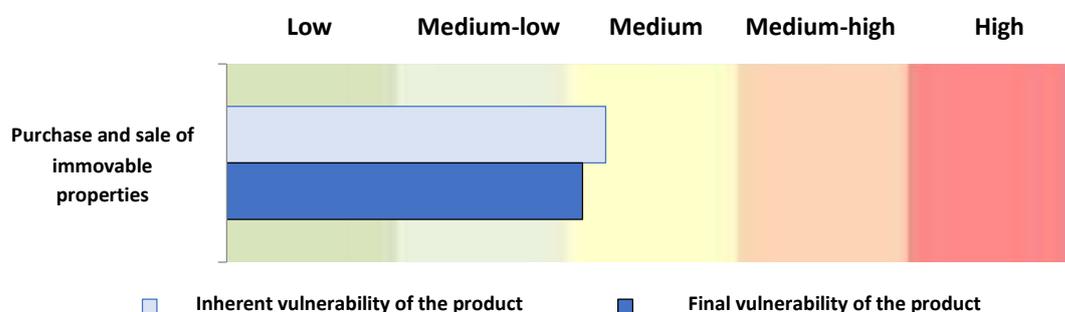
#### *Knowledge of ML/TF risks of the office/business*

As regards the assessment of risks at internal level, over 70% of the surveyed real estate agents stated that they had carried out a self-assessment of the ML/TF risks to which they are exposed, in compliance with the legal obligation to conduct an individual risk assessment. Most of the respondents mention the implemented mitigation measures rather than the risks themselves. Nevertheless, it should be pointed out that in the case of more than 20% of the respondents who had carried out a self-assessment of their risks, the assessment did not conclude with any specific risk in particular or any respective mitigation measure.

## 4. Vulnerability rating

On the basis of the analysis carried out, it may be considered that the inherent vulnerability of the real estate agents sector is as follows:

**Figure 15. Inherent and final vulnerabilities of the products of the real estate agents sector**



The average inherent vulnerability of Product 1 is slightly mitigated by the quality of the AML controls, which is rated as medium. Likewise, the final vulnerability of the sector is also rated as medium.

<b>Quality of AML controls</b>	<b>Medium</b>
<b>Final vulnerability of the sector</b>	<b>Medium</b>

# External accountants, auditors and tax consultants. Economists, administrative services agents and other providers of services to companies and other legal structures

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## 1. General description of the sector

This section analyses the vulnerability level of the sectors of external accountants, auditors and tax consultants, as well as of providers of services to companies and other legal structures (including economists and administrative services agencies [*gestories*], in the case that they carry out these activities). Although some of these sectors and activities have many points in common, in other cases they may present significant differences. For this reason, information was collected from them jointly (bearing in mind that they often provide more than one of these services simultaneously, through the same business or company), but the analysis of this information will be presented on a differentiated basis wherever significant differences have been observed between the two groups of sectors.

In general terms, the size of the various sectors is small, since they are mainly formed by self-employed professionals, with no other associate, employee or collaborator, and small offices and entities of 5 workers or less. Despite this, there are also, to a lesser extent, entities of larger dimensions from both the standpoint of employees (some with more than 30) and the standpoint of the volume of business.

As regards the number of members of each sector, the calculation entails various difficulties associated with the selfsame nature of the sectors, and with the delimitation of the activities subject to AML/CFT obligations. More specifically:

- Generally speaking, the professions analysed are not subject to obligations of belonging to professional associations or bodies, or of registration, and in the cases in which the practitioners belong to any of the professional associations or bodies of the country, this fact does not necessarily ensure that the member in question is a reporting entity.
- The breadth of scope of the services offered by the administrative services agencies (*gestories*) may include accounting-consultancy or tax-consultancy activities, or even activities specific to company service providers, such as the incorporation of companies, or activities specific to the administrative or corporate field which are not comprised within the framework of AML/CFT. This fact makes it hard to determine the cases in which an administrative services agency is to be considered a reporting entity and the cases in which it should not be so considered.
- The frequency of cases in which the professional or entity provides services belonging to both groups (that is to say, both in the field of accounting services, auditing and/or tax consultancy, and in the field of company service providers, and even other groups of non-financial reporting entities, such as real estate agents) makes it difficult to include

them within one group another, especially if determination cannot be made of the weight of each of the activities with respect to the total volume of business (for example, cases in which accounting and tax consultancy services form the majority, but this fact does not imply that the office may not participate, on a very sporadic basis, in the facilitation of proceedings for the incorporation of a company).

- The selfsame concept of provider of services to companies and other legal structures brings up doubts between some reporting entities, considering that it includes any type of service provided to a company, such as accounting consultancy or tax consultancy, or other services in the administrative field (facilitation of proceedings) or the business field (market studies or economic viability studies, etc.), when the company service provider's activities are limited to those defined in Article 3.4 of Law 14/2017. These erroneous conceptions may entail that, when registering the activity with UIFAND, the categories reported are not suitable.

Despite these considerations, on the basis of information obtained from the internal records of UIFAND, and from the Registers of Companies, of Commerce, and of Professionals Requiring an Academic Degree, the following estimates of reporting entities for each of the sectors have been obtained:

Type of reporting entity	Number	Total members
External accountants, auditors, tax consultants	360	12 (Association of Accountants of Andorra - ACP) + 119 (Tax Consultants Association – AATF)
Economists, administrative services agents ( <i>gestors</i> ) and other providers of services to companies and other legal structures	329	136 (Official Association of Economists of Andorra – COEA) <sup>13</sup>

In any case, the scope of activities of each of the members of the sector can only be definitely confirmed through direct contact with the professional in question, including supervisory actions.

In order to analyse the sectors and to determine their inherent vulnerability, an analysis has been made of the following products and services, which are in line with the activities established in Articles 2.2.a) and 2.2.c) of Law 14/2017 for the status of reporting entity:

- Product 1: Accounting and accounting consultancy services.
- Product 2: Auditing services.
- Product 3: Tax consultancy.
- Product 4: Creation, operation and management of companies, and provision of services to companies.
- Product 5: Creation, operation and management of, and provision of services to, legal instruments of fideicommissum, trusts, or other analogous structures, and associations, foundations or other legal structures.

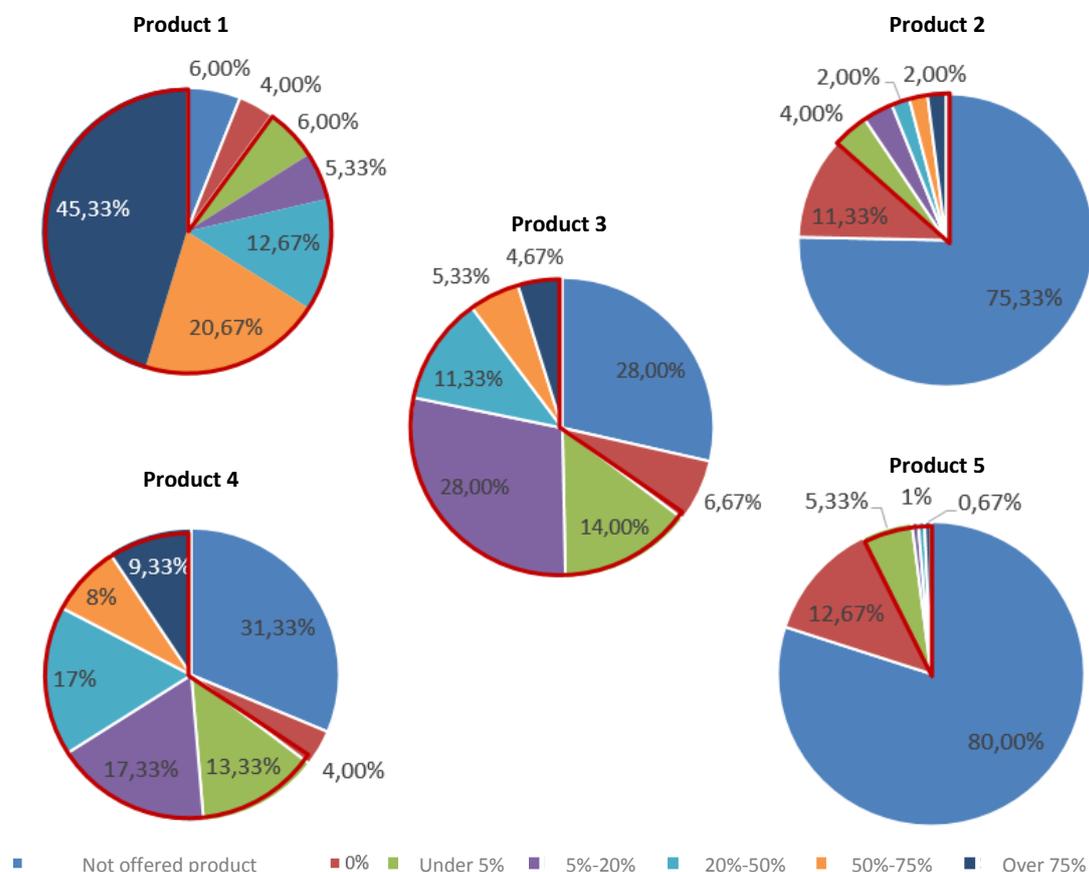
As previously mentioned, the 5 products were taken into account in the requests for information made to the sectors, in order to cover the situations in which one same business offers products

<sup>13</sup> They are not necessarily reporting entities.

or services from both categories of reporting entities (that is to say, services in the area of accounting, auditing or tax consultancy, and services to companies and other legal structures).

The volume of distribution of each of the products is as follows<sup>14</sup>:

**Figure 16. Distribution of the products and services of the sectors**



As may be seen, among the 5 products analysed, those which show the largest distribution are accounting services; tax consultancy; and the incorporation, management or operation of legal entities. On the other hand, auditing services have a smaller representation owing to the smaller number of auditing firms which are available and which have submitted replies.

On some occasions, the aforementioned products may come to have a significant weight within the total volume of business of the reporting entity, as is the case of accounting services and accounting consultancy. These circumstances are due to the fact that these types of reporting entities, as opposed to other non-financial groups such as lawyers, are in effect reporting entities because of the total scope of their activities, that is to say, the services which define their activity are those which, at the same time, give them the status of AML/CFT reporting entities.

## 2. Inherent vulnerability of the sector

### *Accounting services and accounting consultancy*

As explained above, these services have a broad distribution in the sectors analysed, and they represent significant volumes within the total volume of the various businesses. Most of the

<sup>14</sup> Circled in red are the replies which imply that the product is being distributed in larger or smaller amounts.

customers are Andorran, mainly involving legal entities. The presence of foreign customers is comparatively much lesser, and in no case are any ties observed between foreign customers and jurisdictions classified as high risk, either by international bodies or on the internal level of each business.

Other factors which characterize the customers of these services (in up to 64% of the cases) are the consideration of high purchasing power (although, considering the prevalence of legal entities, the term "net worth over 1 million euros" refers to the value of all the assets of the company), and their cash-intensive activities (for example, supermarkets, laundries, establishments in the bar and restaurant sector, or alcoholic beverage and tobacco dealers, since they are likewise subject to accounting obligations).

Other vulnerability factors, such as the presence of complex structures, PEP customers, business relations without physical presence of the customer, cash payments, or the use of agents, prescribers or other intermediaries for the acquisition of customers, show a lesser presence, although they are not inexistent (specifically, this presence ranges from 14% to 30% of the replies, depending on the factor). Although they are of a minority character, cases have been detected (up to 4.5% of the replies) in which the presence of one or more of these factors may come to be significant (that is to say, between 50% and 75% or more of the total customers).

It should also be kept in mind that, regardless of the weight of each of these factors, there is always a KYC on the part of the professional involved. Accordingly, the cases of business relations without physical presence of the customer are usually limited to the initial contacts with the customer and, in any case, (telematic) measures are adopted for his identification. Similarly, the use of intermediaries to acquire customers is usually limited to Andorra, Spain and France; the customer profiles are the same as for the customers acquired through other channels; and in very few cases are the due diligence measures delegated to the intermediary.

### ***Auditing services***

The distribution of auditing services is much more limited than that of the rest of the products analysed, bearing in mind the small number of auditing firms, both in general terms and in replies to the questionnaires.

The customers of auditing services are mainly Andorran legal entities, which is something that may be considered consistent. There are some cases of very minority character (0.67%) in which the presence of foreign legal entities is significant, but in no case are any ties with risk countries observed.

Other vulnerability factors are either inexistent for the product (as in the case of business relations without physical presence of the customer) or they have a very small presence (depending on the factor, between 0.67% and 12% of the replies and, within these cases, usually in less than 5% of the business relations), as is the case of complex structures, PEP customers, customers with high purchasing power, presence of cash, or use of agents or intermediaries.

### ***Tax consultancy***

The distribution figures of these services are high, mainly with respect to the percentage of supplying entities (close to 65% of the replies).

The profile of the usual customer is primarily that of Andorran natural persons or legal entities (in about 61% of the cases). The presence of foreign customers is comparatively small, and only in a very small number of cases (0.67%) do they come to represent significant figures (over 75% of the total customers). Nevertheless, the existence of these customers evidences the provision

of international tax consultancy and planning services. In no case, however, are ties with risk jurisdictions observed.

The vulnerability factors which have the largest presence are customers with high purchasing power (46%), although it should be pointed out that taken into consideration are both the net worth of natural persons and the assets of companies; cash-intensive customers (37%), and, to a lesser extent, complex structures and cash payments (20% each). The rest of the factors (presence of PEP customers, business relations without physical presence of the customer, or use of agents or intermediaries) show lower percentages of incidence (between 10% and 12%). In any case, when these factors arise, they seldom represent significant percentages with respect to the total business relations for the product.

It should also be mentioned that, although no cases have arisen, this service is susceptible to be used to advise and establish schemes involving tax evasion or fraud, just as various international bodies (such as FATF, the Egmont Group, the OECD, or the professional associations and/or self-regulating bodies of various jurisdictions) warn.

### ***Creation, operation and management of, or provision of services to, companies, legal instruments of fideicommissum, trusts or other analogous structures, and associations, foundations or other legal structures***

Within the activity of service providers, the services are primarily focused on companies (65% of the replies, and numbers of incorporations or participations between 10 and 100, except for some values far above average, which will presently be explained) more than on other legal structures (6% of the replies and numbers of incorporations or participations between 1 and 10). As regards companies, the usual profile of customers is that of Andorran and/or resident natural persons and legal entities, while for other legal structures no predominant type of customers is observed in terms of their being natural persons or legal entities, Andorran or foreign.

In the case of foreign customers, the main jurisdictions in which companies are incorporated or in which their beneficial owners reside are Andorra, Spain and France, although to a lesser extent, there is also an exposure to other jurisdictions such as Ukraine, Russia, Algeria, United States, Netherlands, Switzerland, Mali, Colombia, Japan or China. As regards other legal structures, the predominant jurisdictions include Spain, France, Panama, United Kingdom, and Switzerland, but there are also ties with others such as Belize, British Virgin Islands, Estonia, Luxembourg, Ireland, Cyprus, Cayman Islands, Saint Kitts and Nevis, Bahamas, or Singapore. The AML/CFT frameworks of these jurisdictions show different degrees of equivalence with the Andorran framework.

Although the rest of the vulnerability factors analysed are not inexistent, no more significant presence than for the previously described products and services is observed.

Despite this, however, there is a small number of cases (between 0.67% and a little more than 5%, depending on the vulnerability factor involved) in which not only the activity specific to the providers of services to companies and other legal structures is high, for example in terms of volume of companies (reaching maximum numbers of between more than 100 and more than 550 in the three years under study) and other legal structures, as well as the weight which these products hold with respect to the total volume of business (over 75%), but moreover, these activities converge with a high degree of exposure to the vulnerability factors analysed (between 50% and over 75% of the volume of business or of customers for these products).

The principal vulnerability factors in these situations mainly include participation in structures with non-nominative ownership instruments (bearer shares); exposure to geographical risk (including risk countries listed during the period under study, such as Ghana and Panama, in

about 2% of the cases); prevalence of high-risk customers and/or customers to whom enhanced measures are applied; use of intermediaries, structures devoted mainly to the provision of intragroup services, financial vehicle corporations/shell structures; or provision of corporate, commercial, postal or administrative addresses for the incorporated structures and participation in them in the capacity of shareholders, holding management functions or forming part of the Board of Directors.

It is also important to point out that, in more than 1% of the cases, functions of trustee (or of an equivalent position) are exercised with respect to structures established abroad (on some occasions in risk jurisdictions). These figures are higher than those of the register of providers of services to trusts and analogous legal instruments.

These situations entail important vulnerability factors and, on some occasions (as in the case, for example, of specific structures or jurisdictions), they require the adoption of enhanced measures by virtue of Law 14/2017 or of UIFAND Technical Communiqués. Such situations lead to cases in which the high-risk customers are in excess of 50% of the total customers or in which enhanced measures are applied in over 75% of the business relations. Notwithstanding, sufficient evidence is not available to justify that the internal control procedures of these entities are sufficiently robust to manage and mitigate the high risks of ML/TF, which are moreover higher than the average for the sector, to which these entities are clearly exposed.

### *Participation in other types of services*

These services include: (i) participation in the planning or performance of transactions of purchase and sale of immovable properties or entities, (ii) management of funds, securities or assets of customers, (iii) opening or management of bank, savings or securities accounts, (iv) acting as holder, representative or attorney-in-fact of customers' accounts, and (v) making or receiving payments on behalf of customers.

Although the great majority of respondents do not take part in these types of activities (between 84% and 99%, depending on the type of service), in the cases in which such activities have indeed been carried out, the volumes and amounts involved may come to be quite significant (for example, over 600 accounts, account positions or transaction amounts of over one million euros, or intermediations in payments of more than 600,000 euros). These situations are mainly concentrated in the limited number of providers of services to companies and other legal structures which was mentioned above.

## **3. Quality of AML controls**

For the final vulnerability of each product, consideration is given to its inherent vulnerability and the quality of the AML controls implemented either by the members of the sectors or by the authorities. These controls include the following:

### *Control systems implemented by the members of the sector*

#### *Training in AML/CFT matters*

The professional associations and bodies which represent these sectors are less prolific than other non-financial sectors with respect to the holding of training sessions on matters of AML/CFT.

Indeed, more than 40% of the respondents did not carry out any type of training on these matters during the period under study. The rest participated in training held by various

prestigious organizations and entities, of both domestic and international character. Likewise, the main recipient of this training was the person in charge of the respective businesses, and on few occasions (approximately 14%) was training also received by the rest of the personnel with significant functions in relation to AML/CFT (including other members of the ICCB) or was the content of the training sessions conveyed to such personnel.

Nevertheless, it is observed that, in spite of all this, efforts were being made to keep up to date on the legislative developments in this field.

#### *Knowledge and awareness of ML/TF risks and obligations*

Generally speaking, the surveyed professionals identify ML/TF risks in the sectors to which they belong, whether of more general scope or typologies more specific to themselves, such as the manipulation of the accounts of a company in order to simulate a legal activity, fraud in invoices, provision of international services, or erosion of tax bases, among others.

Nevertheless, this capacity to identify sectoral risks does not carry over to the individual risks of each of the businesses which form the professions. Accordingly, only 67% had fulfilled their obligation of carrying out a self-assessment of risks (IRA). These self-assessments are not usually focused on the identification of risks, but rather on the implemented measures for prevention of ML/TF and for mitigation of risks, and on justifying the perception of low or nil risk which may be held with respect to the business, on the basis of criteria such as the aversion to risk of the reporting entity, the participation of other reporting entities (banks, notaries, etc.) in the business relation, or the low-risk profile of customers and of the products or services offered. The systematic perception of low risk, the perception that the concept of risk is not applicable, and a certain aversion to the concept of ML/TF "risk" may lead to a situation in which risks are not assessed in a detailed way or appropriately managed.

#### *Availability of internal control procedures*

In most cases, the professionals of these sectors possess implemented AML/CFT internal control procedures and policies, although in a significant number of cases (about 21%), they are not duly implemented in writing. Likewise, internal procedures are not possessed in about 20% of the cases, and 9.5% of the replies state that due diligence measures are not being applied. These are equally significant figures which entail important vulnerabilities.

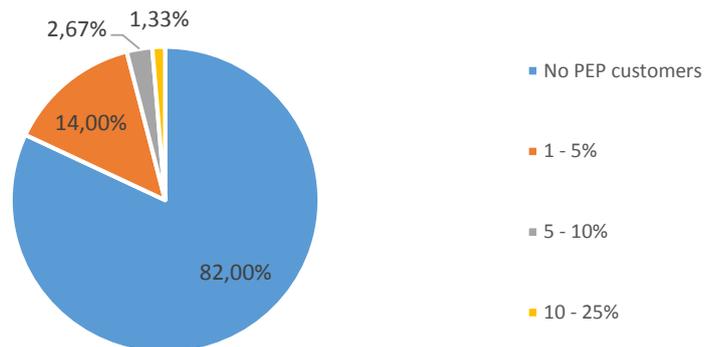
In the cases in which implemented procedures are possessed, they describe the ML/TF prevention systems, including the following systems, among others:

- Risk-based customer classification systems: although these are the systems possessed in most cases, 28% do not classify their customers on the basis of the ML/TF risk which they present.
- Application of due diligence measures to customers: the definition of these measures (including simplified, conventional and enhanced measures) on the level of internal procedures is also found in the majority of cases, although these measures are sometimes defined in a theoretical way, without practical implementation (58% of the cases in which, even though they have not had to apply enhanced measures, such measures are nevertheless defined in the internal manuals).
- In the majority of cases, the measures applied are consistent with the risk level assigned to the customer, although less frequently some cases have been detected of incorrect calibration of due diligence measures (in about 6.5%) or of non-differentiation of due diligence measures to be applied according to the risk level of the business relation, applying to all customers the same type of measures (41%).
- Identification and verification of the identity of beneficial owners: the majority specify the sources of information to comply with this obligation, and their periodic

reassessment, such as domestic and/or foreign registers, open or private sources of information, and information provided by the customer. In about 20% of the cases, it is considered that the identification of the beneficial owner is not applicable, and in 25% of the cases it is considered that the reassessment of this status is not necessary.

- Identification of, and adoption of enhanced measures for, PEPs: even though policies and procedures are possessed in relation to politically exposed customers, in overall terms the presence of this type of customers is quite limited, as may be observed below:

**Figure 17. Percentage of PEP customers with respect to total customers**



This circumstance may be a warning of potential deficiencies in the systems for identification and adoption of measures in relation to PEP status.

- Keeping of documents: in most cases, the documents relating to AML/CFT are kept for a suitable period, in physical, electronic or both formats, although 17% of the replies state that documents are not kept and 36% state that documents are kept for a period less than the legal obligation.

Through supervisory actions, recurrent improvement points have been detected in the internal procedures of the members of the sectors, including the making of greater efforts to adapt the internal procedures to the reality of each of the businesses.

The application of the internal control measures falls, for the most part, to the self-employed professional himself or to the owner, manager or administrator of the respective company who, at the same time, is usually the ICCB or else forms part of it. In this respect, the number ICCB communications to UIFAND with respect to these sectors is considered to be significantly less than the estimated number of potential operators.

The application of due diligence measures is almost never delegated to third parties, except in a minority of cases involving company service providers, in which such delegation is significant (for example, in over 75% of business relations).

#### *Systems for detectin and reporting suspicious transactions*

At formal level, about 56% of the respondents possess internal channels for communication of suspicious transactions, that is to say, channels between employees and the ICCB. In most of the other cases, such channels are not possessed since self-employed professionals are involved. Consequently, the members of the sectors are acquainted with the reporting obligation and they are aware that professional secrecy with respect to customers is not an impediment, under any circumstances, to submitting a suspicious transaction report.

As regards the detection of suspicious transactions, the use of automated warning systems for suspicious or unusual transactions or for the follow-up and scrutiny of transactions is not widespread in these sectors, a fact which is consistent with their type of activity, complexity and size. On the other hand, other tools, such as open sources of information, which are more closely focused on obtaining a better knowledge of the customer than on the direct detection of suspicious transactions, are comparatively more widely used.

In terms of figures, the suspicious transaction reports submitted to UIFAND by the analysed sectors during the period under study were as follows:

Sector	2017	2018	2019	TOTAL
External accountants, auditors, tax consultants	-	1	1	2
Economists, administrative services agents ( <i>gestors</i> ), and other providers of services to companies and other legal structures <sup>15</sup>	5	2	11	18

The figures for external accountants, auditors and tax consultants are very modest and they are in line with those of most of the non-financial sectors. Their main tool for detecting suspicious transactions is the accounting information of the respective companies (annual accounts, balance sheets, financial statements, etc.) which they prepare, audit or use to provide tax consultancy. Nevertheless, in a small number of cases (about 7.5%), inconsistencies were detected between this information and the knowledge possessed of the respective customers and their profiles, including the real activity of their businesses, but in none of these cases were the inconsistencies notified to UIFAND as suspicions.

On the other hand, the figures for the sector of company service providers are significant in comparison to the rest of the financial and non-financial sectors (except for the banking sector). Although on many occasions the provision of these services is limited to the proceedings for the incorporation of companies, the figures given here reflect the greater risk associated with the products and services of this sector with respect to the probability of being used as ML instruments.

In both groups of sectors, the denial or cancellation of business relations for reasons such as divergences with the usual customer profile, mistrust with respect to the customer, or reluctance or refusal on the part of the customer to submit himself to the due diligence process are uncommon (except in the case of a small number of company service providers). In any case, neither are these situations translated into suspicions to be reported to the authority.

#### *Use of independent sources of information*

The use of reliable independent sources of information from external suppliers is not excessively widespread among these sectors (about 28% have access to databases of external suppliers or platforms for access to commercial reports or basic information on companies, among other tools) and, generally speaking, they are not systematically applied. It should also be noted that not all the non-financial reporting entities have access to the Registers of Companies and of Commerce. Consequently, there comes to be a large reliance on documents provided by customers for compliance with AML/CFT obligations and, particularly, with due diligence measures.

#### *Limitations on the use of cash*

62% of the surveyed professionals possess an established limitation of the amount of cash which

<sup>15</sup> The statistics published under the heading of economists and under that of company service providers in the UIFAND activities reports are added up.

they accept. Within these cases, the established thresholds range from non-acceptance of cash to 10,000 euros, the most common being non-acceptance of cash, 1,000 euros and 3,000 euros. These measures mitigate the potential risks associated with the use of cash.

### *Controls implemented by the authorities and the professional associations*

#### *Controls of access to the profession*

There are no specific controls of access to these professions. Consequently, the only applicable controls are those relating to the administrative authorization of the Government and of the Municipality for the performance of any professional, business or service-related activity, and the requirements for registration in the Registers of Companies and/or Commerce (as appropriate) and, in specific cases, for registration in the Register of Professions Requiring an Academic Degree. Accordingly, the access controls are limited to administrative proceedings, which do not differ from those for any other economic or business activity.

Likewise, although some of these professions offer the possibility of affiliation in associations or bodies which represent and defend the interests of their activities (the Association of Accountants of Andorra [ACP], the Association of Tax Consultants [AATF], and the Official Association of Economists of Andorra [COEA]), membership in these collectives is not a requirement for exercising the respective professions.

The only exception to the foregoing point would be those professionals who exercise activities specific to the economy, who have the obligation to affiliate themselves in COEA, but this circumstance does not necessarily include company service providers. In order to mitigate this situation, Additional Provision 2 of Law 14/2017 establishes the obligation for the professionals who take part in activities specific to providers of services to companies and other legal structures, to notify such activities to the Ministry of Economy before beginning to exercise them. Notwithstanding, compliance is not being made with this obligation in practice.

Lastly, in relation to auditors, although there have been various bills of law aimed to regulate the profession, the controls of access to the profession and the creation of a register of auditors of accounts, no progress has been made in this respect since the year 2018.

#### *Integrity of the sector*

The mechanisms available to ensure the integrity of the members of these sectors are limited, and they are mainly related to the professional associations and bodies, membership in which is not compulsory in order to exercise the professions, just as has been previously mentioned. These mechanisms are mainly as follows:

- In the case of economists, the association of the profession is the body in charge of regulating professional activity and of upholding the profession's ethical, deontological and legal principles, through its articles of association, which provide a disciplinary regime to sanction the members who carry out any act or omission contrary to the profession's prestige and honourability.
- In the case of external accountants and tax consultants, both ACP and AATF possess their own articles of association, although only in the case of ACP do they contain a disciplinary regime which sanctions the conducts which harm the association's good name or the professionals who exercise the activity in a way that is disloyal to the association, with temporary or final expulsion from the association.
- Legislative references, such as Law 25/2012, on the creation of COEA or Law 6/2008, on the exercise of liberal professions and professional associations and bodies.

Additionally, about 26% of the surveyed professionals possess internal mechanisms such as their

own disciplinary codes or codes of conduct or measures on access to information and confidentiality on the part of employees, although their degree of application is practically nil.

All the foregoing considerations cause there to be cases of professionals to whom no type of integrity measure is applied (for example, a company service provider who does not hold an academic degree qualifying him for the profession, who does not belong to any professional association or body, or who does not possess any implemented additional measure at internal level).

As regards imposed sanctions, there were no criminal cases, including cases of money laundering, relating to the sectors in the period under study, and neither was it necessary to put the disciplinary regimes of the professional associations and bodies into practice (although these regimes do not take into consideration non-compliances with AML/CFT obligations). Administrative sanctions were indeed imposed, however, for infringements of Law 14/2017 (specifically, a very serious sanction was imposed on an external accountant/administrative services agent (*gestor*) because he had not appointed an ICCB before UIFAND), and the Register of Commerce imposed a sanction on an economist in the period under study, for unauthorized practice of the profession involving the provision of financial consultancy services.

#### *Supervision of AML/CFT in the sector*

In the period under study, UIFAND carried out the following number of inspections on these groups of reporting entities:

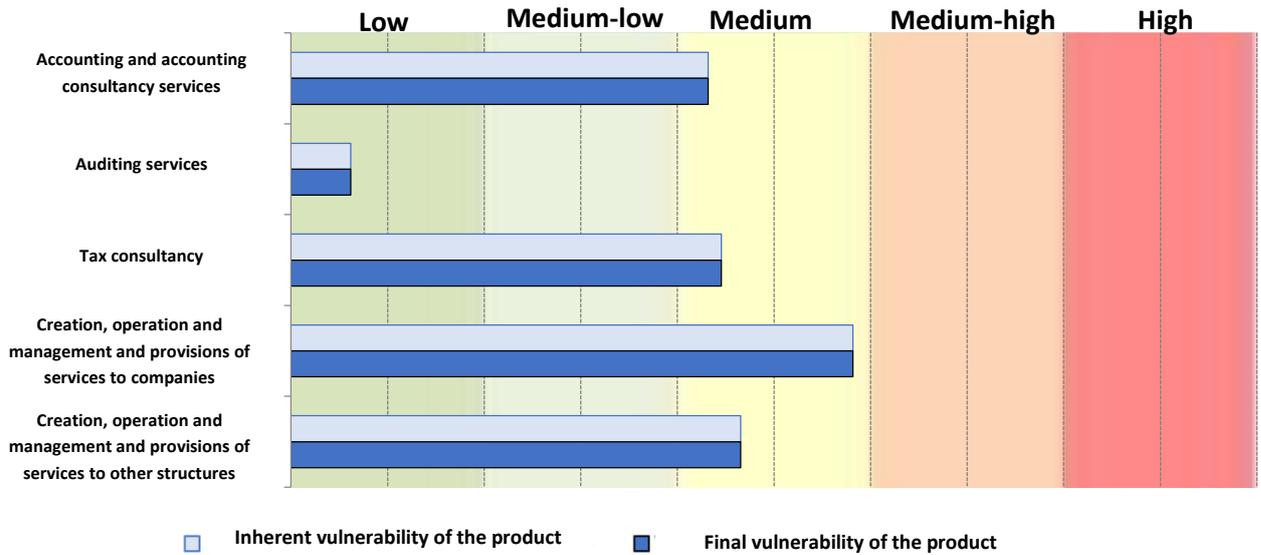
Type of reporting entities	Number of inspections			
	2017	2018	2019	Total
Accountants/tax consultants/auditors	1	2	2	5
Economists, administrative services agents ( <i>gestors</i> ) and other providers of services to companies and other legal structures	2	1	1	4

The main areas in which shortcomings were detected were the object of individualized recommendations, which the majority of the inspected entities consider to have helped significantly or very significantly to improve their AML internal control systems, including updates of the internal manual of AML procedures, the establishment of risk-based customer classification systems, or the enhancement of the support documents obtained from customers, among other aspects. Moreover, in July of 2018, an informative note was published to increase the degree of awareness of these sectors with respect to the common ML/TF risk areas, and the improvement actions for mitigating these areas, as were detected in the on-site inspections.

#### **4. Vulnerability rating**

According to the analysis carried out, the inherent vulnerability of each of the analysed products is as follows:

**Figure 18. Inherent and final vulnerabilities of the sectors' products**



These levels of vulnerability are not mitigated by the quality of the AML controls, which is considered medium-low for both groups of sectors, entailing a medium level of final vulnerability.

Quality of AML controls of external accountants, auditors and tax consultants	Medium-low
Quality of AML controls of providers of services to companies and other legal structures	Medium-low
Final vulnerability of the sector of external accountants, auditors and tax consultants	Medium
Final vulnerability of the sector of providers of services to companies and other legal structures	Medium

# Vehicles dealers

## 1. General description of the sector

AIVA, the Vehicle Importers Association of Andorra, brings together the official dealers of the main brands in the sector, comprising cars, motorcycles and industrial vehicles. At present it has 14 members who represent 16 entities. These entities are engaged in the import and sale of new vehicles above all, and also offer the supplementary services of purchase and sale of used vehicles, mechanical workshop and replacement parts shop.

In Andorra there are also other smaller establishments which engage in the purchase and sale of used vehicles and which may also occasionally import some specific vehicle for a customer.

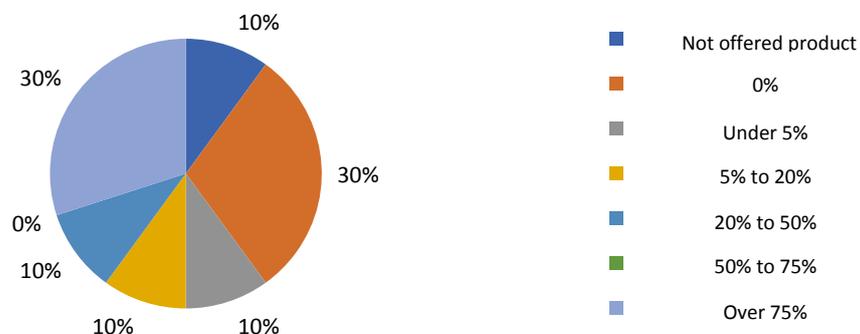
The Department of Statistics reports that in September of 2019 there were 37 entities operating in the sector of wholesale or retail dealing in motor vehicles (including vans, trucks, buses, caravans or trailers), which employed a total of 376 workers.

### Activity

The purchase and sale of vehicles in which payments are received in cash for an amount equal to or greater than 10,000 €, in either a single transaction or in various transactions between which there would appear to be some type of relation, is the only activity for which vehicle dealers are reporting entities for the effects of Law 14/2017. This activity corresponds to "Product 1" of the questionnaires sent to the sector.

As regards the weight held by the product, on analysing the replies to the questionnaires, it should be noted that the questions may not have been correctly interpreted. That said, according to the replies to the questionnaires, one-third of the respondents received cash payments of over 10,000 € for almost all of their invoicing. It has been confirmed by AIVA that this is not so. It is estimated that 30% of the respondents who stated that this product represents over 75% of their volume of business, took into account all the cash transactions and not only those for an amount of over 10,000 €.

Figure 19. Distribution of the products of vehicle dealers



## Volume

The vehicle dealers sector is one of the main importers and exporters of Andorra.

	2017	2018	2019
<b>Total value of imports (in millions of Euros)</b>	<b>1,307</b>	<b>1,368</b>	<b>1,377</b>
<b>Imports of automotive vehicles, tractors, motorcycles, bicycles and other land vehicles (in millions of Euros)</b>	157	174	177
<i>Ranking</i>	1	1	1
<i>% of vehicle imports with respect to total imports</i>	12.02%	12.79%	12. w90%
<b>Total value of exports (in millions of Euros)</b>	<b>106</b>	<b>112</b>	<b>113</b>
<b>Exports of automotive vehicles, tractors, motorcycles, bicycles and other land vehicles (in millions of Euros)</b>	20	19	16
<i>Ranking</i>	2	2	2
<i>% of vehicle exports with respect to total exports</i>	19.72%	17.41%	14.04%

Source: DDE

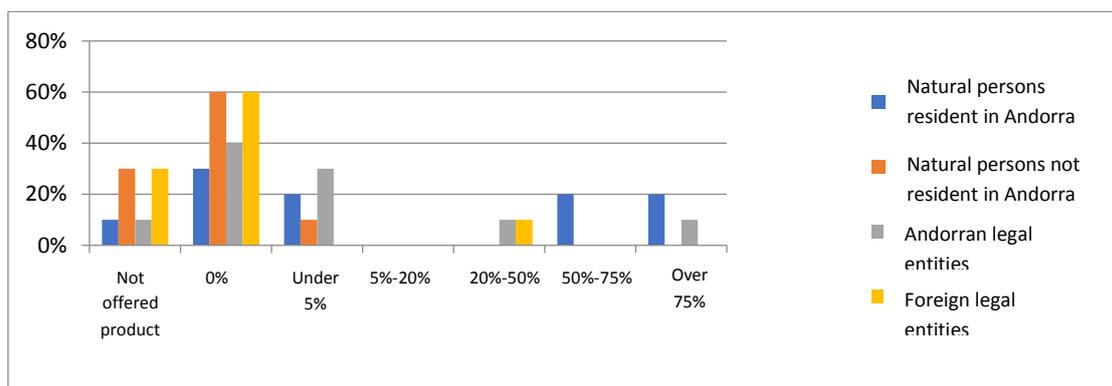
In the period under study, a slight increase was observed in the stock of automobiles, which remains stable while showing a slightly downward trend. For their part, vehicle registrations are at a standstill after a large growth in 2017.

	2017	2018	2019
<b>Stock of automobiles</b>	<b>84,392</b>	<b>86,930</b>	<b>89,444</b>
<i>Variation %</i>	+3.16%	+3.01%	+2.89%
<b>Registrations</b>	<b>4,552</b>	<b>4,608</b>	<b>4,519</b>
<i>Variation %</i>	+18.17%	+1.23%	-1.93%

## Customer profile

The typical customer of the vehicle dealers is a natural person resident in Andorra who purchases a vehicle for his own mobility, mainly with the financing of a bank, and to a lesser extent, an Andorran legal entity in the form of a company, which requires a vehicle for its commercial activity and which also uses a bank loan to finance its purchase.

**Figure 20. Typology of customers**



## 2. Inherent vulnerability of the sector

*The purchase and sale of vehicles, when the payments are made or received in cash for an amount equal to or greater than 10,000 €, and whether they are made in a single transaction or in various transactions between which there would appear to be some type of relation.*

According to the replies to the questionnaires, only 20% of the vehicle dealers have had PEP customers, and in all cases they represent less than 5% of the overall customers. The remaining 80% did not have any PEP customers, or had only one. This very low number of PEP customers may also indicate a scanty efficient system of detection of PEPs.

For the purposes of this assessment, customers with high purchasing power have been considered those with a net worth in excess of 1,000,000 €. According to the replies to the questionnaires, this type of customer is significant for only 10% of the vehicle dealers, representing over 50% of their total customers. Most of the vehicle dealers are distributed between those who do not possess this information (30%), those who do not have this type of customer (20%), and those who have very few customers of this type (for 30% they represent less than 5% of the total invoicing).

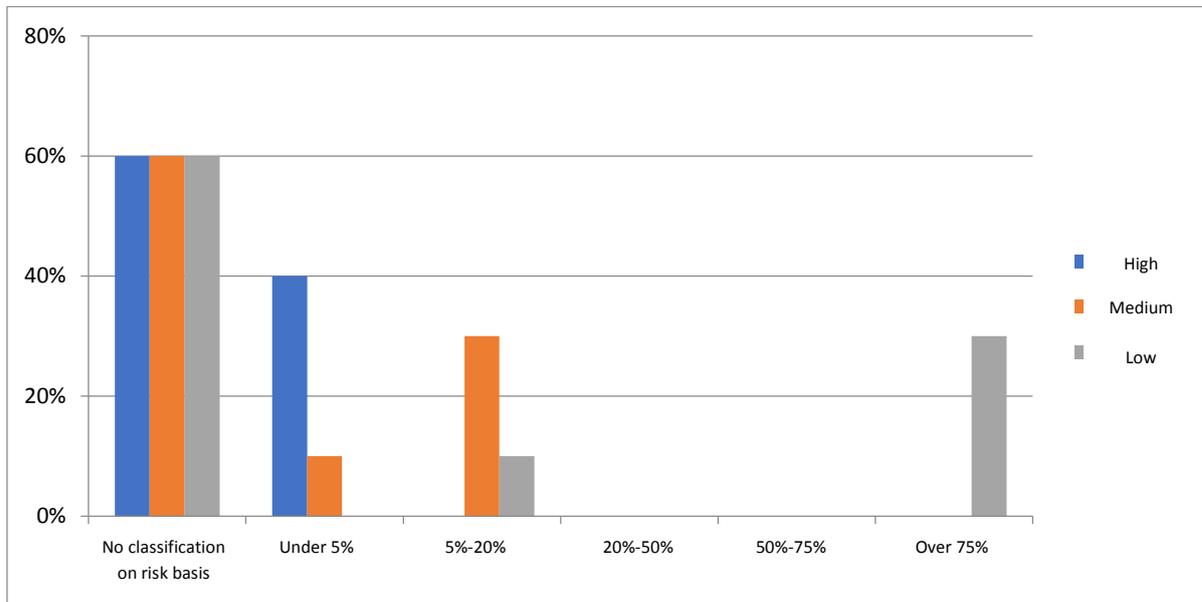
As regards customers from high-risk jurisdictions, to whom, according to Article 12 of Law 14/2017, enhanced due diligence measures are to be applied, and whom UIFAND identifies by means of Technical Communiqués of compulsory compliance, the vehicle dealers stated that they did not have any customers of this type in the period under study.

According to the replies to the questionnaires, there were no legal entities with complex or opaque structures among the customers of the vehicle dealers in the period under study. The only legal entity customers are Andorran companies in which the partners, shareholders, representatives and administrators are easily identifiable.

Only 10% of the vehicle dealers had acquired a small percentage of customers (between 5% and 20%) through prescribers or introducers. The customers were French, and the dealers did not delegate the application of due diligence measures.

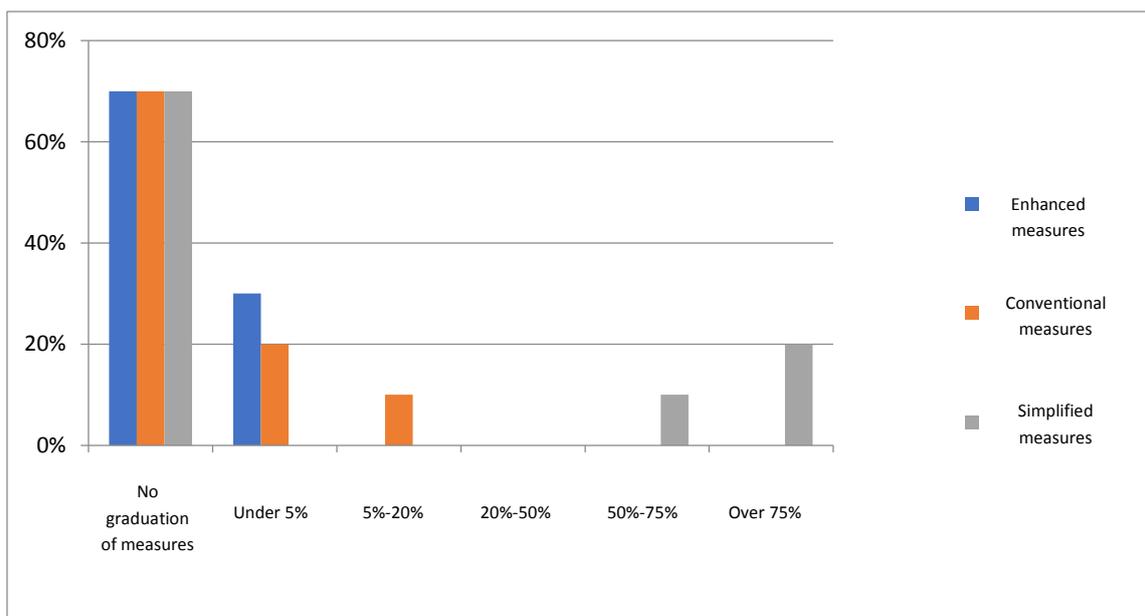
Moreover, 60% of the respondents stated that they do not classify their customers on the basis of risk. For the dealers who did indeed classify them on this basis, high-risk customers represented less than 5% of their customers, and low-risk customers represented over 75%.

**Figure 21: Risk-based classification of customers**



Along the same line, 70% of the respondents stated that they did not differentiate the due diligence measures applied to customers. In the cases in which they did indeed differentiate them, for the most part they applied enhanced measures to fewer than 5% of their customers, and simplified measures to over 75%

**Figure 22: Type of due diligence measures applied**



As previously mentioned, the acquisition of a vehicle by a natural person or a legal entity is often financed by a bank via a loan, and cash is very little present in the sector. Cash payments take

place mainly when paying earnest money. AIVA has stated that it has no knowledge of any intensive use of cash by its members.

According to the replies to the questionnaires, 80% of the vehicle dealers possess an established maximum amount of money that they will accept in cash. This maximum amount ranges from 0 to 10,000 €, with an average of 6,162 €.

For all the surveyed vehicle dealers, the prohibition of cash payments in excess of 10,000 € would have little or no impact.

Likewise, 70% of the surveyed vehicle dealers possess a tool for recording the history of cash transactions of one same customer, in the customer information itself, in accounting records, or in systems provided by the parent entity.

Nevertheless, only 30% of the surveyed vehicle dealers would automatically detect cash payments of over 10,000 € when they are made in various transactions. Since occasional transactions are involved, and bearing in mind the type of product, this cannot be considered a negative aspect.

Business relations without physical presence of the customer are almost inexistent in the sector. Only 10% of the respondents state that they have had any such relations, and when they do have any, payment is not made in cash either wholly or partly.

### **3. Quality of AML controls**

#### ***Controls implemented by the authorities and professional associations***

##### *Access to the profession*

There are no specific requirements for vehicles dealers to enter the market, aside from the administrative authorization of the Government and the municipality which is necessary to carry out any commercial activity. Consequently, the procedure for authorizing commercial activities does not take into account the specific ML/TF risks of each of the sectors which form part of them.

AIVA is not responsible for access to the market. It can only determine who its members may be, and neither is membership in this association a requirement for exercising the activity. In order to become a member of AIVA, the applicant is requested to provide a certificate proving that he has been granted the concession of both the sales and after-sales services, and the administrative authorization for the industrial activity and for the provision of the workshop service.

##### *Integrity*

AIVA possesses its own articles of association, which were last modified in November of 2019. These articles of association contain provisions relating to members, to the requirements for affiliation and for denial of membership, to the pertinent rights and obligations, to the bodies of the association, to its organization and positions, to the economic and disciplinary regime, and to its modification, dissolution and liquidation.

At the level of each of the members of the sector, according to the replies to the questionnaires, the presence of measures to ensure the integrity of employees is limited, and only 10% of the respondents possess their own disciplinary measures to ensure their employees' compliance with their AML/CFT obligations. Nevertheless, it cannot be concluded that this implies a lack of knowledge or a non-compliance on the part of the personnel with respect to their AML/CFT obligations.

## *Supervision*

In the period 2017-2019, one inspection was carried out on a vehicle dealer.

Aggregating the results of the inspections on high value dealers, it is found that the main recommendations that were issued were related to the enhancement of internal AML/CFT policies, the classification of customers on the basis of their ML/TF risk level, the enhancement of the knowledge of AML/CFT with respect to both the obligations and the inherent risks of the sector, and a written record of the decisions adopted by the ICCB. None of the areas detected as susceptible to improvement was caused by a lack of integrity of the members and personnel of the entities which form the various sectors of high value dealers.

It should be pointed out that one risk area for this sector is the circumstance of members not possessing any internal control procedures that would allow detection of transactions paid in cash, in either a single payment or in various payments which could have some type of relation, or else the circumstance that the procedures which they do possess do not cover all the possible situations. These procedures should allow the entities to know the situations in which they are AML/CFT reporting entities and, therefore, the cases in which they are to apply due diligence measures for the purpose of identifying and reporting suspicions. Despite this, the cash transactions of the inspected entities were usually quite few in number.

Although 60% of the respondents considered that the UIFAND publications, including informative notes, sectoral guides or other documents, are fairly useful or very useful for raising awareness of and mitigating the AML/CFT risks in their sector, 20% considered them to be of little use or not at all useful. This is a high percentage which UIFAND will have to take into consideration.

## ***Control systems implemented by the members of the sector***

### *Regulatory compliance*

#### *Internal control procedures*

According to the replies to the questionnaires, only 30% of the respondents possess internal control procedures; for 60% of them, these procedures are not formalized in writing, a circumstance that is not in compliance with Article 17.1 of the Regulations on application of Law 14/2017. Lastly, 10% state that they do not possess any type of internal procedure on these matters.

In the inspections carried out on vehicle dealers, the dealers were only found to possess procedures on limitations of cash payments, on the period for keeping documents, and on basic due diligence measures.

#### *Application of due diligence measures*

As regards the need to apply due diligence measures to customers, 30% of the respondents consider, rightly, that such measures should be applied when the customer has requested the services of another reporting entity. We thus find that a substantial percentage of the sector states the contrary, and it may be inferred, as in the case of other non-financial reporting entities, that there is a high degree of reliance on the measures and controls applied by other reporting entities and particularly banking entities. Efforts should continue to be made to reduce this erroneous conception.

Lastly, it should be pointed out that 80% of the surveyed high value dealers stated that they had not delegated to third parties the application of due diligence measures on any occasion.

### Customers rejected in application of internal procedures

Only 20% of the respondents stated that they had rejected customers from the start of a business relation, in all cases in a percentage of under 5% of their total business relations. As regards the remaining 80%, which had not rejected customers from the start of a business relation in application of their internal procedures, it should be pointed out that this does not imply the absence of control procedures (even if their procedures were not to correspond to those defined by Article 17.1 of the Regulations), but rather that there had not been any situations in which it was necessary to apply the customer acceptance policy.

Among the reasons stated for the rejection of customers, the respondents mentioned the refusal of customer to provide the requested information, or the lack of proof of the source of funds.

As concerns previously initiated business relations, none of the respondents had terminated any inasmuch as no situation covered in their internal procedures had arisen.

### Person in charge of regulatory compliance

80% of the respondents stated that they possess a figure specifically in charge of ensuring compliance with the laws on matters of AML/CFT in their businesses.

### *Identification and reporting of suspicious transactions*

Only one STR was submitted by the vehicle dealer sector in the period under study, in 2019. This is a very modest number in absolute terms and no clear upward or downward trend is observed in this respect. It is attributed to a lack of transactions which may be the object of a report to UIFAND, rather than to a lack of awareness of the sector, deficiencies in the detection and reporting systems, or "voluntary omissions". Nevertheless, UIFAND should make greater efforts to raise awareness of this matter.

As regards IT systems for detecting suspicious transactions, none of the respondents stated that they possessed such systems. As previously mentioned with respect to other non-financial sectors, the selfsame activity makes it meaningless to implement these systems, which are more specific to other financial reporting entities, given the limited size and complexity of the entities of the sector, and the type of transactions, which allow an individualized follow-up of customers to be carried out.

With respect to suspicious transaction reporting systems, 40% of the respondents stated that they possess such systems.

### *Keeping of documents*

According to the replies to the questionnaires, 40% of the surveyed vehicle dealers keep the documents on matters of AML/CFT for 10 years or more. We thus find that a large percentage do not comply with their obligations, either because they do not keep these documents either in physical or digital format (40%), or because they keep them for less than 10 years (20%).

### *Training, knowledge and awareness of risks*

AIVA held one meeting with its members during the period under study for the purpose of informing them about the requirements and obligations in matters of AML/CFT; about the results of the meetings held between the association and UIFAND, mainly addressed to assessing the degree of compliance of the sector with the measures of the action plan of the previous NRA; and about the actions recommended by Moneyval in the 5th Round Mutual Evaluations. Although this is an initiative which is positively valued, it does not constitute an exhaustive training plan in itself.

According to the replies to the questionnaires, in the period under study only 40% of the respondents had carried out training in AML/CFT matters, held by the Chamber of Commerce, imparted by external experts, or in the form of internal training.

In the case of UIFAND's on-site inspections, it was found that no external training in matters of AML/CFT had been carried out before the inspections.

#### *Knowledge of ML/TF risks of the sector*

AIVA considers that the sector which it represents has a "low" ML/TF risk, because "transactions are not carried out in cash" and because the transactions are "documented".

According to the replies to the questionnaires, the vehicle dealers are aware of the ML/TF risks inherent to their sector, which are due to the selfsame circumstance of its involving high value goods (high-end vehicles) or to risks associated with the use of cash, tax fraud, the type of customers involved, or the source of funds. It is also important to bear in mind that 20% of the replies did not consider that the sector is exposed to risks.

#### *Knowledge of the ML/TF risks of the office/business*

As regards the assessment of risks at internal level, 70% of the respondents stated that they had carried out a self-assessment of the ML/TF risks to which they are exposed, in compliance with the legal obligation to conduct an individual risk assessment. Most of the respondents mention the implemented mitigation measures rather than the risks properly speaking. These measures include the application of due diligence measures to customers, and the non-acceptance of cash as a payment method. Nevertheless, it should be kept in mind that half of the respondents in this sector do not consider that any specific risk exists and consequently take no mitigation measures.

## 4. Vulnerability rating

On the basis of the analysis carried out, the inherent and final vulnerability of the product comprising the purchase and sale of vehicles is as follows:

**Figure 23. Inherent and final vulnerability of the product of the vehicle dealers sector**



The vulnerability is not mitigated by the quality of the AML controls, which is rated as medium-low, the same as the final vulnerability of the sector.

Quality of AML controls	Medium-low
Final vulnerability of the sector	Medium-low

# Dealers in precious metals and stones (DPMSs)

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## 1. General description of the sector

Dealers in precious metals and stones are jewellers and watchmakers, which are businesses that have traditionally held an important weight in Andorran commerce. Taking into consideration the activity of wholesale and retail commerce in timekeeping, jewellery and silver articles, according to information from the Department of Statistics, on 31/12/2019 there were 31 companies engaged in this field, a number which remained stable during the period under study. On the same date they had 159 workers, a figure which decreased by 15% during the period. There were no companies devoted to the wholesale commerce of precious metals.

The Guild of Jewellers and Watchmakers is an association that brings together one half of these companies, including retail merchants, wholesalers and jewellery workshops. They represent over 30 commercial establishments which, according to their own sources, comprise 80% of the volume of business of the total retail commerce in jewellery and timepieces. It groups the leading jewellers of Andorra, which are dealers of internationally recognized prestige brands. The association only has the purpose of bringing together these merchants in order to share experiences; accordingly, it does not control or regulate access to the market; it does not possess mechanisms to ensure the integrity of its members; and it does not have sanctioning capacity.

The other half of the companies are smaller entities, with a maximum of 2 workers and a single commercial establishment, which are engaged in the sale of jewels, "fashion jewellery", and timepieces of diverse values. Some of these entities also purchase gold, silver or used jewellery from their customers.

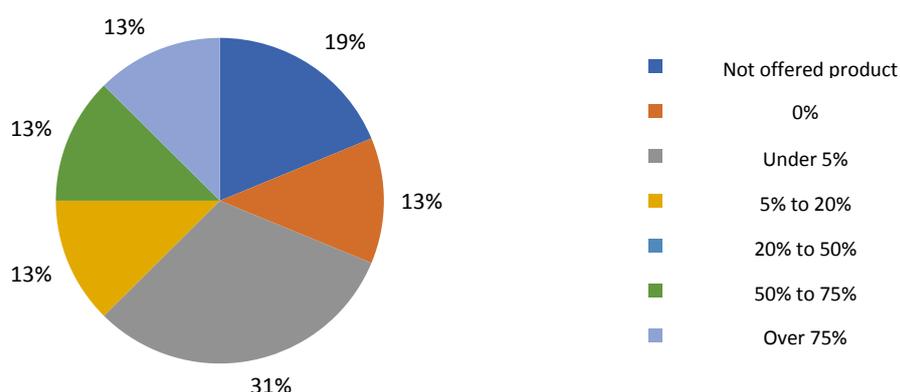
### *Activity*

The purchase and sale of goods in which payment is received in cash for amounts equal to or greater than 10,000 €, in either a single transaction or in various transactions between which there would appear to be some type of relation, is the only activity for which the dealers in precious metals and stones are reporting entities for the effects of Law 14/2017. This activity corresponds to "Product 2" of the questionnaires sent to the sector.

According to the replies to the questionnaires, for 26% of the respondents Product 2 represents more than half of their volume of business; for 13% it does not represent a significant volume; and for 31% it represents a volume of very little significance. 32% of the respondents stated that they do not offer this product, or that they had not offered it during the period under study.

As regards the weight held by the product, upon analysing the replies to the questionnaires, it should be pointed out that the questions may not have been interpreted correctly. It would thus appear that some respondents took into account all cash transactions and not only those in excess of 10,000 €.

**Figure 24. Distribution of products of dealers in precious metals and stones**



### Volume

This sector is one of the principal actors in Andorra's foreign trade.

	2017	2018	2019
<b>Total value of imports (in millions of Euros)</b>	<b>1,307</b>	<b>1,368</b>	<b>1,377</b>
<b>Imports of fine pearls or cultured pearls, gemstones or similar, precious metals and timepieces (in millions of Euros)</b>	<b>58</b>	<b>39</b>	<b>39</b>
<i>Ranking</i>	<i>8</i>	<i>8</i>	<i>8</i>
<i>% of imports of precious metals and stones, and timepieces, with respect to total imports</i>	<i>4.42%</i>	<i>2.88%</i>	<i>2.83%</i>
<b>Total value of exports (in millions of Euros)</b>	<b>106</b>	<b>112</b>	<b>113</b>
<b>Exports of fine pearls or cultured pearls, gemstones or similar, precious metals and timepieces (in millions of Euros)</b>	<b>13</b>	<b>11</b>	<b>10</b>
<i>Ranking</i>	<i>3</i>	<i>4</i>	<i>4</i>
<i>% of exports of precious metals and stones, and timepieces, with respect to total imports</i>	<i>12.79%</i>	<i>9.88%</i>	<i>8.92%</i>

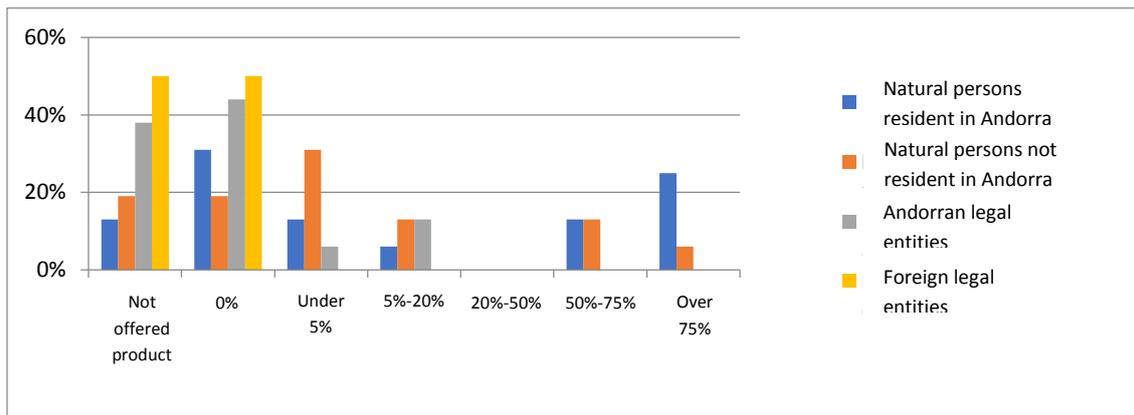
Source: DDE

A large decrease in the imports of precious metals and stones and other high value goods may be observed during the period, although the sector maintains its position in the classification of the leading importers. A decrease may also be observed in the exports of precious metals and stones and other high value goods.

### Customer profile

According to the replies to the questionnaires, the profile of the customers of the respondents corresponds above all to natural persons, mainly resident in Andorra, but also non-residents.

**Figure 25. Typology of customers**



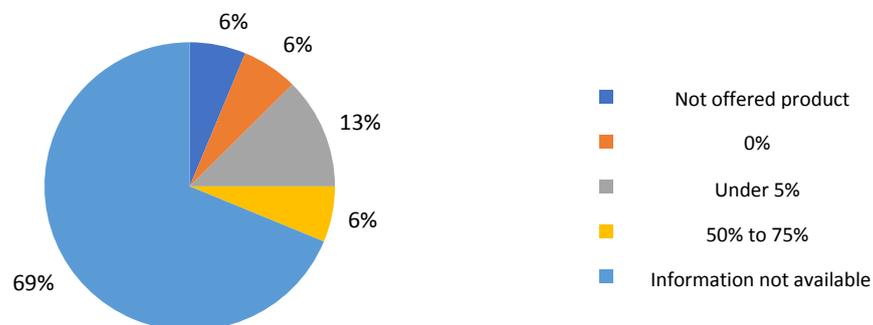
## 2. Inherent vulnerability of the sector

*The purchase and sale of precious metals and stones, when payments are made or received in cash for an amount equal to or greater than 10,000 €, in a single transaction or in various transactions between which there would appear to be some type of relation.*

12% of the respondents stated that they had PEP customers in a proportion of under 5% of their total customers, specifically 2% and 0.40%. This very low number of PEP customers may also indicate a deficient system for detecting PEPs.

As regards customers with high purchasing power, according to the replies to the questionnaires, for 13% of the respondents this type of customers represents less than 5% of their total customers, and for only 6% do they represent more than half of their customers. Nevertheless, consideration should be given to the high number of respondents who consider that they do not possess this information, a circumstance which may be due to the fact that the dealer believes that customers have a high purchasing power but perhaps he cannot quantify it so as to be sure that the customers' respective net worth is in excess of one million euros.

**Figure 26: Percentage of customers with high purchasing power**



Natural persons not resident in Andorra represent a significant percentage of their customers for 19% of the respondents, and a less significant percentage for 44% of the respondents.

As concerns customers from high-risk jurisdictions, the respondents stated that they did not have any customers from such jurisdictions during the period under study.

According to the replies to the questionnaires, during the period under study there were no legal entities with complex or opaque structures among the respondents' customers. The only legal entity customers were Andorran companies in which the partners, shareholders, representatives and administrators were easily identifiable.

Only 6% of the respondents had acquired a significant percentage of customers through prescribers. In this case, it should be kept in mind that this does not mean customers acquired through professional intermediaries, but rather that the intermediary is one to which the DPMS sells the gold which it has purchased in small quantities from its customers.

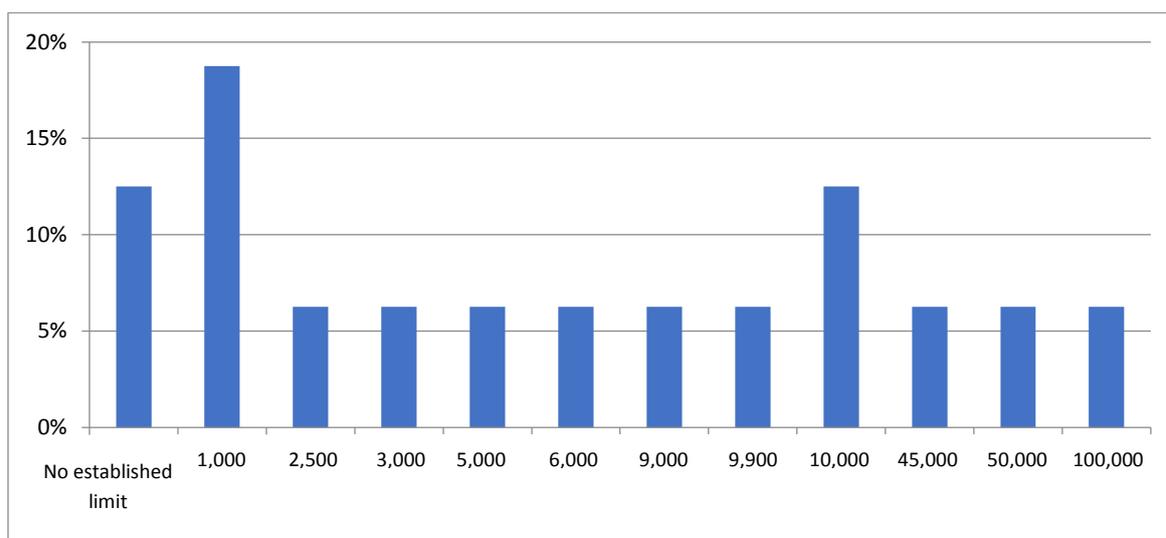
Moreover, nearly 40% of the respondents stated that they do not classify their customers on the basis of risk. For those who do indeed classify their customers in this way, the high-risk customers and medium-risk customers represent less than 5% of their customers, and the low-risk customers represent over 75%.

Reflecting the same distribution, over 60% of the respondents do not differentiate the due diligence measures applied to their customers. In the case of those who do differentiate them, for the most part enhanced measures are applied to less than 5% of their customers, and simplified measures to more than 75%.

The use of cash in this sector appears to have decreased with respect to the previous NRA. At that time, it was detected that due to the automatic exchange of information the natural persons not resident in Andorra had perhaps preferred to invest in jewels or precious metals and stones rather than to maintain their bank deposits. At present this is no longer the situation.

According to the replies to the questionnaires, 88% of the DPMSs possess an established maximum amount of money which may be accepted in cash. This maximum amount ranges from 1,000 to 100,000 €, with an average of 18,100 €. Although these are high figures, they have nevertheless improved with respect to 2016, when the average amount was 117,500 € and the maximum amount was 250,000 €.

**Figure 27: Maximum amount of cash accepted**



Generally speaking, a prohibition of cash payments in excess of 10,000 € would have little effect on the respondents.

Likewise, the respondents do not consider that their activity involves an intensive use of cash (81%).

According to the replies to the questionnaires, 56% of the respondents possess a tool for recording the history of the cash transactions of any one same customer, through the selfsame customer information, the management program, or the accounting records. It should be pointed out that a proportion of nearly one half of the respondents state that they do not possess any such system. In all these cases, these were entities with a maximum of two workers and they would probably detect cash payments without using any specific system.

As regards the automatic detection of cash payments of over 10,000 € when they are made in various transactions, only 6% of the respondents stated that they possessed systems for this purpose. Since entities of small size and complexity are involved, with a maximum of two workers and a single commercial establishment, these payments may be detected because they are uncommon in their day-to-day operation.

For the application of due diligence measures, high value dealers should identify their customers whenever payment is made in cash for an amount of over 10,000 €, in either a single transaction or in various transactions which may be related. For other amounts or other types of payments, the dealer commonly identifies his customer for commercial purposes. Nevertheless, once they have been sold, jewels and precious metals or stones may change owners without leaving any record.

For 80% of the respondents, the traceability of precious metals and stones is easy or very easy. There are internationally recognized laboratories in which expert gemmologists issue reports on analyses of precious stones, representing a sort of certificate of identification and authentication which will be necessary in the process of buying and selling the stones. Nevertheless, once this process has been completed, the precious metals or stones may change owners without leaving any record.

There are ML typologies relating to the sector of precious metals and stones. The latest FATF publications on this subject date from 2014 (*"Money Laundering & Terrorist Financing through trade in diamonds"*) and 2015 (*"Money Laundering & Terrorist Financing risks and vulnerabilities associated with gold"*), highlighting the risks associated with this type of assets.

Although no cases arose in Andorra during the period under study, a decision of the Criminal Law Court makes mention of a high value asset. This decision is a conviction for a crime of smuggling and money laundering, in which the accused and convicted party had acquired a watch of the Rolex brand for a price of 17,100 € paid in cash, which had been seized and confiscated, the invoice for which had been found in the search of the accused's domicile carried out by the Police.

The respondents are aware of these risks and in their replies to the questionnaires, they mention the selfsame commerce in precious metals and precious stones, the fact that they are high value products which can easily transported, and payments in cash.

Generally speaking, the respondents consider that there is no relation between the purchase of jewels, precious metals and precious stones, and the optimization of tax payments (69%), although 19% consider that there may sometimes or always be such a relation.

### 3. Quality of AML controls

#### *Controls implemented by the authorities and professional associations*

##### *Access to the profession*

There are no specific requirements for DPMSs to enter the market aside from the administrative authorization of the Government and of the municipality which is necessary for the practice of any commercial activity.

Consequently, the procedure for the authorization of commercial activities does not take into consideration the specific ML/TF risks of each of the sectors involved in such activities.

##### *Integrity*

Although at sectoral level there are no mechanisms to ensure the integrity of the members of the sector, it should be pointed out that, according to the replies to the questionnaires, 70% of the respondents consider that there exists a code of ethics for the exercise of their profession.

##### *Supervision*

In the period 2017-2019, one inspection was carried out on a DPMS.

Aggregating the results of the inspections on high value dealers, it is found that the principal recommendations that were issued were related to the enhancement of the internal ALM/CFT policies, the classification of customers on the basis of their ML/TF risk, the enhancement of AML/CFT knowledge with respect to both the inherent risks of the sector and the written record of the decisions adopted by the ICCB. None of the detected areas susceptible to improvement is caused by a lack of integrity of the members and personnel of the entities which form the various high value dealer sectors.

It should be pointed out that one area of risk for this sector is the fact that it does not possess internal control procedures which would allow the detection of transactions paid in cash, either in a single payment or in various payments which may be related, or possessing such procedures, they do not cover all possible situations. These procedures should allow the entities to know the situations in which they are AML/CFT reporting entities and, consequently, the cases in which they are to apply due diligence measures for the purpose of identifying and reporting suspicious transactions. Notwithstanding, the cash transactions of the inspected entities are usually of little significance.

As concerns the UIFAND publications, comprising informative notes, sectoral guides or other documents, although 50% of the respondents consider that these publications are fairly useful or very useful for raising awareness about and mitigating the AML/CFT of their sector, 31% do not consider them useful at all. This is a high percentage, which UIFAND should bear in mind.

##### *Sanctions*

Among the decisions of the Andorran courts in the period 2017-2019, there was no conviction of any non-financial reporting entity. In 2019, a decision of the Criminal Law Court made mention of a high value asset. This was a conviction for a crime of smuggling and money laundering, in which the accused and convicted party laundered the proceeds of the crime by purchasing a high value product in cash.

## ***Control systems implemented by the members of the sector***

### *Regulatory compliance*

#### *Availability of internal control procedures*

38% of the respondents stated that they possess internal control procedures, of which 25% stated that they are not formalized in writing, a circumstance that does not make compliance with Article 17.1 of the Regulations on application of Law 14/2017. It is important to point out that 37% of the respondents state that they do not possess any type of internal procedure for this matter.

#### *Figure in charge of regulatory compliance*

37% of the respondents stated that they have a figure who is specifically in charge of ensuring compliance with the laws on AML/CFT in their business. The remaining 63% are entities with a maximum of two workers, in which the person in charge is the selfsame professional, who is in charge of many aspects of his business.

#### *Application of due diligence measures*

As regards the need to apply due diligence measures to customers, 63% of the respondents consider, rightly, that such measures are also to be applied when the customer has requested the services of some other reporting entity. Consequently, a significant proportion (37%) state the contrary and it may be inferred, as in the case of other non-financial reporting entities, that there is a high degree of reliance on the measures and controls applied by other reporting entities, particularly including banking entities. Efforts should continue to be made with a view to reducing this erroneous conception.

#### *Customer rejected in application of internal procedures*

Only 12% of the respondents stated that they had rejected customers at the start of a business relation. The reasons mentioned for this include the refusal of customers to provide the requested information, or the selfsame appearance of the transaction. Consequently, 87% of the respondents had not rejected customers at the start of a business relation in application of their internal procedures, a circumstance which does not imply the absence of control procedures, but rather that situations had not arisen in which it was necessary to apply the customer acceptance policy.

As regards business relations which had already been started, 94% of the respondents had not terminated any business relation since no situation covered in their internal procedures had arisen. 6% of the respondents who had indeed terminated business relations had done so in a small number (3 relations), and the reasons given for this are related to a lack of documents provided by the respective customers.

#### *Identification and reporting of suspicious transactions*

No DPMS submitted any suspicious transaction reports in the period under study.

On the level of the internal organization of each of the members of these sectors, 50% of the respondents possess an implemented channel for the employees to notify the ICCB of the suspicious transactions which they may have detected. The remaining 50% may be explained by the fact that they are professionals who work for their own account or who have only 1 or 2 employees.

Lastly, it should be pointed out that all the respondents consider that professional secrecy is not an impediment under any circumstances for submitting a suspicious transaction report to UIFAND.

Generally speaking, the respondents do not possess IT systems for detecting suspicious transactions. In this case, the activity specific to the sector makes it meaningless to implement such systems which are more specific to other financial reporting entities, considering the limited size and complexity of the entities of the sector and the type of transactions, which allows an individualized follow-up of customers to be carried out.

#### Keeping of documents

According to the replies to the questionnaires, only 25% of the respondents keep documents in relation to AML/CFT for 10 years or more. Consequently, a significant proportion of them do not comply with their obligations, either because they do not keep such documents in either physical or digital format (44%) or because they keep them for less than 10 years (31%).

#### Training, knowledge and awareness of risks

According to the replies to the questionnaires, 75% of the respondents had not carried out any type of training on this matter in the period under study. Among the 25% who had indeed carried out training during the period, the training was distributed between sessions held by the Chamber of Commerce, those held by external experts, and internal training sessions.

#### Knowledge of the ML/TF risks of the sector

According to the replies to the questionnaires, the respondents are aware of ML/TF risks which are inherent to their sector, due to the selfsame circumstance of dealing in high value products, or in relation to tax fraud, the type of customers involved or the source of funds.

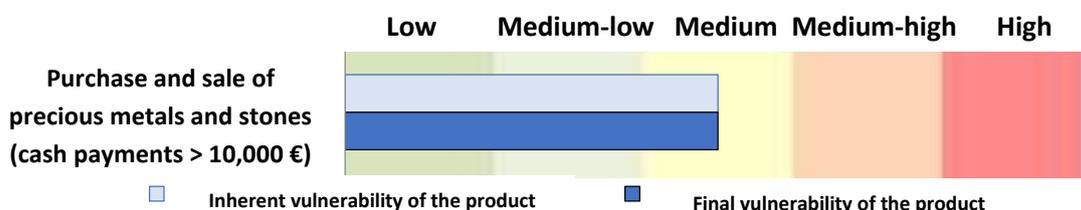
#### Knowledge of ML/TF risks of the business

As regards the assessment of risks on the internal level, almost 70% of the respondents stated that they had carried out a self-assessment of the ML/TF risks to which they are exposed, in compliance with the legal obligation of performing an individual risk assessment. Most of the respondents highlight the implemented mitigation measures rather than the risks themselves. These measures include the application of due diligence measures to customers, and the non-acceptance of cash as a payment method.

## 4. Vulnerability rating

On the basis of the analysis carried out, the level of vulnerability of the product consisting in the purchase and sale of precious metals and stone is as follows:

**Figure 28. Inherent and final vulnerability of the purchase and sale of precious metals and stones**

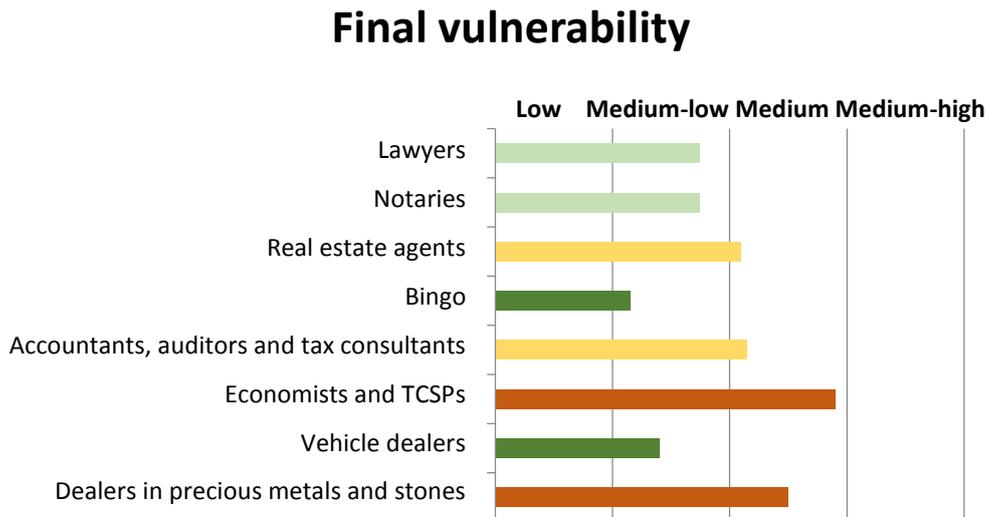


The inherent vulnerability of this product is not mitigated by the quality of the AML controls, which is rated as medium-low. These considerations result in a medium level of final vulnerability for the DPMS sector.

<b>Quality of AML controls</b>	<b>Medium-low</b>
<b>Final vulnerability of the sector</b>	<b>Medium</b>

# Final conclusions on the non-financial sector

## Vulnerability rating of each sector



## Improvement actions

In the analysis carried out, possible improvement actions are inferred from each variable. These actions could increase the quality of the controls, helping in this way to reduce the final vulnerability of each sector.

### Controls of entry

- 1) Additional indispensable requirements should be established to obtain Government authorization for the incorporation of companies, the opening of businesses, or the registration of professionals requiring an academic degree, and to join professional associations or bodies. These requirements would only be applicable in the cases in which the activity to be carried out is subject to the laws in force on matters of AML/CFT, and they should not be applied only at the time of submitting applications but also subsequently on a periodic basis. Non-compliance with these requirements should be grounds for not being granted authorization to exercise the respective activity, for not being allowed to register or to join a professional association or body, as appropriate, and for being cancelled or expelled in the event that the respective authorizations or membership were to have been previously granted.

These requirements could include:

- The possession of suitable internal procedures in matters of AML/CFT in accordance with the provisions of Article 17.1 of the Regulations on application of Law 14/2017.

- The notification of the Internal Control and Communication Body (ICCB) to UIFAND.
  - The review, without positive results, of the applicant persons (and beneficial owners of same, if appropriate) on the lists of international sanctions (primarily those of the United Nations Security Council) by the competent authorities (Government and professional associations and bodies).
- 2) Sanctioning capacity should be granted for non-compliance with Additional Provision 2 of Law 14/2017, on the prior notification of activity for providers of services to companies and other structures.

### *Internal control procedures*

- 3) Internal procedures and policies should be implemented in the cases in which they are not already possessed, and they should be adapted to the reality of each of the non-financial businesses. In this respect, the internal procedures should take into consideration the vulnerability factors (geographical risk, use of cash, delegation to third parties, risks associated with the constitution and management of legal structures, etc.) to which the reporting entity is exposed, so that they will be sufficiently robust to manage and to mitigate these risks. In particular, the internal procedures should implement and/or improve the following:
- the systems for classifying customers on the basis of the latter's ML/TF risk level, since on specific occasions it is considered that the business, product and/or customers are of low risk without really assessing the risk which they may pose.
  - the systems for calibrating and applying due diligence measures, avoiding the application of the same type of measures regardless of the risk level, or avoiding that the type of measures applied is not consistent with the risk level detected and/or assigned to the respective customers, for which reason such measures may not be sufficient to mitigate the risks.
  - the systems for detecting, classifying and applying enhanced measures to PEP customers, including domestic PEPs.
  - in the case of high value dealers, the systems for recording and controlling cash activities.
- 4) More intensive actions should be adopted for raising awareness with respect to the need to apply due diligence measures to customers who have already established business relations with other reporting entities.

### *Knowledge of matters of AML*

- 5) Efforts should be increased with respect to knowledge in matters of AML. These efforts could include in-person or online training, provided either by the supervisor or in collaboration with other public or private bodies, and they could continue with the issue of informative notes, guides and typologies documents, or carry on with the educational task carried out through the supervisory actions, among others.

What's more, these efforts should also serve to establish a common criterion in relation to various matters which cause doubts, or to aspects of which different interpretations are made, such as the status of reporting entity or the scope of obligations, among other aspects.

- 6) Awareness-raising actions should be carried out on matters of ML/TF risks in order to ensure that these risks are contextualized, identified and mitigated correctly by the non-financial reporting entities, which should not consider these matters to be something to be avoided or something that is not applicable to them. In this respect, it should be ensured that the IRAs of the non-financial reporting entities present risk assessments that are accurate, realistic and consistent with their risk profile and with that of their respective sectors.
- 7) Measures should be established to ensure the knowledge of and compliance with the obligations established for the providers of services to trusts and other analogous vehicles, primarily with respect to their obligations of registration and of providing information on the beneficial owners of trusts, and the obligations established in Additional Provision 3 of Law 14/2017.

#### ***Information on beneficial owners***

- 8) It should be ensured that permanent measures are maintained for dissemination of and training (with case histories) in connection with what is understood by beneficial owner, and with the need to identify, verify and reassess this status in all cases.

#### ***Independent sources of information***

- 9) The access of reporting entities should be ensured to the basic information of the Registers of Companies and of Commerce.

#### ***Integrity***

- 10) The efforts should be intensified to increase the degree of knowledge and awareness of the non-financial reporting entities with respect to the need to possess some robust internal control procedures, especially in relation to detecting and reporting suspicious transactions and to ensuring high ethical standards in the hiring of employees. Moreover, it would also be recommendable for non-compliance with internal procedures to have consequences on the level of internal discipline in each entity.
- 11) The legal framework and the deontological codes and rules should be established or enhanced, as appropriate, in the professions which present the most shortcomings in this respect, primarily in the case of tax consultants, external accountants, auditors, administrative services agencies (*gestories*), and other company service providers and high value dealers.
- 12) Disciplinary measures should be applied at internal level in each of the professions to their members who were to have breached any of their AML/CFT obligations (both if this has been detected within the profession or by the competent authority, regardless of whether or not an administrative sanction has been imposed), or who were to be involved in cases of ML/TF, in those professions in which these measures are not being applied at present.

#### ***Availability of administrative sanctions***

- 13) The administrative sanctioning procedure should be streamlined for cases of minor infringements or occasional non-compliances detected through supervisory actions, when they are not recurrent or systematic conducts.

### *Supervision*

- 14) Actions addressed to determining the real scope of each of the non-financial sectors should be completed, in order to have a correct knowledge at all times of the total number of reporting entities on which the pertinent supervisory actions are to be exercised.
- 15) Considering the number of non-financial reporting entities, it is of priority importance to complete the practical implementation of the risk-based approach system with the shortest possible delay, in order to assign the available human resources as efficiently as possible for the mitigation of the risks of these sectors.
- 16) Consideration should be given as to whether to introduce other supervisory mechanisms beyond the scope of on-site inspections for the non-financial sectors, in order to ensure the possession of accurate up-to-date information about the reporting entities (such as periodic requests for risk-based information).

### *Reporting of suspicious transactions*

- 17) The ML typologies should be reviewed, preferably itemizing specific typologies for the activities posing the greatest risk.
- 18) All the conducts which may constitute signs of ML/TF should be analysed in detail, such as mistrust with respect to customers or the impossibility of obtaining all the desired information and documentation in the due diligence process, among others, in order to determine, in a well-grounded way, whether or not to report such conducts to UIFAND.
- 19) Measures should be adopted to ensure the keeping of pertinent documents for the effects of AML/CFT in accordance with the period established by Law 14/2017.