

IMOLA A TOOL TO PREVENT MONEY LAUNDARING AN TERRORISM FINANCING IN THE REAL ESTATE MARKET

IMOLA III TRAINING SESSION

Money laundering and terrorist financing are frequently carried out in an international context. Measures adopted solely at national or even at Union level would have very limited effect.

International bodies active in the fight against money laundering and terrorist financing (MLTF) like FATF- GAFI have set recommendations for the fight against this type of criminality

<http://www.fatf-gafi.org/publications/fatfrecommendations/documents/fatf-recommendations.html>

The European Union is also concerned about Money laundering, terrorism financing and organised crime which have already been addressed by different instruments since Council Directive 91/308/EEC.

At the moment we are in the process of implementing the fifth Directive.

Actions of criminals and their associates often point at the real estate market, which has been frequently used to disguise the funds and money from criminal proceeds.

This has been acknowledged by the Union in the DIRECTIVE (EU) 2018/843 of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing,

In this V Directive for the first time the role of the land registries are envisaged in article 32 b

Article 32b

- 1. Member States shall provide FIUs and competent authorities with access to information which allows the identification in a timely manner of any natural or legal persons owning real estate, including through registers or electronic data retrieval systems where such registers or systems are available.*
- 2. By 31 December 2020, the Commission shall submit a report to the European Parliament and to the Council assessing the necessity and proportionality of harmonising the information included in the registers and assessing the need for the interconnection of those registers. Where appropriate, that report shall be accompanied by a legislative proposal.'*

Harmonising the information included in the registers and assessing the need for the interconnection of those registers:

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HARMONISING THE INFORMATION INCLUDED IN THE REGISTERS,

1.-It must be understood as a purely formal but not substantive harmonization. The organization, content, principles and effects of land registers must be out of the scope of any harmonization action. (different legal traditions make impossible at the moment any harmonization of the land registers- <there is not any competence title and overall the measure should not comply with proporcionality and subsidiarity principles...)

2.- Harmonisation must be referred, for the purpose of MLTF, to a set of relevant data presented in an harmonised manner to enable an easy access and sound understanding by the competent authorities.

To define the set of data which should be harmonised for the purpose of AML/CFT regime the role the land registers in this area must be analysed in the light of the measures established by the Directive.

Those measures are inspired in the RISKED- BASED APPROACH, which comprises

- RISK ASSESSMENT
- DUE DILIGENCE (identification of the customer)
- REPORTING OBLIGATIONS (prohibition of disclosure)

DETECTION OF CRIMINAL ACTS This common framework demands

- Identification of relevant data for this detection (harmonised Ir information)
- A permanente and inmediate flow of relevant information from the registers to the competent authorities (FIU) which might allow them to detect criminal offences. (interconnection of land registers LRI)

Whic pieces of information are relevant for this purpose?

Some examples:

1.- THE PERSONS

- Nationality or habitual residence from a high-risk third country
- Age (minors ...)
- Activity
- Special subjects , like Associations , Foundations , Trusts...
- politically exposed persons

2.- THE TERRITORY

- Startegic properties
- Funds delivered from a tax haven or a high risk third country

COMMISSION DELEGATED REGULATION (EU) 2020/855 of 7 May 2020

3.- PAYMENT MEANS

- Cash
- Anonymous prepaid cards
- Crypto assetys

4.-PRICE/VALUE.-

- Low or excesive high Price for a certain immovable property

4.- THE TIME.-

- Several transmission of the same asset in a short period with increasing prices.
- Cancellation of loans or securities short time after its constitution.

5. SPECIFIC STIPULATIONS IN THE TRANSFER ACT.-

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The work to be done.

1.- Identify the sets of data which are relevant for the purpose of ML/FT fight.

Some land registers likely are actually cooperating at national scale and have already identify relevant data

2.- Attempt to establish a list of relevant data for AML/CFT which are present in a significant number of land registers in UE

3.- Adapt the list to the IMOLA framework.

- . Some data are already in the ELRD (qualify the box)

- defined by THE CORE VOCABULARY (core person, core location...)

- or defined in IMOLA

- Other sets of data are currently out of the scope of the ELRD:
we should apply to them the IMOLA methodology

THOSE NEW PIECES OF INFORMATION TO BE ADDED TO THE ELRD:

- Should be defined as new pivot term
- Then enriched with some operational rules and attributes
- Explanatory notes
- National equivalent concepts

FINAL ACHIEVEMENT:

A set of data provided by the land registers in Europe relevant for the fight against money laundry and terrorism financing in the real estate market.

Those data should be integrated in the ELRD structure and should benefit from IMOLA semantic framework

THANK YOU





IMOLA
**A tool to prevent money laundering and terrorism financing
in the real estate market**

