PROPERTY REGISTRARS AND THE PREVENTION OF MONEY LAUNDERING

Madrid, 18 December 2020

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INTRODUCTION: THE IMPORTANCE OF REAL ESTATE IN MONEY LAUNDERING

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An analysis of the role of Spanish Property Registrars in the prevention of money laundering must necessarily start by looking at real estate as one of the preferred methods used by criminal organisations for placing their large profits for various reasons, such as:

-The stability of the investment

-The profits generated by acquiring and developing real estate

-The opacity provided by various financial engineering instruments.

The importance of the sector, for these purposes, is such that it has been described as "high risk" by such important bodies such as the FATF, and by international police services such as INTERPOL and EUROPOL.

Since this is an internationally acknowledged situation and bearing in mind that each country, however different their systems of registration may be, monitors property transactions most fully by means of statutory registers, it has to be concluded that Registers of this kind can make a fundamental contribution to the fight against money laundering, and preventing and prosecuting this crime.

# STRUCTURE OF THE REGISTRARS' SYSTEM OF PREVENTION

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PILLARS OF THE SYSTEM:

❖ **REGISTRARS: Original source of information**

❖ **AMLC:**

▪ **Examines suspicious transactions on behalf of Registrars** (Art. 17 of Act 10/2010 and Art. 25 of RD 304/2014). The examination may be carried out at the request of the public official working with the Centre or instigated by the AMLC itself).

▪ **Centralises communications** relating to the prevention of money laundering and terrorist financing.

   ▪ **Informs SEPBLAC of any suspicious transactions** of which the AMLC becomes aware in the course of its activities.

   ▪ **Responds to requests made by SEPBLAC.**

   ▪ **Responds to requests for information** from the Committee, its support bodies, or any other public authority or legally authorised agents of the Judicial Police of the State's Security Forces and Corps.

Structure of the Prevention System

JUDGES

PUBLIC PROSECUTOR

**STATE
SECURITY FORCES**

SEPBLAC

AMLC

LIABLE PARTIES   **LIABLE PARTIES**
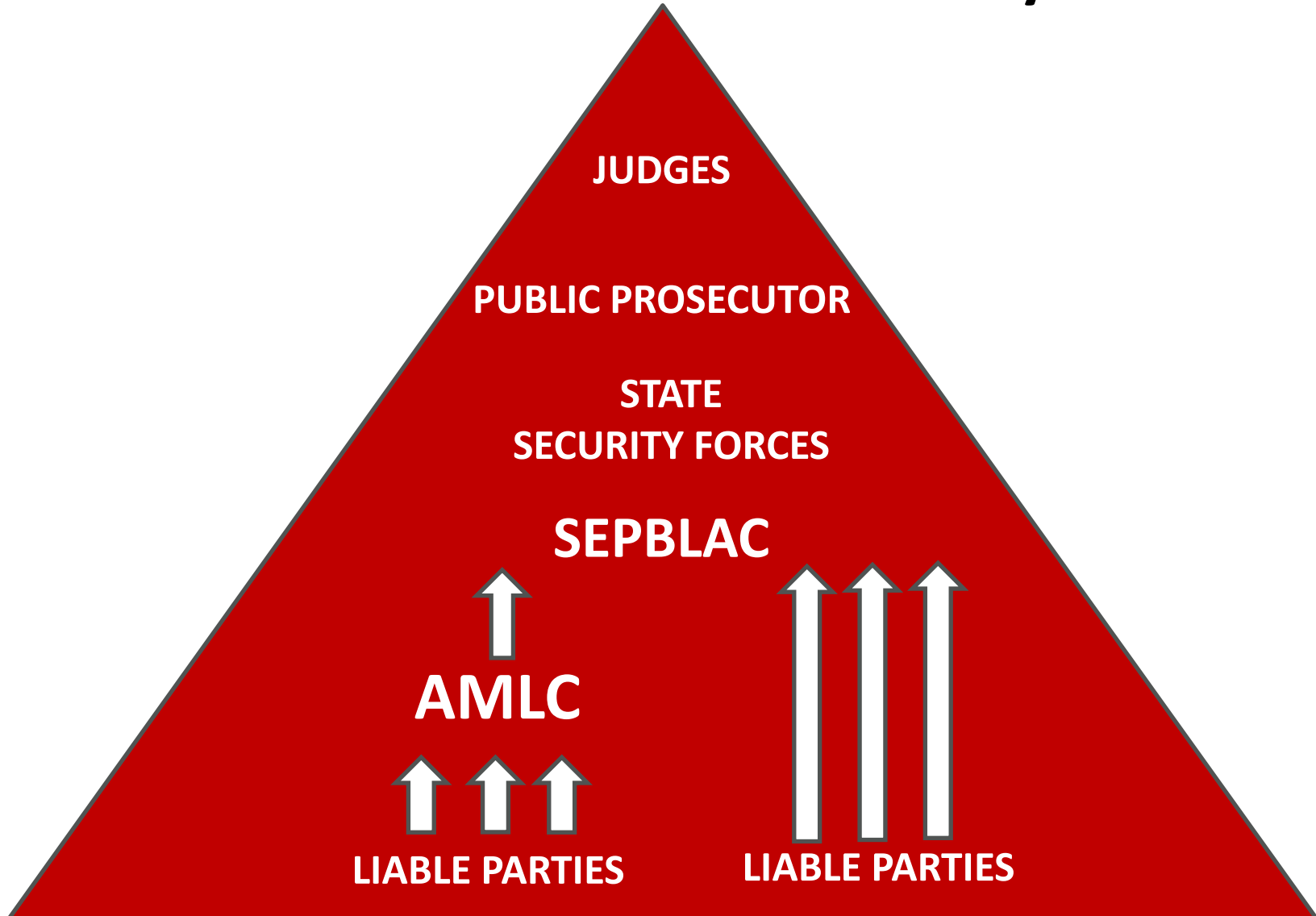
RED-FLAG INDICATORS

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PURPOSE.

– **To provide guidance** to Registrars on some of the **transactions with a potential** risk of being associated with money laundering;

CHARACTERISTICS.-

- They have been drawn up by the AMLC's advisory committee and agreed with SEPBLAC

- They are the result of a combination of risk indicators: **concerning the means of payment used**, the **amounts**, the **nationality and/or residence of those involved**, and **the origin and destination of the funds and the sureties provided** (tax havens, high-risk and/or non-cooperating countries), **empowerments** (by non-residents, foreigners, minors or those lacking legal capacity), in the case of **non-for-profit entities** (associations, foundations, NGOs). The **time span of the operation** will also be taken into account: **registrations that occur simultaneously** or with **little time between them** in relation to the same operation but in dissimilar or markedly different conditions, **structuring payments over very short periods** of time, **deferred payment without providing sureties** to cover it, etc

- They are monitored in the Register Offices' various computer systems

- They are subject to qualification by the Registrar

- They are OPEN in two senses:

    - They do not constitute a list of all the possible cases of transactions associated with money laundering

    - The transactions flagged may not necessarily be associated with money laundering.

 - They are cross-referenced

EXAMPLES

1.- Natural or legal persons who are resident in, nationals of or incorporated in tax havens that are involved in transfers of real estate.

2.- The same type of transactions irrespective of the domicile, nationality or residence of the parties involved, when the means of payment used has been transferred from high-risk jurisdictions.

CHARACTERISTICS OF TAX HAVENS:

- Low/no taxation of certain persons/entities

- Little or no transparency of information

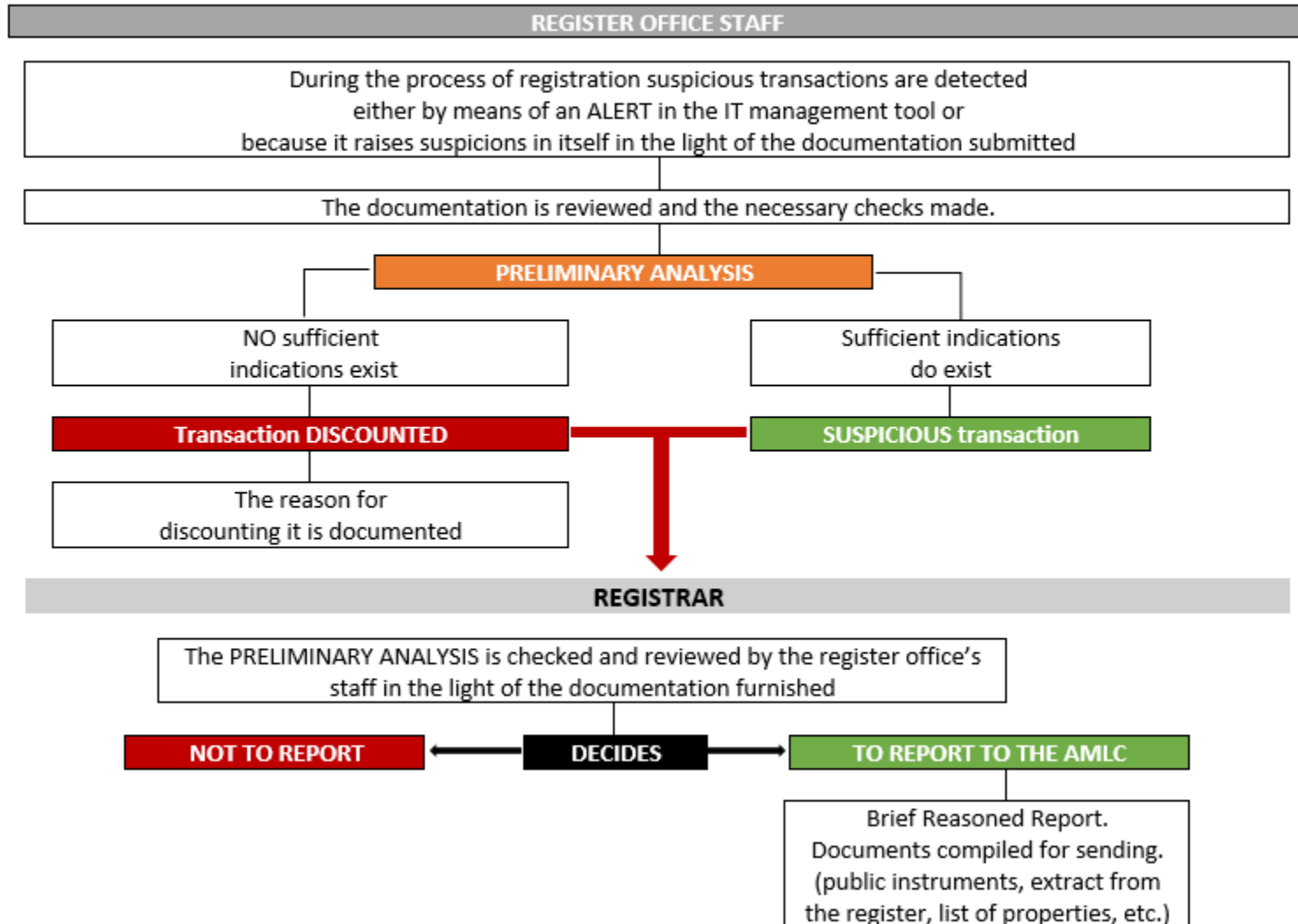- Is a contingent concept

Registradores DE ESPAÑA

EXAMPLES

3.- Early cancellation of mortgage loans, when this occurs within two years of their constitution and the amount of the loan exceeds 300,000 euros.

4.- Repeated cancellations of mortgages well in advance of the maturity date initially agreed, with no logical explanation.

5.- Significant differences (upwards or downwards) between the declared price and the approximate real value of the asset, based on objective criteria in the opinion of the Registrar.

6.- Transactions in which payment is requested in instalments, structured over a period of less than 6 months, when the amount in question is over 300,000 euros and the deferred price is not secured.

7.- Real estate transactions of any kind where the declared means of payment is cash or bearer cheques for a significant amount in the opinion of the Registrar.

HOW WE RESPOND TO A RED FLAG

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Registradores DE ESPAÑA

MANAGEMENT OF PREVENTION OF MONEY LAUNDERING AND TERRORIST FINANCING ALERTS IN THE REGISTER OFFICE AND REPORTING THEM TO THE AMLC

REGISTER OFFICE STAFF

During the process of registration suspicious transactions are detected either by means of an ALERT in the IT management tool or because it raises suspicions in itself in the light of the documentation submitted

The documentation is reviewed and the necessary checks made.

PRELIMINARY ANALYSIS

NO sufficient indications exist	Sufficient indications do exist
Transaction DISCOUNTED	**SUSPICIOUS transaction**
The reason for discounting it is documented	

REGISTRAR

The PRELIMINARY ANALYSIS is checked and reviewed by the register office's staff in the light of the documentation furnished

NOT TO REPORT ← **DECIDES** → **TO REPORT TO THE AMLC**

Brief Reasoned Report.
Documents compiled for sending.
(public instruments, extract from
the register, list of properties, etc.)

# BRIEF DESCRIPTION OF THE REGISTRARS' ANTI-MONEY LAUNDERING CENTRE

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The AMLC is the registrars' centralised prevention body; it is where the money laundering prevention specialists are located. The AMLC receives reports from Property and Commercial Register Offices all over Spain. Each report is analysed and, where appropriate, supplemented with information from collegiate databases and information received by other Register Offices. If, as a result of this analysis and the information received, the AMLC specialists consider that there are well-founded indications of money laundering, they will send it to the SEPBLAC with a report justifying their opinion together with all the supplementary documentation obtained. If they do not, it will be archived pending further data indicating that it needs to be reported.

Therefore, the main function of the Registrars' Anti-Money Laundering Centre (AMLC) is to intensify and channel Registrars' collaboration with the judicial, police and administrative authorities responsible for the prevention and prosecution of money laundering and terrorist financing, without prejudice to the direct responsibility of the Registrars. This has a threefold purpose:

❖ the first is to reduce the workload of the SEPBLAC, as the Centre is responsible for carrying out an integrated analysis of any suspicious transactions reported by the Registrars,

❖ to ensure that the liable parties comply with their obligation when they detect a transaction that might involve money laundering by informing the Centralised Anti-money Laundering Body (OCP), thus exempting them from liability,

❖ Finally, it provides support for complying with their legal obligations (internal control, screening persons who have been sanctioned, training, etc.).

The Centre is STRUCTURED in the following way:

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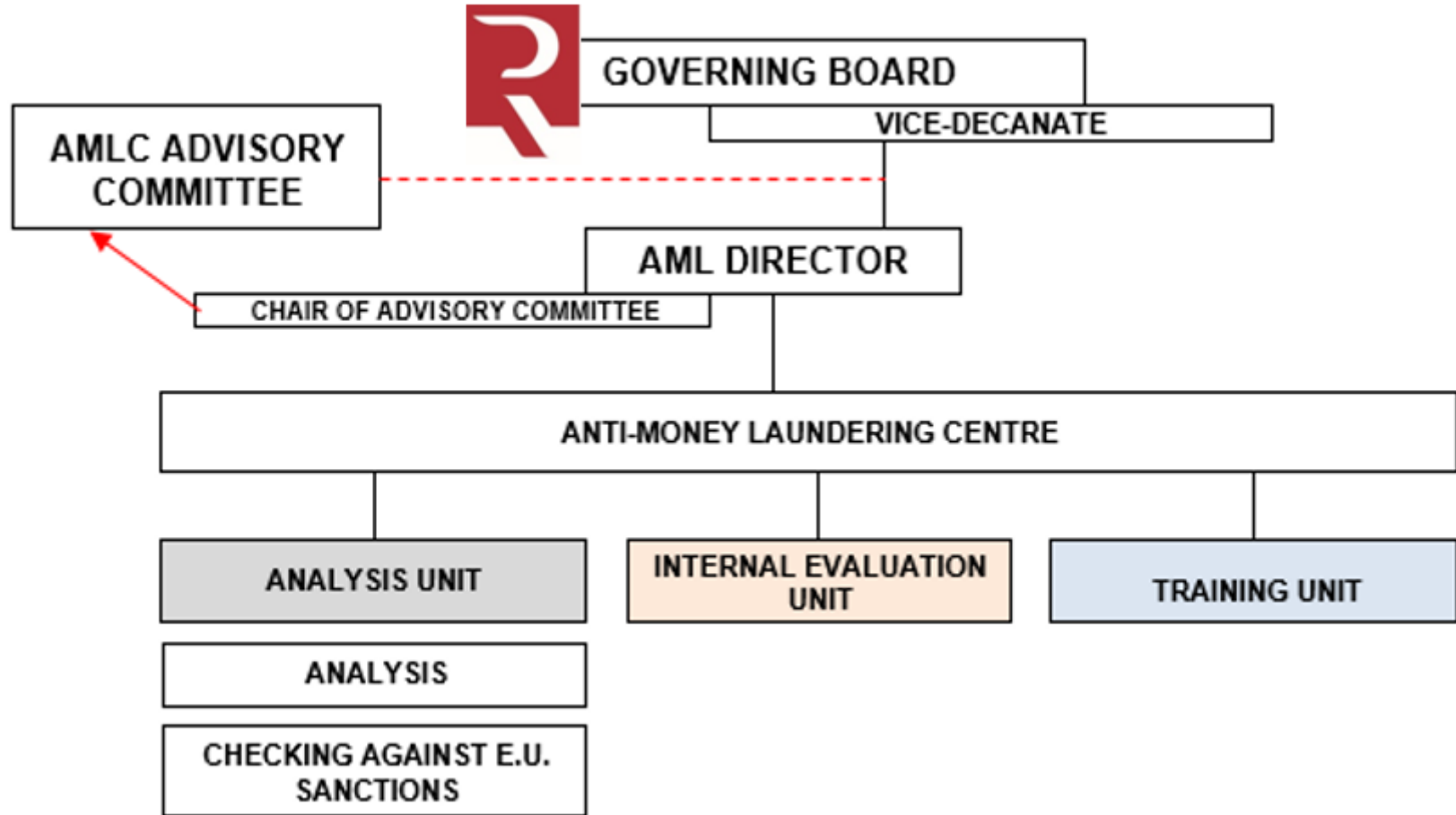
		TOTAL	COMMERCIAL AND REAL ESTATE	PROPERTY
ALERTS	**2019** (01/01/2018 to 31/12/2018)	**31,798**	**20,029**	**11,769**
	2018 (01/01/2018 to 31/12/2018)	**22,594**	**12,706**	**9,888**

		TOTAL	NOT REPORTED	REPORTED
REPORTS COMPLETED	**2019** (01/01/2019 to 31/12/2019)	**578**	**593**	**199** 3 returned by SEPBLAC
	2018 (01/01/2018 to 31/12/2018)	**808**	**572**	**236** 2 returned by SEPBLAC

THANK YOU FOR YOUR ATTENTION