Supervisory experience: Reducing de-risking practices

Anti-money laundering and counter-terrorist financing prevention

Best practices

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SEPBLAC

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The use of this guide does not exempt obliged entities from the strict compliance with the legal obligations applicable to them, nor from applying their own criteria for risk analysis and assessment in accordance with their activity, structure, and business model. The responsibility arising from the application of the regulations on the prevention of money laundering and terrorist financing, as well as from the implementation or interpretation of the contents included herein, lies exclusively with the obliged entities.

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General context

De-risking related to the prevention of money laundering and terrorist financing (hereinafter AML/CFT) is a relatively new concept that emerges as an unintended consequence of an exaggerated and partial application of AML/CFT regulations, without considering the full regulatory framework and the balance between different provisions. The most serious form of de-risking occurs when the systematic refusal to accept certain clients or groups—because they have been identified as high-risk—leads to financial exclusion. These cases, which are not analyzed in this document, go beyond individual institutions and highlight the need to address this issue at an aggregate level, including the cost of compliance

AML/CTF Regulation

Current regulation

Law 10/2010 of 28 April ("Law 10/2010"), its implementing Regulation (approved by Royal Decree 304/2014 of 25 May) and other implementing provisions.

Additionally, when designing AML/CFT policies and procedures, the Guidelines of the European Banking Authority (EBA) on policies and controls for the effective management of money laundering and terrorist financing risks when providing access to financial services (EBA/GL/2023/04) must also be considered.

New European regulatory framework (applicable from its entry into force)

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, [in particular, for the matter at hand, its Recital 75 and its Articles 21(3) and 76(5)(b), which will apply from 10 July 2027].

AML/CFT Best practices

During 2025, various supervisory actions were carried out at credit institutions focusing on the issue of de-risking from the perspective of the application of AML/CFT regulations.

Once these inspections were completed, and for each individual institution, based on the observations made during the supervisory work and the conclusions reached, several 'good practices' were identified within the sector that may help mitigate the problem of de-risking. These good practices should be understood in relation to compliance with AML/CFT regulations and without prejudice to any others that the Bank of Spain may consider appropriate in the exercise of its supervisory responsibilities regarding conduct and transparency.

No systematic rejection of a specific category of customer

- Lists of prohibited customers for AML/CFT risk-control purposes that, in themselves, include entire categories of customers should be avoided, as this is often indicative of ineffective AML/CFT risk management. Institutions must distinguish between the risks associated with a particular category of customers and the risks associated with individual customers who belong to that category.

- Identifying a sector or category of customers as potentially high-risk does not mean that all of its members are high-risk. Rather, customers belonging to such a group or sector must be assessed with particular care both prior to entering into a financial product or service and throughout the life of that product or service.

The business relationship with a customer should be rejected or terminated on an individual basis, particularly when the customer prevents the application of due-diligence measures deemed appropriate in accordance with their risk profile (Article 7(3) of Law 10/2010).

Before rejecting, consider alternative reinforcing measures

- The range of AML/CFT risk-mitigation measures should be broadened before deciding to reject or terminate a business relationship with a customer on AML/CFT risk grounds. Among the possible measures, institutions could, for example, impose specific restrictions on certain financial products and services considered to pose a higher AML/CFT risk for those customers who, despite presenting a high risk, can still be subject to appropriate due-diligence measures.

- Even in environments involving vulnerable customers, or customers entitled to a basic payment account, the due-diligence measures set out in the AML/CFT regulations applicable to the rest of the institution's customer base must be applied to them as well (Article 5.2 of Order ECE/228/2019 of 28 February on basic payment accounts, the procedure for switching payment accounts, and the requirements for comparison websites).

Institutions' AML/CFT policies should clearly define tools that allow restrictions to be imposed on products and services in a rapid, automated and standardized manner, with the aim of mitigating ML/TF risks without the need to terminate the business relationship or reject the customer.

Analyze, don’t cancel automatically

Institutions should not automatically terminate the business relationship with customers whose transactions have been reported to Sepblac, in accordance with Article 18 of Law 10/2010.

They should refrain from executing the transaction and, in any case, refrain from executing any new transactions analogous to those that were reported.

The institution’s AML/CFT procedures and policies should incorporate intermediate mitigating measures to identify and limit risks, thereby avoiding the automatic termination of customer relationships.

If, during the ongoing monitoring of the business relationship, the due-diligence measures required under AML/CFT regulations cannot be applied—taking into account the transactions identified or the customer’s risk level—the business relationship should be terminated.

The identification of customer transactions that may need to be reported to Sepblac could serve as a risk indicator leading institutions to review or raise the customer’s assigned risk level and to subject them to enhanced due-diligence measures.

Record the information

When an institution decides not to enter into a business relationship with a prospective customer, to terminate an existing business relationship, or not to carry out an occasional transaction on AML/CFT grounds, it would be advisable for that decision to be recorded internally, indicating the reasons that justify it and the policy/procedure followed by the institution to adopt the decision and to communicate it to the customer.

It would be considered good practice to maintain separate lists of rejected or non-admitted customers/applicants, considering the reason for deciding to terminate the relationship or not to admit the prospective customer—whether it is for commercial reasons or, alternatively, solely due to compliance with the institution's AML/CFT policy—, and including or linking to the specific rationale under which the decision was adopted.

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