



# A BRIEF GUIDE TO VENEZUELAN ANTI MONEY LAUNDERING

The following guide aims to address the main topics regarding the current Anti Money Laundering Legal Framework (AML) in Venezuela. Covering relevant aspects such as: the activities that might be within the scope of money laundering, the reporting accountable parties, AML reporting obligations and the appointment and duties of the Money Laundering Reporting Officers.

## **1. What are the main Anti Money Laundering (AML) legislations for Venezuela?**

The main AML legislation for Venezuela is the Law against Organized Crime and Financing of Terrorism (LOCDOFT) 2012, which establishes the obligations of both individuals or legal persons considered at risk for money laundering purposes and hence designates the National Office Against Organized Crime and Financing of Terrorism (ONCDOFT) as the main regulatory and controlling authority.

In addition to the above, article 7 grants to the Superintendence of Banks and other Financial Institutions (SUDEBAN), the Superintendence of Insurance Activities (SUDEASEG), the Venezuelan Central Bank (BCV), the National Unit of Financial Intelligence (UNIF), the Superintendence on National Securities (SUNAVAL), the Superintendence of Crypto-assets (SUDACRIP), the Office for Registries and Notaries Autonomous Services (SAREN) and the National Commission of Casinos (CNC), the power to control and monitor all suspicious activities. Other assigned authorities, include the Tax Authorities, the Ministries of Oil and Mining, Science and Technology, Industry and Commerce, Energy, Tourism, among others.

## **2. Which activities might fall into the scope of Money Laundering according to Venezuelan law?**

The Law sets forth the limits and categories of activities which might fall under the concept of money laundering, whilst imposing the corresponding criminal sanction alongside pecuniary fines. These activities include:

- a. To own or possess capitals, goods, monies or benefits knowing that they have derived from an illegal activity.
- b. To convert or transfer by any means, goods, capitals or benefits to hide or cover their illegal origin or assist any person to commit such.
- c. To hide, cover or simulate the nature, origin, location, destination, movement or ownership of the same

d. To protect, invest, transform, guard or administer goods or capitals derived from illegal activities.

Other relevant regulations have been enacted following the aforementioned law, including:

- Provision No. 001 dated February 22nd 2021 by the National Unit of Financial Intelligence (UNIF), which dictated the “Rules for the Unified Registry of Mandatory Subjects (ONCDOFT Registry)”.
- Resolution No. 083.18 dated November 1st 2018 by SUDEBAN, about the “Rules regarding the administration and supervision of risks related to money laundering, financing of terrorism and the proliferation of weapons of mass destruction applicable to institutions in the banking sector”.
- Provision No. 1150 dated October 1st 2024 by SUDEASEG, establishing the “Rules regarding the Prevention, Control and Inspection of Insurance & Reinsurance Operations to avoid money laundering”.
- Provision No. SAA-8-004-2021 by SUDEASEG dated February 8th 2021, which creates the “Integral System of Risk Assessment (SIAR)” and further specifies the compliance officer’s role and functions.

Other regulations have also incorporated certain requirements and obligations concerning individuals and entities, in order to ensure their contribution to the battle against financial crimes and illicit activities such as money laundering, it is the case of:

- The Venezuelan Commercial Code: establishes the obligation to keep accounting books and financial statements approved on an annual basis.
- The Venezuelan Tax Code: establishes pecuniary penalties for the non-compliance of tax obligations.
- The Rules on Administration of Auditing Risks: which establishes a set of rules on money laundering and anti-corruption applicable to all financial institutions doing business in Venezuela, including a risk classification standard for the proper treatment of clients

### 3. Does the AML appoint lawyers as designated persons?

Article 9 of the LOCDFT, describes who shall be defined as reporting party under said Law, this includes as designated persons, among others:

*Lawyers, administrators, economists, and accountants in the exercise of their profession whenever they carry out transactions for a client regarding the following activities:*

- a) sale and purchase of real estate,*
- b) management of client's money, securities, and other assets,*
- c) management of bank accounts, savings or securities,*
- d) management of bank accounts, savings or securities,*
- c)the creation, operation, or administration of legal entities or structures, and purchase and selling of commercial entities.*

### 4. What are some of the suspicious activity reporting obligations?

Chapter II regarding "obligations and sanctions" on the LOCDFT, establishes obligations regarding the proper report of suspicious activities, including:

- Article 10. The Obligation to keep and maintain a transaction record.*
- Article 11. The Obligation to a proper client identification.*
- Article 13. The Obligation to report suspicious activities.*
- Article 14. The Obligation to keep confidential the reported information.*
- Article 15. The Obligation to close accounts under investigation.*
- Article 17. The Obligation to report cash transactions.*

Also, ONCDFT Administrative Rules by the National Unit of Financial Intelligence, provided the obligation to disclose information about UBOs.

Regarding the obligation to report suspicious activities, Article 13 particularly states the following:

"The mandatory subjects must pay special attention to any transaction or group of transactions regardless of their amount or nature, when there is suspicion that the funds, assets, or goods originate from or are linked to, or could be used to commit crimes of money laundering, terrorist acts or acts financing terrorism, or any other organized crime offense. Likewise, they must pay special attention to such activities even when they originate from a lawful source.



In the previous cases, the required subjects must report expeditiously the suspicious activities to the National Financial Intelligence Unit, which will analyze them and, if applicable, refer them to the Public Ministry (...)

The report on suspicious activities is not a criminal complaint and does not require the formalities and requirements of this procedure.”

Failure to comply with any of the said obligations entails a financial penalty.

## **5. Is there a requirement to appoint a money laundering reporting officer and/or a deputy money laundering reporting officer?**

The figure of a “compliance officer” is established in article 4 of Provision No. 001 issued by the National Unit of Financial Intelligence (UNIF). The article provides for the appointment of a compliance officer as a requirement for the registration before the ONCDOFT Registry.

Other regulations such as: Resolution SAA8-004-2021 by SUDEASEG (articles 6 to 8 and 20), Resolution 083.18 by SUDEBAN (articles 7 to 14), Resolution 209 by SUNAVAL (articles 6, 16, 18, 22, 29, 41 and 42) and Resolution 020 by MINTUR (article 5), require institutions in the insurance, banking, tourism and securities services to implement a AML program according to each money laundering or financing terrorism risks, as well as to appoint a compliance officer. However, articles 26 and 27 of Resolution 083.18 waives the appointment of a compliance officer if there are less than 30 employees, and those entities that have less than 60 employees can also request this exception to SUDEBAN.

## **6. What are the specific duties for a Money Laundering Reporting Officer and/or a Deputy Money Laundering Reporting Officer?**

The specific duties of a compliance officer may vary in specific aspects according to the governing entity to which the reporting party is under.

In general terms, the compliance officer shall be recognized as a high-rank official, with decision-making powers, with the duty to report directly to the president, board of directors or the corresponding party. The compliance officer shall:

- a. Design, supervise and promote internal policy manuals, rules and procedures related to anti money laundering, counter financial terrorism and other illicit activities related to organized crimes.

b. Report directly to the Board of Directors or equivalent functioning body, all matters related but not limited to money laundering, financing of terrorism and other illicit activities that may fall under the category of organized crimes.

c. Promote, coordinate and supervise the implementation and compliance of any rule, policy, procedure, provision and risk management system approved by the board of directors of the obligated subject, related to the operations of the specific activity spectrum.

d. Provide reports to the corresponding entity to which the obligated subject is under, containing all related matters and relevant information regarding unusual operations or transactions.

### **7. Who can make reports to the jurisdiction's financial intelligence unit?**

All reporting parties identified under Article 9 of the Organic Law against Organized Crime and Financing of Terrorism (LOCDOFT), as well as to all those under the scope of the aforementioned rules such as the Provisions enacted by the National Unit of Financial Intelligence, SUDEASEG, SUDEBAN, among others, are entitled to file reports on suspicious activity to the National Unit of Financial Intelligence (UNIF).

Such reporting parties include:

a. Entities in the banking, insurance, securities, and casinos sectors.

b. Hotels and tourism centers authorized to exchange currencies.

c. Foundations, civil associations and other non-profit organizations.

d. Political organizations.

e. Public registries and notaries.

f. Attorneys, administrators, public accountants, as provided above.

g. Individuals and entities whose economic activity are the purchase and sale of real estate, construction of buildings, trading of gemstones, artwork or archeology, shipping, leasing services and custody of safety boxes, carriage of securities and transfer or delivery of monies, financial advisory services, purchase and sale of vessels, aircrafts, automobiles, spare parts and cellphones.

## **8. How shall suspicious activity reports be made? Do they have time limits?**

Suspicious activity reports shall be made directly to the National Financial Intelligence Unit. Reports must include all the information requested in Form PE-UNIF-005 indicating the essential elements of the suspicious activity. The compliance officer or the responsible professional shall have 30 calendar days after the date the suspicious activity was detected to file the report.

Reporting parties shall present the report according to the previously mentioned Form; which must be submitted to the National Financial Intelligence Unit's office with the corresponding supporting documents, in a closed envelope and/or duly guarded by personnel who can guarantee confidentiality and to avoid any access by an unauthorized third party.

Finally, the National Financial Intelligence Unit will lead any required investigations, and if they deemed necessary they might raise the case to the Public Ministry to initiate a formal criminal investigation or criminal procedure.

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