# BUSINESS REGISTRARS AND THE PREVENTION OF MONEY LAUNDERING

Madrid, 15 June 2022

# INTRODUCTION: THE IMPORTANCE OF BUSINESS REGISTRARS AGAINST MONEY LAUNDERING

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Since this is an internationally acknowledged situation and bearing in mind that each country, however different their systems of registration may be, 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.

Money laundering actions are becoming more complex, with an increase in both qualitative and quantitative elements, in such a way that increasingly complex corporate structures are created and a greater number of individuals and legal entities are used in each operation

# 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
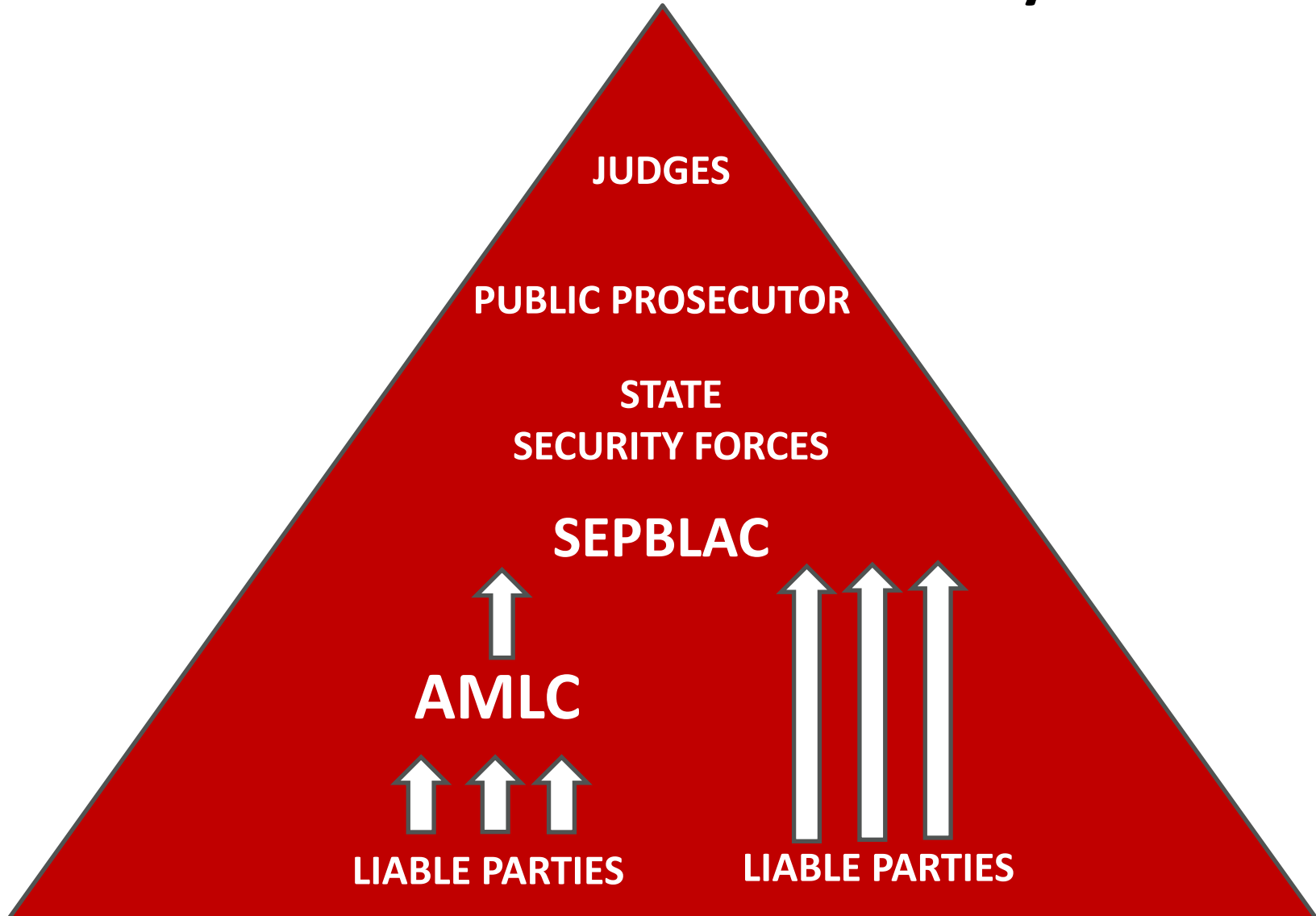
# RED-FLAG INDICATORS

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# PURPOSE.

– **To provide guidance** to Registrars on some of the **operations 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

## EXAMPLES

-Constitution of more than 3 companies in a period of 3 months when, at least, one of the partners is the same natural or legal person.

- Constitutions or capital increases with cash capital in which natural persons or entities appear as partners that could lead to suspicion due to their lack of suitability to belong to commercial companies, in particular, minors, very old people, disabled, trustees, associations, foundations, NGOs, etc.

- Appointment of the same administrator, sole or joint, or proxy with similar powers simultaneously in 3 or more companies, in the previous 12 months.

- Appointment of the same natural person to represent legal persons as sole or joint administrator of 3 or more companies.

-Submission of negative certification of approval of accounts for a period of at least 2 years, and 1 year if it coincides with the re-election of company positions and/or increase in share capital.

- Capital contributions, whatever their nature, that exceed 300,000 and represent at least 200% of the previous share capital.

## EXAMPLES

- - Use of companies with a closed registration sheet (due to lack of deposit of accounts, tax deregistration, lack of adaptation, full-fledged dissolution, etc.) requesting their registration reopening.

- More than one change of interprovincial domicile in 6 months.- Companies that carry out more than one change of provincial domicile in short periods of time (6 months).

- Accumulation of a minimum of 4 companies in the same domicile.

- Reduction of share capital, whatever its nature, that exceeds 300,000 Euros, and is preceded by a capital increase in the last 12 months.
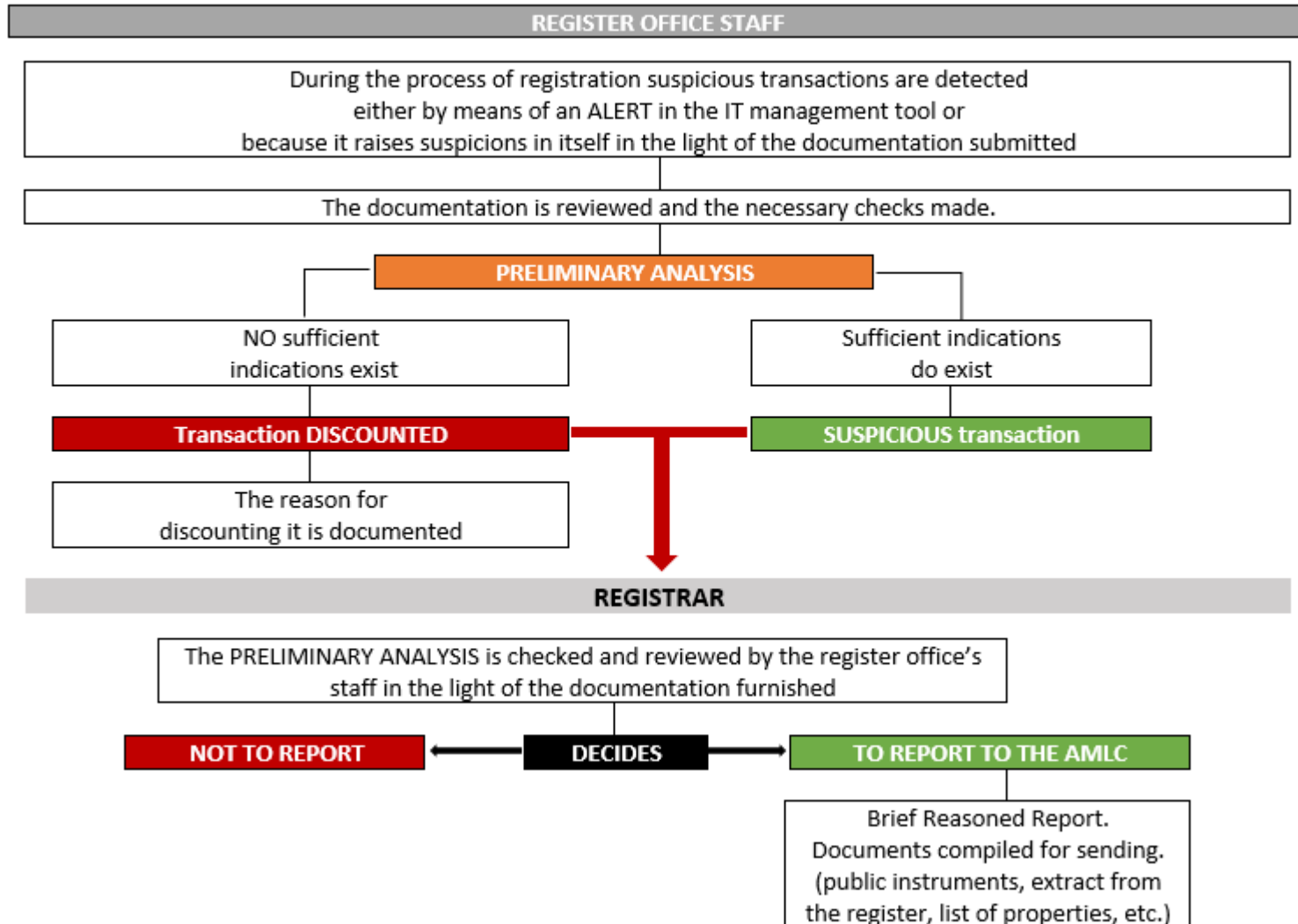
**But in any case, as we saw before, there is always freedom for the registrar to appreciate some type of indication other than those parameterized.**

# 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:

# Registradores DE ESPAÑA
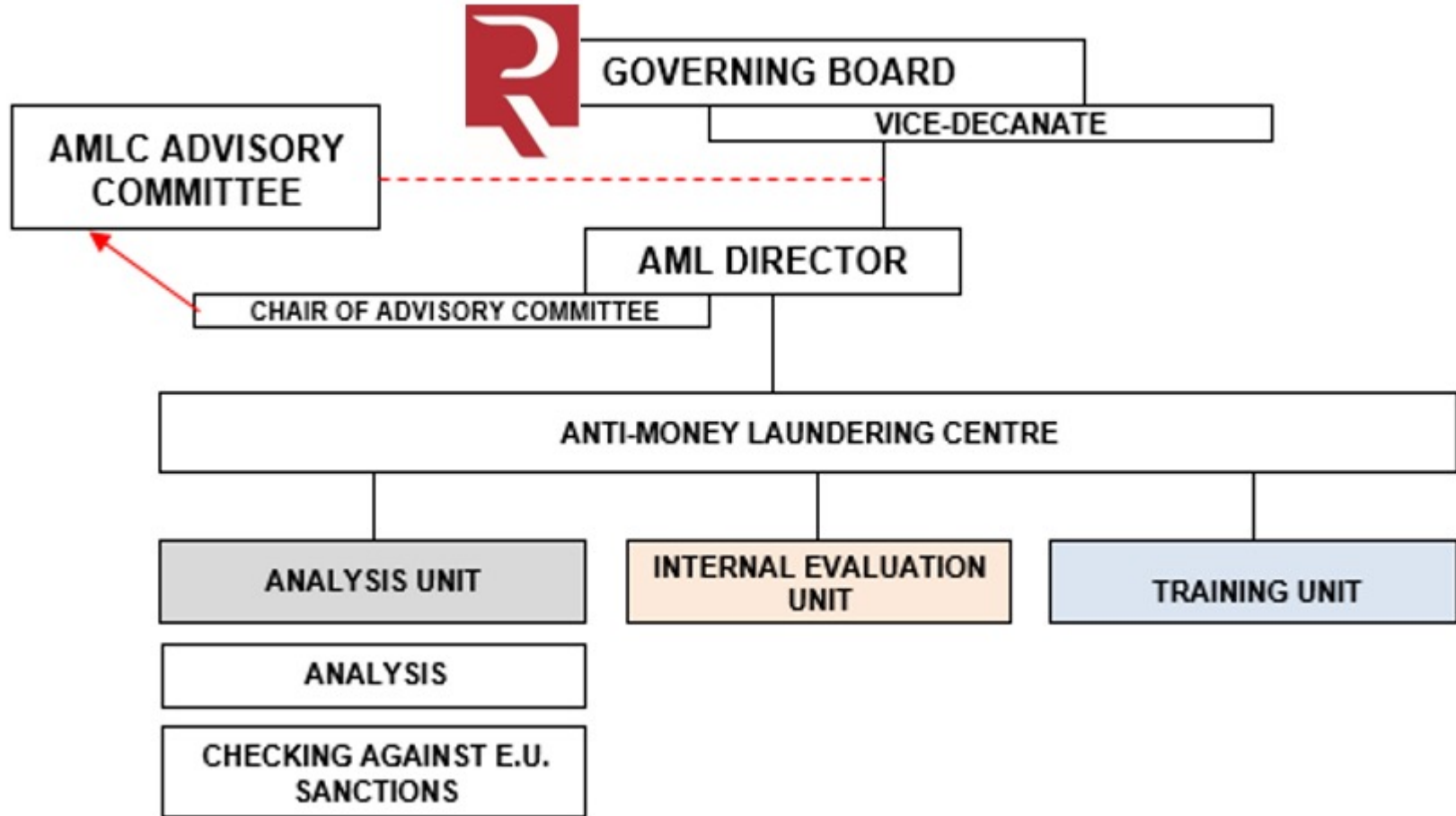
| | | TOTAL | COMMERCIAL AND REAL ESTATE | PROPERTY |
|---|---|---|---|---|
| **ALERTS** | **2021** (01/01/2021 to 31/12/2021) | 26,684 | 18,784 | 9,900 |
| | **2020** (01/01/2020 to 31/12/2020) | 24,951 | 16,669 | 8,282 |

| | | TOTAL | NOT REPORTED | REPORTED |
|---|---|---|---|---|
| **REPORTS COMPLETED** | **2021** (01/01/2021 to 31/12/2021) | 1,713 | 1,462 | 251 |
| | **2020** (01/01/2020 to 31/12/2020) | 1,202 | 1,009 | 193 |

# THANK YOU FOR YOUR ATTENTION