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INTER-AMERICAN DRUG ABUSE CONTROL COMMISSION **C I C A D**

Secretariat for Multidimensional Security

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September 17- 18, 2012
Buenos Aires, Argentina

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RECOMMENDATIONS FOR THE IDENTIFICATION AND ANALYSIS OF RISK FACTORS ASSOCIATED WITH THE ML/FT

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Meeting of the Group of Experts for the Control of Money Laundering

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RECOMMENDATIONS FOR THE IDENTIFICATION AND ANALYSIS OF RISK FACTORS ASSOCIATED WITH THE ML/TF

- The International Community supports and encourage all countries to establish effective AML/CTF systems successful to prevent, detect and prosecute money laundering, with the purpose to avoid the negative economical and social consequences of those the criminal activities.
- Is It enough that each country obtain its own development in a separate way?
- We should apply the “Chain” analogy

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- When we talk about a regional or hemispheric overview, the weaknesses or strengths of a particular jurisdiction they have necessarily effects or consequences on other countries.
- Countries must look with concern those jurisdictions with serious structural deficiencies.
- What can we do as an Organization ?
- We must work on this recommendations that can provide guidance to countries.

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It is a complex challenge

- There are elements of risk that are objective, which can be measured horizontally in the countries of the region, by this we mean for example compliance with international standards, like this or that FATF Recommendation.

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- In addition there are a number of elements that are subjective in nature and vary from one jurisdiction to another, such as geographic location, economic openness, being an area of conflict or the internal level of corruption, can also be the fact that a jurisdiction that can be categorized as a tax haven or an offshore business center. Furthermore, this influenced by the use of cash or banking of its population.

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It is a complex challenge

These elements regarded in isolation can not provide a mechanism to establish an “X” formula establish whether a country or region has a high ML/TF risk.

- We need a more thorough and detailed work cross cutting each component of a National AML / CFT system.

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It is a complex challenge

- It is possible to extract certain components that can be measured or quantified to identify a major or minor risk of occurrence of money laundering or terrorist financing crimes.
- But, it is necessary a commitment to a high political level allowing the work of the actors part of the three pillars of the AML/CFT System: Prevention, Detection and Prosecution .

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It is a complex challenge

We have to keep in mind that there's a series of "incentives" that lead an launderer to to use a financial product or financial sector, beyond the existence of preventive measures, and these measures are not always useful, or are not applied properly to avoid ML/TF. This also has to be evaluated.

We can talk about certain malfunctions or gaps on the AML / CFT systems that allows the misuse or violation by launderers, criminals or terrorists.

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Subjects to evaluate

- Criminal Patrimony / Preservation
 - Ø Financial Products
 - Ø Personal estate
 - Ø Real estate
- Criminal Patrimony / Cash
 - Ø Border movement
 - Ø Placement on the Financial System (banking accounts, securities, insurances, etc)
 - Ø Investment in business (retailers, services, etc)

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Subjects to evaluate

- Use of third parties
 - Ø Professionals (lawyers, accountants, notary, scribe, financial consultant)
 - Ø Corrupt practices; pressure; bribery, etc
 - Ø PEP's

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Subjects to evaluate

Local Features (AML/CFT System)

- Ø Level of controls, and preventive measures
- Ø Level of administrative sanctions (preventive AML/CFT regime)
- Ø Intensive Capital Economy
- Ø Financial Center
- Ø Tax heaven or off-shore banking
- Ø High risk conflict zone
- Ø Level of corruption
- Ø Level of criminality
- Ø Level of convictions for ML/TF

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Subjects to evaluate

- Transfer Value
 - Ø Banking system and level of bank transfers
 - Ø Money Transfer industry (money remittance)
 - Ø International trade
 - Ø Legal entities; legal persons, NPOs
 - Ø New payment methods

Mecanismo de Evaluación de Amenazas Regionales en Materia de Actividades Criminales de Lavado de Activos

Fase I: Radiografía regional

Ámbito de acción de las actividades de LA

Patrimonio Criminal y su Preservación

Calificación de las medidas que Mitigan

Cumplido	C – 4
Mayoritariamente Cumplido	MC – 3
Parcialmente Cumplido	PC – 2
No Cumplido	NC – 1

Escala de Riesgo

Muy Bajo	1
Bajo	2
Medio	3
Alto	4
Muy Alto	5

Productos financieros	Estímulos para el Lavador	Medidas que Mitigan	MC	Condiciones que Facilitan su vulneración	Medida que Mitigan
	Garantizar un almacenamiento seguro	- El propietario real debería ser identificable (transparencia) - Confiscación de activos		- Complejidad de algunos productos financieros - Entorno financiero sofisticado	
	Permitir movimientos rápidos y seguros de sus fondos	- Restricciones a que un delincuente condenado tenga productos financieros - Requisito de que los delinquentes informen a las autoridades acerca de sus actividades financieras.		- Los productos ya están disponibles	
	Brindar otras oportunidades de negocios, tales como la inversión legítima en bienes raíces o en títulos y/o valores			- Desde el producto financiero, por el principio de confianza es fácil vulnerar otro sector (Se vulneró a la Inst. Financiera por el uso de profesionales cómplices o al engañar los filtros utilizando identificaciones o documentos falsos)	

Percepción del Riesgo de LA en los productos financieros

Autoridades del Ámbito Prevención	1 a 5	A
Autoridades del Ámbito Detección	1 a 5	B
Autoridades del Ámbito Persecución	1 a 5	C

Sector Privado

1 a 5	D
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Bienes Raíces	Estímulos para el Lavador	Medidas que Mitigan	MC	Condiciones que Facilitan su vulneración	Medida que Mitigan
	Disfrute de fondos ilícitos Obtener un estilo de vida lujoso	Medidas de DDC en el sector inmobiliario -Congelamiento / incautación de activos		- Posibilidad de utilizar intermediarios personas naturales o jurídicas	Decomiso Sin Condena Penal
	Permitir ocultar grandes sumas de dinero ilícito Permite su integración al sistema	-Se trata de una tipología recurrente. Es necesario que se comparta esta información con el sector privado -Capacidad de las autoridades de investigación de obtener en tiempo y forma información sobre la propiedad de bienes raíces		-Regulación débil o poca fiscalización del sector o sujetos obligados que cumplen un rol en este ámbito (agentes inmobiliarios, notarios, abogados, etc)	
	Tener bienes que tienen el carácter de permanentes	-Capacidad de decomiso		-Se puede camuflar una operación de lavado entre la gran cantidad de operaciones lícitas que se efectúan. Poca capacidad de control de la aplicación de las medidas preventivas.	

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