CATALOGUE OF **RISK** INDICATORS

2024

Professional sectors: Notaries, commercial and personal property registrars, attorneys, and certified public accountants

MINISTERIO
DE ECONOMÍA, COMERCIO
Y EMPRESA

COMMISSION FOR THE PREVENTION
OF MONEY LAUNDERING AND
MONETARY OFFENSES

INTRODUCTION

This document contains a list of risk indicators for money laundering and terrorist financing (hereinafter ML/TF).

The purpose of this document is to assist regulated entities in complying with Law 10/2010 of April 28 on the prevention of money laundering and terrorist financing. Knowledge and use of these indicators can help improve the systems implemented by regulated entities to prevent and detect money laundering or terrorist financing transactions.

The presence in specific transactions of the indicators shown in this list does not necessarily imply the existence of money laundering or terrorist financing, which must in any case be assessed in the corresponding special review to be conducted by the regulated entity. However, the presence of these indicators can help the regulated entity identify the cases to be selected for the special review.

Likewise, the list of indicators provided below, duly adapted to the nature of the regulated entity's activities, may assist the entity in developing its own list of transactions that may be related to money laundering or terrorist financing.

Law 10/2010 of April 28 on the Prevention of Money Laundering and

Terrorist Financing, in Article 2.1, establishes the status of obligated entities for certain professionals.

Specifically, Article 2.1 of the law includes the following professionals as obligated entities:

- Auditors, external accountants, tax advisors, and any other person who undertakes to provide, either directly or through related parties, material assistance, support, or advice on tax matters as their primary business or professional activity.
- Notaries and registrars of real estate, commercial, and movable property.
- Attorneys, solicitors, or other independent professionals when they participate in:
    - The design, execution, or advice on transactions on behalf of clients relating to the sale or purchase of real estate or commercial entities.
    - The management of funds, securities, or other assets.
    - The opening or management of checking accounts, savings accounts, or securities accounts.
    - The organization of contributions necessary for the creation, operation, or management of companies or the creation, operation, or management of trusts, partnerships, or similar

structures.

- When acting on behalf of clients in any financial or real estate transaction.

- Individuals who, on a professional basis and in accordance with the specific regulations applicable in each case, provide the following services on behalf of third parties:
  - Incorporating companies or other legal entities.
  - Serving as directors or non-executive secretaries on a company's board of directors or as external advisors to a company, a member of an association, or similar functions in relation to other legal entities, or arranging for another person to perform such functions.
  - Providing a registered office or a business, postal, or administrative address, and other related services to a company, an association,
    or any other legal entity or person.
  - Acting as a trustee in a trust or similar legal arrangement or arranging for another person to act in such a capacity.
  - Acting as a shareholder on behalf of another person, except for companies listed on a regulated market in the European Union that are subject to disclosure requirements in accordance with Union law or equivalent international standards ensuring

adequate transparency of ownership information or arranging for another person to perform such functions.

As indicated in the National Risk Assessment (NRA) approved by the Commission for the Prevention of Money Laundering in 2020[1], and updated in April 2024[2] while the professionals included in this catalogue have specific characteristics and particularities in the services they provide, in general, they present **high inherent risks of money laundering** stemming primarily from the fact that their services are used by criminals to lend legitimacy to their corporate structures and business and financial activities, as well as to conceal the true identity of companies or structures and titles. Although **the residual risk** obtained must be assessed differently depending on the professional services sector, being **moderate** for auditors, external accountants, and tax advisors, as well as for notaries and registrars of real estate, commercial, and movable property, and **significant/high** in the rest of the regulated professional activities; the fact is that it is a sector of growing concern globally, due to its role as guardians or "gatekeepers" of the global financial system.

[1] 1.1_public_summary_of_the_national_risk_analysis.pdf (tesoro.es)

[2] https://www.tesoro.es/sites/default/files/publicaciones/Resumen%20p%C3%BAblico%20de%20la%20Adenda%20of%20the%20National%20Risk%20Analysis%202024.pdf

In this context, the Financial Action Task Force (FATF) developed three specific risk-based guidelines in 2019 targeting legal professionals, accountants, and providers of fiduciary and corporate services.[3] In addition, a joint report by the FATF and the Egmont Group on the concealment of beneficial ownership was published in July 2018,[4] while in 2023 a Guidance on beneficial ownership of legal entities[5] was published and in 2024 another on legal structures, both developed by the FATF[6]. All of this demonstrates the sector's growing importance globally. Finally, in 2022, the European Commission published the third edition of the so-called Supra-National Risk Analysis (SNRA), which provides a systematic analysis of money laundering and terrorist financing risks at the European Union level, including, among other sectors, the risks specific to these professions, as well as legal persons and structures[7].

3 https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Risk-Based-Approach-Legal-Professionals.pdf.coredownload.inline.pdf
https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/RBA-Trust-Company-Service-Providers.pdf.coredownload.pdf
https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/RBA-Accounting-Profession.pdf.coredownload.pdf

4 https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/FATF-Egmont-Concealment-beneficial-ownership.pdf

5 https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Beneficial-Ownership-Legal-Persons.pdf.coredownload.pdf

6 https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/Guidance-Beneficial-Ownership-Transparency-Legal-Arrangements.pdf.coredownload.inline.pdf

Likewise, in 2022, the European Commission published the third edition of the so-called Supra-National Risk Analysis (SNRA), which provides a systematic analysis of the risks of money laundering and terrorist financing at the European Union level, including, among other sectors, the risks specific to these professions, as well as to individuals and legal entities [8].

This Catalogue has been prepared by the Commission for the Prevention of Money Laundering and Monetary Offenses, in the exercise of its functions, in collaboration with industry associations, with the aim of assisting regulated entities in complying with their obligations. This Catalogue of risk indicators, therefore, seeks to help regulated entities fulfill their preventive obligations, an objective that Directive (EU) 2024/1640 pursues in Article 26(1)(a) when it urges Financial Intelligence Units (FIUs) to provide information regarding "the types of transactions or activities that present a significant risk of money laundering, its underlying crimes, and terrorist financing." This list is an update of the one prepared in 2013 by the Commission for the Prevention of Money Laundering and Monetary Offenses in collaboration with the sector, which has been prompted by developments in operations and risks.

This catalogue is divided into two sections. The first section, titled "General Indicators," includes indicators that, in principle, can be identified by any type of obligated entity. The second section, titled "Specific Indicators," lists others that refer to specific activities carried out only by certain types of entities

or obligated entities.

The indicators shown in the list are only a selection of the many indicators that can be found in money laundering, its various types of predicate offenses, and/or terrorist financing. An effort has been made to select those that are most evident and general. For indicators related to more specific typologies, the obligated entity may refer to various publications by organizations and institutions that conduct studies on specific typologies, revealing the most frequent indicators. Likewise, it is recommended that the regulated entity add to the suggested list other indicators derived from cases it analyzes on its own and assesses as linked to terrorist financing, money laundering, or their underlying criminal activities.

Finally, the preparation of this Catalogue has been accompanied by the preparation of a Report on the Criminal Typologies Most Commonly Used Today, classified according to the main underlying crime to which they are typically connected. The purpose of this document is to facilitate the work of obligated entities, insofar as a better understanding of the ways in which threats manifest in this area (drug trafficking, organized crime, corruption, etc.) can help improve the systems implemented by obligated entities to prevent and detect ML/TF transactions.

[7] eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0344
[8] eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0344

GENERAL RISK INDICATORS

In the due diligence process

In the interaction between the regulated entity and its customer regarding due diligence, elements may arise that, while not preventing the completion of due diligence, are relevant in the context of detecting money laundering or terrorist financing. These include the following:

- In general, the customer's reluctance to provide information to the regulated entity during the due diligence process.
- The customer's use of general terms such as "savings," "work," or similar expressions to inform the regulated entity about the source of their assets, in an attempt to avoid providing specific information about the nature of their employment, professional, or business activities.
- The cancellation of a transaction, or the modification of any of its characteristics (such as the amount), when the regulated entity requests that the customer provide additional documentation or information.
- The behavior of customers who demonstrate a high level of knowledge of anti-

money laundering (AML) and counter-terrorism financing (CTF) regulations and an unusual interest in the procedures implemented by the regulated entity to ensure compliance.

- A request by the customer to the obligated entity not to comply with any of its due diligence obligations or with the proper recording of transactions, usually linked, either explicitly or implicitly, to whether or not new transactions are carried out or to the continuation of the business relationship.
- The customer's demand for unusually high levels of confidentiality or discretion.
- Providing addresses as a primary residence that do not correspond to private residences or premises for exclusive use, such as business centers, hotels, etc., when this is inconsistent with the regulated entity's knowledge of the customer, or with the number, amount, or profile of their transactions.
- A discrepancy between the country of residence declared by the customer to the obligated entity and the country of the address the customer provides for mailing correspondence, the country of the contact telephone number provided, or the country of the domain of their email account or website.
- Customers whose behavior indicates adherence to radical extremist ideologies or who exhibit violent tendencies.
- Customers whose tax identification number has been revoked at the time

of conducting transactions or establishing business relationships, including those who are beneficial owners or directors of companies.

On the Relocation of Operations

As a result of economic globalization, international transactions are becoming increasingly common. However, the international component is sometimes sought out deliberately, in an artificial manner, to distribute the elements of a single transaction across different jurisdictions and thus prevent the authorities of a single country from having a comprehensive understanding of the operation. Such practices are common in ML/TF processes. The following are some indicators:

- The execution of transactions that indicate or suggest the possibility that the regulated entity's customer has assets abroad, when this is inconsistent with the regulated entity's knowledge of the customer.
- The purchase of products in Spain by foreign individuals or legal entities, when there are no logical reasons for such purchases in our country.
- The operation of accounts domiciled in Spain (usually at branches in locations near the border with Spain or Portugal) that are limited to the mass receipt of transfers or other types of income originating in the other country, with the funds subsequently being disposed of through cash withdrawals or transfers to the same or another country.

- In general, transactions involving structures spanning multiple jurisdictions, without a justifiable reason.
- The use of corporate structures in which the beneficial owner, the directors, or the company are located in different jurisdictions, without a justifiable reason.
- The use of corporate structures in which different companies from different jurisdictions own one another, without a justifiable reason.

Acting on behalf of a third party

Individuals involved in money laundering, its underlying crimes, and/or terrorist financing naturally seek to conceal their identity. To do so, they may use other individuals as frontmen who, acting on their instructions, interact with regulated entities and formally appear as the owners of the transactions.

The following are some indicators that may suggest the obligated entity's customer is acting on behalf of another person:

- Cases in which a person acts, de facto or de jure, on behalf of the customer, when, based on the prevailing circumstances and the conduct of both parties, the regulated entity understands that decisions regarding the transactions or the business relationship are made by the representative, not the represented party.

- Cases in which a person, whether a known customer or a professional, acts as an introducer of a new customer to the regulated entity, and it is the introducer who negotiates the new customer's position vis-à-vis the regulated entity.
- A contract signed by a new customer who provides the same address, telephone number, or email address as a previous customer, with whom they apparently have no relationship, and who carries out similar transactions.
- Cases in which it is observed that, in practice, there is a succession of one client by another, such that when the first terminates a business relationship, a new client—who formally appears to be independent of the previous one—establishes a new business relationship in which the same type of transactions are recorded.
- The sequential engagement of multiple companies—sometimes represented by the same individuals—such that when the transaction or business relationship with one of them ends, another takes its place and carries out the same type of transaction as the previous company, even with the same counterparties.
- The actions of several clients acting as a group, such that each of them carries out a transaction with characteristics similar to those of the others, especially if it is observed that a third party, or one of them, is giving instructions to the others.
- Cases of remote account opening where it appears that the new client is being assisted by a third party, for example, during the remote identification

process via videoconference.

- The existence of several clients with no apparent relationship to one another who provide the same address, phone number, or email address, or who conduct online transactions via the same IP address.
- Changes to a client's contact information (phone number, email address) shortly after the account is opened or just before the client begins to execute trades.

Splitting of transactions

In many AML/CFT processes, a high volume of transactions can be suspicious. Furthermore, exceeding certain thresholds may require the obligated entity to adopt enhanced due diligence measures or report information to the authorities. For this reason, transactions are very often split into several smaller ones, typically in the names of different individuals, so that each one is less conspicuous and does not trigger action by the regulated entity. The following are some indicators that a transaction has been split into several:

- The execution by a single customer, or by several acting in a coordinated manner, of multiple transactions of the same type, with the same origin and destination, consecutively, or within a short period of time, when, had the transaction been carried out in a single transaction for its total amount, the customer would have been required to provide additional information or documentation to the obligated entity.

- The purchase by the same person of many products, whether they are used simultaneously (the products are active at the same time) or successively (when one is canceled, another is purchased), carrying out a similar transaction.
- Cases in which a total payment is split into several payments, theoretically to benefit the payer, yet the time intervals between each payment are so short that they offer no practical advantage.

Regarding individuals or legal entities and beneficial ownership

Individuals involved in money laundering schemes and their underlying crimes naturally seek to conceal their identity. One method of concealment is the use of individuals or legal entities in which corporate positions and beneficial ownership are formally held by front men. Below are some indicators related to practices that are more closely linked to money laundering, although it is more difficult to find such indicators in terrorist financing offenses:

- Individuals or legal entities that experience frequent changes in the identification of their beneficial owner.
- Individuals or legal entities that declare a change in beneficial ownership without corresponding changes in their management or representatives.
- When there is evidence of a transfer of ownership of the company, but its representatives wish to rely on a beneficial ownership declaration made

prior to the transfer.

- Individuals or legal entities that, in commercial practice, appear to be represented by persons who are neither their legal representative nor their beneficial owner.
- Individuals or legal entities whose beneficial ownership declaration is inconsistent with the information and documentation collected by the reporting entity.
- Appointment of directors who clearly lack the necessary competence or suitability to perform the duties of the position.
- Use of companies, or other types of legal entities or structures, incorporated or established in foreign countries whose legal system permits the use of a nominee shareholder or permits the identification of the partner in a private document, such that in practice it is impossible to verify the actual beneficial ownership through documentation.
- A person who regularly appears in the incorporation of companies that are immediately transferred to another person.
- Simultaneous incorporation or creation of several legal entities or structures involving the same natural or legal person when there is no economic rationale or when anomalous circumstances exist.

Place and time of transactions

Some indicators that take into account the place and time in which transactions are carried out are:

- Contracting a service or conducting a transaction in person at a location far from the customer's usual residence, when alternatives exist that would avoid the trip and there are no justifiable reasons for it.
- A customer repeatedly and systematically conducting transactions during peak hours at the regulated entity's premises, when it appears that this is an attempt to hinder the regulated entity's ability to perform due diligence or record the transactions.
- A customer's request that the transaction be completed within an unusually short timeframe, without a reasonable explanation for expediting the transaction, when it appears that this is an attempt to hinder the regulated entity's performance of due diligence.

Employees and Agents

Criminal organizations engaged in money laundering, their underlying criminal activities, and/or terrorist financing have significant financial resources and may bribe employees and agents of regulated entities to fail to apply adequate due diligence, fail to properly record transactions, or fail to report to the authorities. The following are some indicators that an employee or agent may have been corrupted:

- An employee's unjustified refusal to accept a promotion, take vacation, or make other changes that would result in losing direct contact with their clients.
- An employee displaying a standard of living higher than would be expected given their income, without a justifiable reason.
- An employee or agent experiencing a sudden, unexplained increase in the number of clients, the number or amount of their transactions, or the profile of those transactions
- The concentration of transactions by an employee's or agent's clients on dates or at times when there is normally little customer activity, without any justifiable reason.
- The agent's reluctance to comply with the regulated entity's AML/CFT measures, claiming that the measures established by other regulated entities for which they also act as an agent are more lenient.

Possible connection to criminal activities involving ML/TF

At times, the link between the customer or their transactions and criminal activities may be inferred by the regulated entity from its relationship with the authorities or may even be public knowledge. Some indicators are noted below:

- Transactions by customers regarding whom requests or inquiries for information are received from national authorities, in the context of an investigation into criminal activities.
- Transactions by customers directly or indirectly related to other customers regarding whom requests or inquiries for information have been received from national authorities in the context of criminal investigations.
- Transactions involving customers for whom there is public information linking them to criminal activities.
- Transactions by customers that follow the same pattern and involve the same counterparties as those of other customers whose transactions were analysed and found to be potentially linked to money laundering, underlying criminal activities, and/or terrorist financing.
- Customers subject to international sanctions, and persons associated with them.

RISK INDICATORS IN SPECIFIC ACTIVITIES

This second section lists risk indicators that refer to specific activities carried out only by certain types of obligated entities.

Commercial Transactions

- Incorporation of companies, or capital increases, involving non-monetary contributions of assets that are difficult to value, for which there is no logical explanation, or whose existence is in doubt.
- The incorporation of multiple companies by the same person, especially if the founding partner lacked prior business experience or demonstrates a lack of knowledge.
- The simultaneous appointment of the same director to several companies, without apparent justification.
- Appointment of a director who is not a shareholder or promoter of the company if they are clearly unfamiliar with the company's activities and purpose.
- The formation or transfer of companies in which an attempt is made to avoid classification as a sole proprietorship by granting nominal shares of less



than 1%.

- Companies that conduct business with a very limited number of customers and suppliers, especially if there are indications that they do not act independently but rather appear to be under the same management.
- Channelling of transactions purportedly related to commercial trade through customer accounts whose profile, known activity, purpose of the business relationship, and operational history do not justify such transactions.
- Repeated receipt of significant amounts of income from tax refunds or subsidies by customers who do not demonstrate any actual business or commercial activity to justify such receipts.
- Companies in which, throughout the business relationship with the regulated entity, there are evident discrepancies between their tax returns and the transactions recorded in their accounts.
- Companies that suddenly increase their activity without a justifiable cause.
- Companies that maintain a high level of activity for a short period of time, after which the company ceases operations or is replaced by another company that takes its place and begins to carry out the same type of operations, even with the same customers and suppliers, without a justifiable reason.
- Accounts of business entities whose revenues show turnover volumes inconsistent with other business circumstances: organizational or

commercial structure, human and material resources, etc.

- Submission by a company of contracts, invoices, or other documents as proof of commercial activity, when these appear suspicious, lack the usual elements found in such documents, or contain prices that are out of line with market rates.
- Clients who claim to have a business activity aimed at the general public, yet the regulated entity cannot locate public information regarding their activity (website, advertising, or online presence).
- Transactions in which the funding comes from different sources or channels or involves complex structures with no apparent justification.

Real estate transactions

- Transactions in which payment is made via transfers ordered by entities or individuals other than the purchaser, without the purchaser providing information or supporting documents regarding their relationship with the payers.
- Transactions involving intermediaries where the intermediary's relationship with the potential buyer is unknown, or where the intermediary has broad powers of representation that exceed the mere steps necessary for the purchase of a property.
- Clients who offer to pay deposits, advance payments, or fees that are

substantially higher than usual for no apparent reason.

- Transactions initiated in the name of one person but ultimately intended to be finalized in the name of a third party (for example, when the reservation or deposit agreement is signed with one person, who then seeks to have the sales contract signed with another), where the assignee or third party exhibits signs of money laundering by failing to provide transparent information regarding their identity or the origin of the funds.
- Transactions in which the buyers show little interest in the property's characteristics, do not negotiate the price or terms, and express a desire to complete the transaction very quickly.
- When it is stated that payment of the property price is deferred to a date after the transfer of ownership and, contrary to all logic, the transferor does not obtain guarantees to ensure collection of the price.
- When payment is not made directly from the buyer to the seller, but instead an intermediary account is used—usually belonging to one of the professionals involved in the transaction—without a logical explanation.
- When payment is made using methods unusual in real estate transactions, such as cash, virtual assets, precious metals, jewelry, works of art, or any other means of payment that is difficult to value.
- When payment is attempted through debt offset and the reality and characteristics of the debt being offset against the property have not been

sufficiently substantiated.

- Transactions involving the same property or rights that occur in close succession (for example, the purchase and immediate transfer of property) and that result in a significant increase or decrease in price compared to the purchase price, or that involve two different methods of payment (for example, a cash purchase and a sale with payment by bank transfer or check).

- Transactions formalized at a value significantly different (much higher or lower) from the market value of the transferred assets.

- Transactions formalized by private contract, where there is no intention to have it notarized, or where, although such an intention apparently exists, it is not notarized.

- Transactions involving foundations, associations, and, in general, nonprofit organizations, when the characteristics of the transaction do not align with the entity's objectives.



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