GUIDANCE
FOR REGULATED ENTITIES

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DE-RISKING

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I. PURPOSE AND TARGET AUDIENCE OF THE GUIDELINES

The purpose of these guidelines is to clarify the scope and application of the risk-based approach in relations between regulated entities and customers, with a view to reducing instances of *de-risking* that lead to financial exclusion for certain sectors or groups.

These guidelines are addressed to all regulated entities, in accordance with Article 2 of Law 10/2010, of 28 April, on the prevention of money laundering and terrorist financing (hereinafter, AML/CFT). In particular, it is aimed at financial obliged entities, as it is within this sector that the highest incidence of *de-risking* practices has been detected.

II. KEY CONCEPTS AND REFERENCE DOCUMENTATION

1. CONCEPTS.

- **DE-RISKING:**
  - FATF: a phenomenon whereby financial institutions terminate or restrict business relationships with customers or categories of customers in order to avoid risk, rather than manage it[1].

  - EBA: Refusal to enter into business relationships with individual customers or categories of customers associated with a higher risk of ML/TF, or the decision to terminate such relationships, or to carry out transactions with a higher risk of ML/TF[2].

- **DE-BANKING:**
  - FATF: A general term describing a situation in which regulated entities terminate or restrict services to a customer or counterparty (e.g. correspondent banks and FinTechs), or to entire groups or categories of customers, or sectors. Depending on the underlying reason, the denial of financial services may or may not be a risk-mitigation measure[3].

- **FINANCIAL INCLUSION:**
  - FATF: Financial inclusion refers to both access to and the active use of an adequate range of regulated, appropriate, secure, convenient and affordable

[1] Own translation of the document Guidance-Financial-Inclusion -Anti-Money-Laundering-Terrorist-Financing-Measures.pdf.coredownload.pdf

[2] Definition given in the Guidelines on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services, European Banking Authority (EBA/GL/2023/04). March 2023.

[3] Own translation of the document Guidance-Financial-Inclusion -Anti-Money-Laundering-Terrorist-Financing-Measures.pdf.coredownload.pdf

financial services by individuals (including households) and entities that would benefit from such services[4].

- **RISK-BASED APPROACH**
  - EBA: An approach whereby competent authorities and credit and financial institutions identify, assess and understand the ML/TF risks to which institutions are exposed, and adopt AML/CFT measures proportionate to those risks[5].

2. REFERENCE DOCUMENTATION.

This Guide aims to analyse the phenomenon of *de-risking* and its impact in Spain, focusing on its causes and consequences, as well as on the mitigating measures that may lead to its elimination. In its preparation, in addition to the regulations currently in force in Spain, the following documents have been taken into account:

FATF:

- *Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT/CPF Systems.* FATF. Updated December 2025[6].
- *Guidance on Financial Inclusion and Anti-Money Laundering and Terrorist Financing Measures*, FATF. June 2025[7].

[4] Own translation of the document Guidance-Financial-Inclusion -Anti-Money-Laundering-Terrorist-Financing-Measures.pdf.coredownload.pdf

[5] Definition set out in the Guidelines on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services, European Banking Authority (EBA/GL/2023/04). March 2023.

[6] The 2022 and 2013 Methodologies for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CFT/CPF Systems

[7] FATF publishes new guidance on financial inclusion and anti-money laundering and terrorist financing measures

- *Webinar: Promoting Financial Inclusion through a Risk-based Approach to AML/CFT,* FATF. November 2025[8].
- *Best Practices on Combating the Abuse of Non-Profit Organisations.* FATF. November 2023[9].

EUROPEAN UNION:

- *EBA Report on De-Risking and Its Impact on Access to Financial Services EBA/REP/2022/01.* European Banking Authority (EBA). January 2022[10].
- *EBA/Op/2022/01 Opinion of the European Banking Authority on 'de-risking'.* European Banking Authority (EBA). January 2022[11].
- *Guidelines EBA/GL/2023/04* on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services. European Banking Authority (EBA). March 2023[12].
- *Guidelines EBA/GL/2023/03*, amending Guidelines EBA/2021/02 pursuant to Articles 17 and 18, (4), of Directive (EU) 2015/849 on the application of customer due diligence measures and the factors that financial and credit institutions shall take into account when assessing the risk of money laundering and terrorist financing associated with business relationships or occasional transactions. European Banking Authority (EBA). March 2023[13].

[8] Webinar: Promoting Financial Inclusion through a Risk-based Approach to AML/CFT
[9] Best Practices on Combating the Abuse of Non-Profit Organisations
[10] EBA-Opinion-on-de-risking.pdf
[11] EBA Opinion and annexed report on de-risking.pdf
[12] Guidelines on MLTF risk management and access to financial services.pdf
[13] EBA Guidelines EBA/GL/2023/03 amending EBA Guidelines EBA/2021/02 pursuant to Articles 17 and 18, (4), of Directive (EU) 2015/849 on the application of customer due diligence measures and the factors that financial and credit institutions shall take into account when assessing the risk of money laundering and terrorist financing associated with business relationships or occasional transactions ('the guidelines on ML/TF risk factors').

SPAIN:

- Box 1.1 Common criteria of the Banco de España and SEPBLAC from the Banco de España's Compendium of Good Practices[14].
- *Good practices aimed at minimising de-risking*, SEPBLAC. March 2026[15].

[14] Compendium of Good Banking Practice Criteria. June 2025.
[15] Best practices aimed at minimising de-risking | Sepblac

III. CHARACTERISATION OF *DE-RISKING*

1. A BRIEF CHRONOLOGICAL DESCRIPTION OF THE PHENOMENON OF *DE-RISKING*.

In recent years, AML/CFT measures have been strengthened due to their increasing importance in ensuring strong and cohesive financial systems.

From 2012 onwards, the Financial Action Task Force (hereinafter, FATF) reviewed and strengthened its 40 Recommendations, requiring a risk-based approach and greater rigour in the application of customer due diligence.

This trend has led, on certain occasions, to regulated entities deciding to avoid establishing or to terminate business relationships with certain categories of customers due to the high ML/TF risk they may pose.

This phenomenon has been termed *'de-risking*' and has been defined as the action of terminating or restricting business relationships with clients or entire categories of clients, or the refusal to establish such relationships, by financial institutions and other regulated entities, without carrying out an individual risk assessment and without considering proportionate mitigation measures or alternatives.

International organisations and governments have taken note of this issue, and as a result we are seeing increasing regulation in this area at the international level. The first unintended consequences of the *de-risking* phenomenon were identified in relation to financial inclusion. This concern was initially addressed within the G20 with the creation, in 2010, of the *Global Partnership for Financial Inclusion* (GPFI) and was subsequently consolidated at international level with the adoption, in 2015, of the United Nations Sustainable Development Goals (SDGs), in particular SDG 8, which links inclusive economic growth with access to financial services.

At its plenary session in October 2014, the FATF recognised that *de-risking* was affecting financial inclusion and announced an agreement to analyse the situation and reverse it. In the years that followed, the organisation produced several publications placing greater emphasis on the need for financial inclusion, highlighting, for example: the risk-based approach for the banking sector[16] and best practices for combating the misuse of non-profit organisations[17].

In 2021, the FATF took the initiative to launch a major review of the so-called *'unintended consequences*' of measures to combat ML/TF, with the aim of further investigating the side effects of the established recommendations and thus determining whether these were responsible for the *de-risking* and financial exclusion faced by certain groups.

All of this has led to an amendment of its standards to address this issue and, furthermore, to greater demands on regulated entities to apply a risk-based approach. This means that regulated entities must implement preventive measures proportionate to the identified ML/TF/PF risks in order to neutralise or reduce them.

In this regard, particular note should be taken of the amendments made in recent years to Recommendations 1 and 8, as well as the Interpretative Notes to Recommendations 1, 10 and 15 of the FATF. All of this has been complemented by the update to the Guidance on Financial Inclusion and Measures to Prevent Money Laundering and Terrorist Financing[18], published in June 2025.

[16] Risk-Based Approach for the Banking Sector
[17] Best Practices on Combating the Abuse of Non-Profit Organisations
[18] *Guidance on Financial Inclusion and Anti-Money Laundering and Terrorist Financing Measures,* FATF. June 2025.

2. *DE-RISKING* AS AN AGGREGATE RISK: ITS RELATIONSHIP WITH FINANCIAL INCLUSION.

De-risking becomes a problem when it occurs at an aggregate level. In general, regulated entities have the capacity to select their clients. However, the problem of *de-risking* arises when the system as a whole rejects a particular client or category of clients. This undermines the robustness of the preventive systems of all regulated entities.

Thus, if, instead of managing ML/TF/PF risks proportionately, the choice is made to exclude certain sectors or clients, this leads to a shift in flows towards less transparent informal channels or products, which reduces traceability and limits the effectiveness of the system as a whole in preventing illicit behaviour. Furthermore, this approach creates a false sense of compliance at an individual level, which erodes the proportionality of the measures and, ultimately, increases the overall vulnerability of the preventive system.

This cumulative effect is also felt by the customers affected. Certain business sectors and groups are more severely impacted by *de-risking* and financial exclusion practices, such as non-profit organisations (hereinafter, NPOs), remittance companies, banking correspondents in higher-risk jurisdictions, and crypto-asset service providers. As regards specific groups, migrants, refugees, asylum seekers and other vulnerable groups tend to be the most affected.

For all these reasons, financial inclusion and financial integrity are complementary objectives, not conflicting ones. The correct application of the risk-based approach involves avoiding categorical and automatic decisions, assessing risks on a case-by-case basis, and implementing enhanced measures to reduce risk to acceptable levels.

The aggregate nature of this risk must also lead to comprehensive responses from the sector as a whole.

3. REGULATIONS IN THE EUROPEAN UNION AND IN SPAIN.

Among the legislation adopted by the European Union, particular mention should be made of the provisions on this subject set out in Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing (hereinafter, Regulation (EU) 2024/1624)[19].

Recital 75, which refers to the harmonisation of customer due diligence measures, states that it must be ensured that obliged entities do not use the information obtained in the course of carrying out customer due diligence procedures to implement risk mitigation practices that could result in the circumvention of other legal obligations, without achieving the intended AML/CFT objectives.

Furthermore, it lays the groundwork for verifying these measures. According to Article 21(3) of Regulation (EU) 2024/1624, customer due diligence records must include the reasons for the decision not to enter into a business relationship with a potential customer or to terminate an existing business relationship, to refuse to carry out an occasional transaction, or to apply alternative measures to terminating a business relationship. This will enable supervisory authorities to assess whether obliged entities have correctly calibrated their customer due diligence practices in relation to the customer and the evolution of the entity's risk exposure and will help to build statistical evidence on the application of customer due diligence rules by obliged entities across the Union.

[19] This regulation will be directly applicable from 10 July 2027, except for the obliged entities referred to in Article 3(3)(n) to (o), for whom it will apply from 10 July 2029, as set out in Article 90.

Furthermore, Article 21(4) of the aforementioned Regulation stipulates that *"by 10 July 2027 at the latest, the EBA shall issue joint guidelines with the European Banking Authority on the measures that credit institutions and financial institutions may adopt to ensure compliance with AML/CFT rules when implementing the requirements of Directive 2014/92/EU, in particular with regard to business relationships most affected by de-risking* practices", which highlights the links between financial inclusion and *de-risking.*

Equally important are the Guidelines issued by the EBA in 2023 on policies and controls for the effective management of AML/CFT risks when providing access to financial services, as well as other documents on the risk-based approach in this area.

The EBA considers that AML/CFT regulations do not require institutions to automatically terminate a business relationship when high risks are identified but rather impose an obligation to manage them. In this context, the EBA expressly recognises that, where the risk cannot be fully mitigated through enhanced due diligence measures, institutions may resort to specific operational restrictions as an intermediate measure before terminating the relationship.

Among other measures, it mentions limiting the scope of services provided, blocking or restricting certain transactions, excluding certain channels, products or functionalities, or imposing quantitative limits, provided that these measures are duly justified. This approach allows the customer to remain within the regulated financial system and ensures their basic needs are met[20].

[20] See European Banking Authority (EBA), Guidelines on policies and controls for the effective management of ML/TF risks when providing access to financial services, EBA/GL/2023/03, of 31 March 2023.

In Spain, although no explicit reference is made to this phenomenon in Law 10/2010, of 28 April on the prevention of money laundering and the financing of terrorism (hereinafter, Law 10/2010, of 28 April) or Royal Decree 304/2014 of 5 May, approving the Regulations of Law 10/2010 of 28 April on the prevention of money laundering and terrorist financing (hereinafter, RD 304/2014, of 5 May), it is clear that the risk-based approach underpins the entire legislation and is inspired by the FATF recommendations.

Likewise, the applicable data protection regulations must also be taken into account, in accordance with the provisions of Article 32 et seq. of Law 10/2010, of 28 April, as well as Organic Law 3/2018, of 5 December, on the Protection of Personal Data and the Guarantee of Digital Rights.

Furthermore, Banco de España and the Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences, Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias (hereinafter, 'SEPBLAC') have, since the 2022 Annual Report, published and updated a compendium of common criteria on the application of anti-money laundering regulations. Indeed, SEPBLAC has recently published a document on *Good Practices aimed at minimising de-risking* (March 2026), based on supervisory experience[21] .

[21] The document on Best Practices aimed at minimising *de-risking* published by SEPBLAC and these Guidelines are complementary. In this regard, the document published by SEPBLAC is based on best practices identified in the course of its supervisory role, whilst this Guidance falls within the provisions of Article 44(2)(j) of Law 10/2010 of 28 April. Furthermore, this Guidance has incorporated the comments and experiences of the institutions represented on the Commission for the Prevention of Money Laundering and Monetary Offences.

IV. SCOPE OF APPLICATION OF *DE-RISKING*

1. CAUSES OR FACTORS OF *DE-RISKING* AND THEIR RELATIONSHIP WITH OTHER CONCEPTS.

There are many causes of *de-risking*. The FATF Guidance on Financial Inclusion and the Prevention of Money Laundering and Terrorist Financing lists a further set of factors.

Among these, some of the causes observed in Spain are:

- Risk aversion and concerns about reputational risk in general.
- A lack of incentives to provide services to individuals or groups who may be neglected or underserved.
- In some cases, a difficult or incorrect understanding of regulatory obligations.
- Fear of the supervisory or sanctioning regime.
- The challenges arising from the application of targeted financial sanctions, particularly in the case of the extraterritorial application of sanctions lists approved outside the European Union.
- The burdens and conflicts associated with emerging regulations on privacy and data use.

One of the main causes identified is the high cost arising from the implementation of *compliance* measures in cases where the client's risk cannot be addressed automatically by general tools, thus requiring specific attention. This typically occurs with higher-risk clients and atypical clientele for whom the due diligence measures and controls established by the institution are not suited.

Furthermore, one of the more recent causes is the use of artificial intelligence and the introduction of algorithms into preventive systems. The current use of these systems can, in some cases, lead to the automatic closure of accounts due to existing biases. It is

therefore essential that such systems undergo human review to avoid unintended consequences arising from their use[22].

In any case, it is important to bear in mind that *'de-risking'* has a specific meaning and cannot be used as a synonym for financial exclusion. In some cases, the causes of *de-risking* may coexist with those specific to financial exclusion, as is the case with vulnerable people. Factors such as the digital divide, ageism or depopulation can be causes of financial exclusion that are not attributable to the prevention of money laundering, terrorist financing or proliferation financing.

It is also necessary to distinguish *de-risking* from the obligations and inconveniences that due diligence may entail. Initial onboarding processes (particularly in cases of enhanced due diligence, such as those involving persons holding public office) may require the submission of extensive documentation which, in some cases, may even lead the customer to withdraw from the process. Similarly, certain unusual transactions carried out by a customer may be specifically analysed by the institution and result in a request for additional information to justify them, to the extent that the transaction may be rejected if it is not deemed justified. It is therefore important to bear in mind that such practices should not be regarded as instances of *de-risking*, but rather as instances of customer risk management by the institution.

A separate issue is the willingness of regulated entities not to operate through certain channels, in certain business areas or with certain categories of customers for reasons other than those relating to AML/CFT/PF (such as reputational, corporate social responsibility, business model or commercial reasons). In any case, and to avoid

[22] In this regard, Article 76(5)(b) of Regulation (EU) 2024/1624 of the European Parliament and of the Council of 31 May 2024 is worth highlighting; it states that any decision to enter into or refuse to enter into, or to maintain, a business relationship with a customer, to carry out or refuse to carry out an occasional transaction for a customer, or to increase or reduce the scope of the customer due diligence measures applied in accordance with Article 20 of the Regulation, must be subject to significant human intervention to ensure the accuracy and appropriateness of that decision. Furthermore, the application of data protection legislation must not be overlooked (Article 22 of Regulation 2016/679 of 27 April 2016 (GDPR), and the corresponding articles of Organic Law 3/2018 of 5 December).

unintended consequences, it is important for the institution to document its decision-making process.

2. SUBJECTS OF *DE-RISKING.*

Spain has one of the highest levels of banking penetration in the European Union, with over 98 % of the adult population holding a bank account, according to the World Bank[23]. This figure suggests that the phenomenon of *de-risking* has not led to a structural problem of financial exclusion, notwithstanding potential localised impacts on specific groups or sectors which have been highlighted, in general terms, by international organisations and which are analysed below.

According to the EBA's publication of 5 January 2022, *'Opinion of the European Banking Authority on "de-risking"'*[24], this phenomenon is occurring across the European Union and affects various types of customers or potential customers of financial institutions. These include specific segments of the financial sector, such as correspondent banks, payment institutions and electronic money institutions, as well as certain categories of individuals or entities that may be associated with high risks of ML/TF/PF. Whilst the impact of de-risking varies across different categories of customers, de-risking can result in adverse economic outcomes or lead to financial exclusion.

The recent 2025 FATF Guidance on Financial Inclusion sets out examples of the groups most exposed to *de-risking* practices[25]. According to this organisation, these include non-profit organisations (NPOs), correspondent banks and money transfer service providers.

[23] World Bank – Global Findex Database (2025 edition, 2024 data). Indicator: Account ownership at a financial institution or with a mobile-money-service provider (% of population aged 15+). https://www.worldbank.org/en/publication/globalfindex [worldbank.org]

[24] EBA Opinion and annexed report on de-risking.pdf

[25] FATF publishes new Guidance on Financial Inclusion and Anti-Money Laundering and Terrorist Financing Measures

The same document also identifies those groups which, according to the countries consulted in its study, are likewise at greater risk of being subjected to such practices. These include pensioners, individuals carrying out international transactions, retail businesses, migrants, asylum seekers and those with refugee or asylum seeker status, as well as people with disabilities.

In the specific case of Spain, the following groups can be identified as being more exposed to *de-risking* practices, as they generally present a higher risk of ML/TF/PF:

- Non-profit organisations. The Sectoral Risk Assessment of Terrorist Financing through Non-Profit Organisations[26] analysed the vulnerabilities arising from *de-risking* that affect the sector and concluded that it does not have a widespread impact (cases have been highlighted of difficulties in opening bank accounts during the incorporation process or difficulties when operating an existing account). However, it is worth highlighting the risk to which these organisations are exposed, particularly those handling international transactions for projects located in countries with weak regulations on the prevention of money laundering (ML), terrorist financing (TF) and proliferation financing (PF), in countries subject to international sanctions, or in countries with unstable governments or in a state of political conflict.

- Payment institutions, money remittance firms and crypto-asset service providers (CASPs). These are financial institutions that face a higher-than-average risk due to their business model. Some of the activities carried out by payment institutions were classified in the Addendum to the 2024 National Risk Assessment[27] as posing a significant residual risk, as were those of money remittance institutions and certain activities of crypto-asset service providers (CASPs). All three types of institutions may be vulnerable to exploitation by

[26] SRA OSFL_V.PUBLICA.pdf
[27] Public summary of the Addendum to the 2024 National Risk Assessment.pdf

criminal organisations involved in drug trafficking or by terrorist groups for the purpose of transferring funds abroad.

- Correspondent banking with third countries. The countries potentially affected are those located in jurisdictions outside the European Union, which present a higher risk or have fewer commercial ties. In some cases, correspondent banks have argued that the costs generated by these links do not outweigh the benefits derived from the channelled transactions. For the proper management of correspondent banking relationships from an AML/CFT/PF perspective, we refer to the guidance issued on this matter by the Commission for the Prevention of Money Laundering and Monetary Offences[28].

- Nationals of other countries. In this regard, we would particularly highlight the situation of asylum seekers, who face difficulties in proving their status, as well as that of foreign nationals without a residence permit[29]. Furthermore, individuals from countries included on sanctions lists or classified as high-risk in terms of money laundering and terrorist financing may also encounter problems accessing financial services, including at the diplomatic missions of the highest-risk countries. This is the case, for example, with Russian nationals, particularly since the European Union introduced restrictive measures against Russia following its invasion of Ukraine, as well as with nationals of other countries subject to international financial sanctions, such as Iran, Venezuela and Cuba. However, Spanish regulations have demonstrated their adaptability in the face of serious situations, such as the Russian invasion of Ukraine in 2022 and the mass arrival of displaced persons.

- Vulnerable individuals. In these cases, we should highlight Spain's regulations on the basic payment account, which has been designed as a tool to prevent the

[28] Guidance for regulated entities on correspondent banking relationships, June 2019.
[29] See the section on 'Difficulties faced by foreign nationals' in the Ombudsman's report on 'Challenges to financial inclusion: banking services and vulnerable people'.

exclusion of this group[30]. However, the high level of vulnerability of these individuals means that this right cannot always be implemented in practice, particularly because, regardless of the ML/TF risk, there may be difficulties in complying with due diligence procedures[31]. In any case, we must bear in mind at this point the difference between *de-risking* and financial exclusion practices, which, in groups such as this, may be interrelated.

- Individuals or companies subject to adverse media coverage. In some cases, regulated entities either compile this information themselves or use service providers that supply details of sanctions lists from different countries and adverse media coverage from public sources. Should such reports emerge, those affected may find it difficult to access financial services and may even struggle to provide justifications in this regard.

[30] The basic payment account in Spain is primarily regulated by Royal Decree-Law 19/2017 of 24 November, which transposes Directive 2014/92/EU and recognises the right of every person legally resident in the European Union to access a basic payment account, and by Order ECE/228/2019 of 28 February, which sets out the requirements for opening, operation and free-of-charge provision, as well as the specific grounds for refusal, which include cases where the institution is unable to comply with the identification and due diligence obligations set out in the regulations on the prevention of money laundering and terrorist financing.

[31] See the section on recommendations in the Ombudsman's report *Challenges of Financial Inclusion: Banking Services and Vulnerable People*, May 2024.

V. *DE-RISKING* AND PREVENTIVE SYSTEMS.

1. RISK ASSESSMENT AND CONTROL SYSTEMS.

The preventive system is constantly evolving. We are seeing a shift from a regulatory or binary compliance model (where the key issue is determining whether or not a party complies with the provisions of the regulation) to a risk-based approach, where the focus is on allocating more resources where they are most needed and being able to manage risk appropriately.

This is why risk assessment is fundamental to *de-risking* management. The design of controls must be proportionate to the overall ML/TF/PF risk level of the entities concerned, and client risk must be assessed and action taken accordingly. A *scoring* system can be an effective risk management tool, provided that it does not, in practice, exclude entire categories of clients. In this case, it is preferable to consider implementing risk-mitigation measures before directly opting to reject a particular customer.

As we have highlighted previously, the FATF is firmly committed to the risk-based approach. Regulated entities are therefore required to assess their customers' risks and, consequently, to terminate business relationships only where necessary for the prevention of ML/TF, based on an individual analysis of each customer or transaction, and only when ML/TF risks cannot be mitigated by other means.

This is why the institution must manage its ML/TF risk limits appropriately through a combination of mitigating measures to avoid *de-risking*. It is important to strike a balance between sensitivity to excessive aggregate risks and tolerance for the quality of controls, ensuring that poor-quality control systems do not lead to *de-risking.*

2. FAILURE TO ESTABLISH OR MAINTAIN A BUSINESS RELATIONSHIP.

Article 7.3 of Law 10/2010, of 28 April, prohibits the establishment of business relationships or the execution of transactions where the due diligence measures provided for by law cannot be applied. Thus, where it becomes apparent, in the course of the business relationship, that it is impossible to carry out these measures, the parties must terminate the relationship, and a special review must be carried out in all cases.

In this regard, SEPBLAC itself, in its document on Best Practices derived from supervisory experience to minimise *de-risking,* points out that Article 7.3 only permits such action in cases where due diligence cannot be carried out. It also advises against drawing up lists of prohibited clients for risk control purposes that, in themselves, include entire categories of clients. In such cases, what will be significant is the client's cooperation in fulfilling the required due diligence requirements and how unresolved concerns may affect their business.

Automated procedures and systems (such as alert systems) are fundamental to an efficient prevention system. However, in the most serious cases, such as those leading to the rejection of certain transactions or customers, they must be supplemented by the necessary individualised assessment of the risk and the specific case.

3. INTERNATIONAL FINANCIAL SANCTIONS.

In recent years, we have seen an increase in the importance of international financial sanctions as a means of exerting pressure in the context of international conflicts. Thus, on the one hand, it is worth highlighting those imposed by the United Nations Security Council, particularly those requiring the freezing and withholding of funds and other economic resources held by natural or legal persons deemed to play a significant role in

any of the matters subject to sanctions, such as the fight against terrorism or the proliferation of weapons of mass destruction.

Such mechanisms have also been echoed by the FATF, which includes the necessary implementation of sanctions adopted through United Nations Security Council Resolutions (hereinafter, UNSCR) both in the field of terrorism (UNSCR 1267 (1999), UNSCR 1989 (2011), UNSCR 1373 (2001) and subsequent resolutions) in its Recommendation 6 and Immediate Outcome 10, as well as in the field of the proliferation of weapons of mass destruction (UNSCR 1718 (2006) concerning the Democratic People's Republic of Korea and UNSCR 1696 and its successors concerning Iran) in its Recommendation 7 and Immediate Outcome 11.

In the European Union, in addition to those established by UN Security Council Resolutions, restrictive measures must also be applied in accordance with the provisions of Article 29 of the Treaty on European Union (TEU) and the autonomous sanctions adopted by the Member States themselves.

In the case of Spain, all of this is regulated by Article 42 of Law 10/2010, of 28 April, as well as Articles 47 to 49 of Royal Decree 304/2014, of 5 May.

Furthermore, in a globalised and interconnected international context, we may encounter situations in which a single entity, by virtue of the scope of its operations, applies sanctions regimes from other jurisdictions, such as OFAC in the United States or OFSI in the United Kingdom. However, this may give rise to the extraterritorial application of sanctions from other countries and, consequently, lead to unintended consequences that could affect critical institutions, such as diplomatic missions[32].

[32] In this regard, it is desirable to adopt proportionate approaches based on an individualised analysis of transactions, particularly in the case of transactions linked to the ordinary functioning of diplomatic missions. To this end, consideration may be given to specific information available regarding the purpose of the transaction, its public and institutional nature, the type of service or activity to which it relates, or the actual recipient of the payment.

It is important to note that, under European legislation, the mechanism typically used for individuals subject to international financial sanctions is the freezing of assets and economic resources and the prohibition on making them available, rather than the closure of accounts. It is for this reason that the operational extension of these sanctions – for example, the closure of accounts or the refusal to open them for other, non-sanctioned individuals on the basis of vague links such as nationality alone – may be considered a form of *de-risking*.

VI. MEASURES TO MITIGATE *DE-RISKING*

Throughout this Guide, various measures to address the causes and effects of *de-risking* have been mentioned. This section briefly summarises the main measures, organised by the relevant sector:

1. PUBLIC SECTOR.

- Regulatory reforms: As analysed in this Guide, the phenomenon of *de-risking* is a relatively new concern, with multiple causes and an aggregate effect that must be avoided. Therefore, the aim should be to develop the regulatory framework until it is effective in achieving these objectives and strikes a balance in the means used to achieve them. At European level, of particular note is the implementation, from 2027, of the new AML/CFT package, which specifically addresses the problem of *de-risking*[33].

- Clarification of current legislation: Current legislation on AML/CFT in Spain does not contain specific provisions addressing the phenomenon of *de-risking*. In view of this, and to prevent institutions from exercising excessive zeal in seeking a 'safe harbour' within the prevention regulations, guidelines and guidance are important to aid the interpretation and application of the regulations, as well as to anticipate what might be expected from a supervisory perspective. In the case of Spain, particular note should be taken of the guidelines issued by the Commission for the Prevention of Money Laundering and Monetary Offences[34], such as this one, as well as the documents published by SEPBLAC, Banco de

[33] In this regard, it is worth noting the provisions of Article 21(4) of Regulation (EU) 2024/1624 of the European Parliament and of the Council, which stipulates that, by 10 July 2027 at the latest, the ALBC will issue joint guidelines with the European Banking Authority on the measures that credit institutions and financial institutions may adopt to ensure compliance with AML/CFT rules when implementing the requirements of Directive 2014/92/EU on basic payment accounts, and in particular with regard to the business relationships most affected by risk mitigation practices.

[34] Guides and Guidance | Treasury

España or the National Securities Market Commission, Comisión Nacional del Mercado de Valores (hereinafter, CNMV) regarding the application of AML/CFT/PF regulations, amongst others. Furthermore, at European level, the guidelines issued by the European Banking Authority are particularly noteworthy, as are the guidance documents and frequently asked questions published by the European Commission regarding the application of anti-money laundering regulations or financial sanctions[35].

- Cooperation between authorities: As we have stated previously, *de-risking* is influenced by a multitude of factors. This is why cooperation between the various authorities with jurisdiction in this area is crucial, both at national and international levels. Evidence of this is the role played, for example, by the Commission for the Prevention of Money Laundering and Monetary Offences and its committees (the Standing Committee and the Intelligence Committee), the relationship with other ministries and bodies, and even the work carried out through international cooperation (including participation in forums such as the FATF).

  Public-private collaboration: In this area, it is important to highlight both formal collaboration and more informal engagement through seminars, talks or webinars where views are exchanged with the private sector, as well as outreach via enquiry channels for more specific issues. In this area, it is also important to highlight the work done to raise awareness among the public of the positive effects of providing information and the benefits this brings in terms of preventing money laundering and terrorist financing.

[35] For example, the Frequently Asked Questions published following the imposition of restrictive measures against Russia and Belarus due to the invasion of Ukraine: Frequently asked questions – Sanctions against Russia – European Commission

- Supervision and inspection of *de-risking*: In 2025, SEPBLAC carried out inspections aimed at assessing the implementation by institutions of the EBA guidelines[36].

2. REGULATED ENTITIES.

- Proper application of the risk-based approach. Obligated entities must identify, manage and monitor the ML/TF risks they face in their operations. The so-called 'risk appetite' defined, amongst others, by financial institutions, is a useful tool, but it does not constitute justification for rejecting or terminating any business relationship.

- Establishment of controls and procedures appropriate to the entity's risk profile: Inadequate control systems cannot be used to justify a low-risk appetite. The business model, the size of the entity, the products sold, marketing channels and other risk factors are what determine both the risk assessment and the design of the control systems[37].

- Rejection based on individual, non-automatic assessments: Whilst it is important to establish rules for managing alerts and risk, the decision to cancel must be based on the individual customer's risk profile, not on a specific categorisation of the customer. Furthermore, measures that result in a greater penalty for the customer, such as the rejection of a transaction, must be based on an individual assessment, which, in most cases, includes interaction with the customer.

[36] Sepblac notified the EBA of its compliance with *"Guidelines EBA/GL/2023/04 of 31 March 2023 on policies and controls for the effective management of money laundering and terrorist financing (ML/TF) risks when providing access to financial services*". In accordance with section 1.6 of the Guidelines themselves, competent authorities must use these guidelines when assessing the adequacy of credit and financial institutions' risk assessments and their policies and procedures relating to the prevention of money laundering and terrorist financing (AML/CFT).

[37] In carrying out these activities, the recommendations published by SEPBLAC may be taken into account, as well as the approved Risk Indicator Catalogues drawn up by the Commission for the Prevention of Money Laundering and Monetary Offences.

- Correct implementation of customer due diligence: The inability to apply customer due diligence measures or to complete them satisfactorily is the sole legal ground for rejecting a customer. Customer due diligence must be proportionate to the risk of the transactions. In this regard, we would highlight the publication of SEPBLAC's Guide to the Application of Simplified Customer Due Diligence Measures[38].

- Consideration of proportionate restrictive measures: Before refusing a customer, alternatives must be considered, such as restricting access to certain products or services, thereby reducing the risk assumed and the level of due diligence required.

- Recording of refusals on ML/TF grounds: From July 2027, this measure will be mandatory as a result of the implementation of Regulation (EU) 2024/1624. In any case, it is currently considered good practice for risk management.

[38] Guide to the application of simplified due diligence measures | SEPBLAC

VII. CONCLUSIONS

The main conclusions that provide a better understanding of the content and objectives of this Guide are:

1. *De-risking* is a relatively new phenomenon, stemming from numerous causes, and whose main negative effect is the **exclusion of certain groups from formal financial channels**. This is particularly worrying given that, as the FATF has pointed out, the greater the coverage of a financial system, the greater the potential to effectively prevent ML/TF/PF.

2. The high level of banking penetration in Spain, together with other factors, shows that *de-risking* **is not a structural problem**, although there are situations that need to be resolved.

3. *De-risking* can be mitigated through the proper application of regulations, the establishment of an **appropriate risk-based approach**, the proportionate implementation of due diligence, and the implementation of **alternative measures to restrict operations**.

4. Effective mitigation of *de-risking* leads to a strengthening of preventive systems in the area of AML/CFT/PF. This will be possible through **joint action by both the public sector and regulated entities.**

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