



COMMISSION FOR THE PREVENTION
OF MONEY LAUNDERING AND
MONETARY OFFENCES

SAMPLE CATALOGUES OF
RISK TRANSACTIONS
RELATED TO MONEY
LAUNDERING AND
TERRORIST FINANCING

**INSURANCE
COMPANIES
AND INSURANCE
BROKERS**

Introduction and regulatory framework

Act 10/2010, of 28 April, for the prevention of money laundering and terrorist financing, provides that the status of obliged persons applies to authorised life insurance companies and insurance brokers acting in relation to life insurance or other investment-related services, with the statutorily established exceptions.

This status of obliged persons involves the legal duty to fulfil a number of obligations on the prevention of money laundering and terrorist financing as detailed in the Act and the implementing regulations.

Among these obligations, Article 17 of Act 10/2010, of 28 April, states that the obliged persons shall closely examine any act or transaction, regardless of the amount, which, due to its nature, may be related to money laundering or terrorist financing, preparing a written report of the examination results. In particular, the obliged persons shall closely examine any transaction or pattern of behaviour that is complex, unusual or does not have an apparent economic or lawful purpose, or shows signs of fraud or simulation.

This legal obligation also implies that the obliged persons, by establishing the internal control measures referred to in Article 26, shall define the manner of fulfilment of this duty of special examination and shall prepare **a list of transactions likely to be related to money laundering or terrorist financing, and shall ensure its dissemination among its managers, employees and agents**, and the periodic review of the list.

Therefore, the Commission for the Prevention of Money Laundering and Monetary Offences, in the exercise of its functions, in collaboration with insurance associations and in order to make it easier for these entities to comply with this legal obligation, has prepared this sample catalogue of risk transactions, which lists examples of transactions which may be linked to money laundering and terrorist financing.



Content and purpose of the risk transactions catalogue

This sample catalogue of risk transactions aims to guide those insurance entities and professionals listed as obliged persons under Act 10/2010 for the compliance of the obligation of special inspection. For this purpose it contains a series of behaviours or patterns to be taken into account by those obliged within this sector when developing their own list of risk transactions as required by law.

The obliged persons must always bear in mind that this catalogue does not comprehensively list all possible cases of risk transactions possibly linked to money laundering and terrorist financing, on the contrary, the obliged person must develop its own list of transactions adapted to its experience and risk assessment, although the guidelines of this sample catalogue are designed to assist and guide the obliged persons towards compliance.

The inclusion of transactions in this catalogue does not imply that they are necessarily linked to money laundering or terrorist financing activities, merely that they are “likely” to be linked to these activities, to the extent that they comprise a number of risk factors.

The role of the obliged persons is to determine, through the special inspection, if the specific transactions detected, which are included in their own list of risk transactions, display signs of being linked to money laundering or terrorist financing. In particular, they shall report to the Executive Service of the Commission (SEPBLAC) any transactions showing obvious inconsistencies with the nature, turnover or operational background of the customers, provided that, after the special inspection, no economic or professional justification to carry out such transactions is found.

Thus, it is possible that, after performing the special inspection of certain transactions, it is concluded that they do not present evidence of being related to money laundering or terrorist financing, despite their inclusion in this catalogue, and accordingly they shall not be reported to SEPBLAC.

It is important to emphasise that the special inspection is essential, and therefore SEPBLAC may not be reported to merely based on the fact that the transactions are included in this catalogue. The obliged persons must perform the special inspection in all cases, but only when finding circumstantial evidence shall they issue the relevant communication.



Similarly, it should be noted that the legislation on this subject has a clearly preventive nature, in order to prevent funds coming from criminal activities from being channelled through the sector. Therefore, it is essential to strengthen two types of measures:

- Firstly, those designed to detect suspicious transactions before they are carried out, in order to prevent illicit proceeds from entering the system.
- Secondly, those enabling an in-depth examination of transactions, so as to obtain enough data to prevent future transactions that follow the same pattern.

Finally, obliged persons should be reminded that the reports sent to SEPBLAC under the provisions of Article 18 of Act 10/2010, should contain the information and data required in paragraph 2 of this Article, and in any case must be a result of a special structured inspection of the transactions.



Indicators and examples of potential risk transactions

1. RISKS ASSOCIATED WITH THE PARTIES OR CUSTOMERS (POLICYHOLDER, INSURED AND BENEFICIARY)

Risks associated with the parties' identification:

The parties to insurance contracts, regardless of the capacity or act in which they are involved, must be fully identified by the supporting documents defined for each case (corporations and individuals, Spanish or foreign).

- a) Failure to obtain original documents demonstrating the identity of the parties both at the time of entering into the agreement and upon payment of the consideration.
- b) Refusal or failure to provide the information and documentation necessary to acknowledge their activities and other circumstances related to policy contracts.
- c) Using a false identity, or intentionally erroneous details, concerning the identity of the person or business that certifies their economic capacity in the policy contracting process.
- d) In product procurement processes through remote channels (Internet, telephone service, mail, etc.) the risk of alteration, in whole or in part, of identity documents and others related to the activity or economic capacity of the parties must be assessed.

Risks associated with the parties' residence:

The parties' residence must be evidenced by supporting documents, valid in the relevant jurisdiction. In the case of foreign individuals or companies, proof of their nationality is not enough, and in the case of Spanish non-residents, they must prove their residence abroad:



- e) Nationality or residence in tax havens or high- risk territories, defined as those that are listed for this purpose by the Spanish authorities and other international organisations to which Spain is party. In addition to the above, each insurance company may, depending on other variables, determine which territories or jurisdictions shall be subject to the same types of measures.
- f) References to addresses for correspondence that do not belong to exclusive-use homes or premises, especially those that house business centres, corporate creation or headquarter registration activities, hotels, etc.
- g) Address, telephone number, PO Box, or email, provided by a customer, which coincides with that of another seemingly unrelated customer.
- h) Customers providing the same address or phone number as another seemingly unrelated customer.
- i) Contracting is performed in a location that differs from the customers residence location when there are other offices or branches with similar policies nearer to the customer's residence.

Risks associated with the parties' personal or professional circumstances:

In addition to measures aimed at verifying the identity of customers, and those that aim to establish the activity and source of funds used in the contracting or payment of premiums or contributions, special attention should be given to other facts associated with the situation or background of eventual customers, at the time of contracting or during the term of the contracted products:

- j) Parties whose relationship with terrorist groups or criminal activities has been suitably evidenced, or those convicted of criminal offences, or who are associated with persons in any of the said cases.
- k) Parties holding the status of or associated with "persons of public accountability" according to the legal definition for this purpose.
- l) Proposals to contract products that are inconsistent with the contractor's profile, or unusual within the catalogue of products offered by the insurer (e.g. requesting the acquisition of a single payment product when policyholder experience reveals the acquisition of products with small regular payments).



Risks associated to the identity of parties involved in the policy:

The parties involved in the policy must prove their relationship and why each party assumes a particular position.

- m) Policies in which one of the parties is a nominee company.
- n) Individual policies in which the identity of the parties does not coincide or there are no family relationships between them, when there are no acceptable reasons to explain this.
- o) Different policies in which the same parties alternate their positions (e.g., the policyholder in one policy is the insured person in another where the insured party of the former policy appears as the policyholder of the latter) when there is no cause to explain this.
- p) Individual policyholders having multiple policies for the same or different products whose total sum of premiums represents an excessive amount in relation to their declared income and business profile.
- q) Policies in which, shortly before the payment of the benefit, there is a change of beneficiary.

Other party-related risks:

- r) Policies covering death when this occurs abroad.
- s) s) Customer's opposition to provide information when required to do so.
- t) Multiple policies with a single beneficiary.
- u) The customer shows scarce interest in insurance benefits and instead is concerned about the conditions of early termination of the contract.



2. RISKS ASSOCIATED WITH PREMIUMS, CONTRIBUTIONS OR BENEFITS.

- a) Payment in cash, bearer cheques or other anonymous instruments.
- b) Payment through international transfers that do not include the sender's identity or account number.
- c) Payment by cheques endorsed by third parties.
- d) Payments from high-risk jurisdictions, such as tax havens, countries not cooperating in the fight against money laundering and terrorist financing; jurisdictions with scarce regulation or none whatsoever, or States in which the existence of particularly active criminal organisations is a known fact (e.g., drug trafficking, organised crime, human trafficking, support for terrorism, etc.).
- e) Split payments in order to evade the threshold of mandatory declaration:
 - Several single premiums below the level of declaration, in policies or varied products.
 - Periodic split premiums.
 - Extraordinary contributions to complete periodic premiums of low amounts.
- f) Premiums undertaken by policyholders which are disproportionate to their payment capacity, or when payment is made by natural or legal persons having no apparent relationship with the former.
- g) Surrender requesting payment to be made through a third party's account, without there being an apparent relationship with the policyholder.
- h) Surrender of life-savings insurances of corporate policyholders, requesting settlement to be made by an individual.



3. OPERATIONAL RISKS

- a) Early surrender of a life insurance in a relatively short time interval from its contracting, unless the payment of the premium and the collection of the value of surrender were made through the customer's current account.
- b) Advance payments on account of the mathematical reserve established requested shortly after contracting the insurance.
- c) Cancellation of a life insurance policy within a 30-day deadline without penalties or explanations, unless the premium payment and collection of the amount of the cancellation are made through the customer's current account.
- d) Rebates based on policy cancellation due to erroneous or void issuance, when a new policy is not subsequently formalised.
- e) Life insurance contracted under out-of-the-market conditions (e.g. an insurance that guarantees a return of 0.1 % for 10-year survival).
- f) Collective corporate insurance of companies with a high employee turnover.
- g) Pledge of bearer or transferable policies.
- h) Disproportionate contributions compared to the regular premium contracted.
- i) Early termination of a product, especially when implying a loss and the refund is requested in cash or in the name of a third party.
- j) Contracting a life-savings insurance in which taxes can be deferred for more than 5 years, in which the premium payment is made in cash or the exact source of the funds is unclear, and also the single premium is high.
- k) Contracting a life-savings insurance online, especially if the premiums are high.



4. RISKS ASSOCIATED WITH EMPLOYEES OR MEDIATORS

- a) Significant and unexpected increase of their sales or results.
- b) Disproportionate amount of single-premium operations.
- c) Refusal or opposition to changes in their professional responsibilities, especially if they are positive (promotions).
- d) Repeated non-compliance with internal prevention standards.
- e) The mediator requests the insuring company to pay commissions to a third party.
- f) More than one customer for a particular mediator has been reported to SEPBLAC based on circumstantial evidence.
- g) The mediator suddenly begins to mediate in very different operations than those usually conducted (e.g., the mediator goes from operations with relatively small premiums to operations with very high premiums).