

**“MONEY LAUNDERING IN PERU, PREVENTIVE MEASURES AND FIGHT FROM  
THE PUBLIC REGISTRIES”**

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## Abstract

In terms of "money laundering" or "laundering of money or assets" in Peru, we have gained great experience in the field but at the same time many problems remain still unresolved; in this context, the Bank Association (ASBANC) points out that, since January 2007 and March 2016, assets in Peru have been laundered for more than 12,901 million dollars.

Since the signing in 1988 of the United Nations Convention or "Vienna Convention", Peru has been aligned with the new strategies of criminalization to be applied in the international context in the face of illicit trafficking and abuse of controlled drugs worldwide (TID); thus, among other measures, "money laundering" derived from the illicit trafficking in narcotic drugs and psychotropic substances (as well as other crimes) was penalized, and a state agency with broad powers called "Financial Intelligence Unit of Peru" (FIU-Peru) was created.

The basis of the implementation of these measures is clear: "Since drug trafficking is an economic activity with a business structure, it would only be possible to control it through mechanisms that affect its funding and reinvestment ability, that is, by neutralizing it or limiting the mobility and use of the illegal organization's resources" (Prado Saldarriaga, Víctor. "The crime of money laundering in Peru"). We fully subscribe to this view.

The "Financial Intelligence Unit of Peru" (FIU-Peru) was created through Act 27693 (2002), and its regulation was approved by Supreme Decree 018-2016-JUS (Now Supreme Decree 20-2017-JUS ("El Peruano", June 10, 2017). This agency has legal personality under public law and has functional, technical and administrative autonomy. Subsequently, through act 29038 (2007) the FIU-Peru was incorporated as a specialized unit into the Superintendence of Banking and Insurance (SBS), and was charged with receiving, analyzing, treating, evaluating and transmitting information for the detection of money laundering and financing of terrorism (LA/FT), as well as contributing to the implementation of the "System for the prevention and control of money-laundering and financing of terrorism" (SPLAFT), a system to detect suspicious transactions through reports arriving from banks, notaries, real estate agencies, etc. Said information is then analyzed and referred to the Public Prosecutor's Office and finally to the judiciary. To that effect, the guidelines and recommendations from the Financial Action Task Force (FATF) are particularly relevant. (<http://www.fatf-gafi.org/>).

As to the Public Registry of Peru (National System of Public Registries, SINARP) - whose governing body is the National Superintendence of Public Registries (SUNARP)-, this entity does not belong to the "System for the prevention and control of money-laundering and financing of terrorism"; however, being a governmental entity that takes part in the general anti-money laundering system and against the financing of terrorism, it is obliged to provide information when it is needed for the fulfillment of the FIU-Peru's functions, and to permanently cooperate by providing technical support in registration matters when required.

It should be noted that SUNARP is part of the "Multisectorial Executive Commission against money laundering and financing of terrorism" - CONTRALAFT, attached to the Ministry of Justice and Human Rights, MINJUS (chaired by the Ministry of said portfolio and whose secretariat corresponds to the SBS, represented by the UIF-Peru). Said Commission was created through Supreme Decree 057-2011-PCM, which also approved the "National Plan against money laundering and financing of terrorism". The Commission's objective is to assist in the coordination and planning of actions by public and private entities aimed at preventing and combating ML / TF crimes, as well as

monitoring the implementation, compliance and updating of the aforementioned Plan (in addition, SUNARP signed a cooperation agreement with the UIF-Peru and has a Registry Intelligence Commission, created by Resolution 306-2014-SUNARP-SN, in order to detect suspected irregularities, acts of corruption and illegal registration).

Additionally, through DS 018-2017-JUS, the "National Policy Against Money Laundering and Financing of Terrorism" was approved, seeking to contribute to the strengthening of the National System for Combating ML/TF Crime. The policy is mandatory at the three levels of government and in the various sectors and entities linked to the prevention, detection, investigation and punishment of Money Laundering and Financing of Terrorism. On the basis of the general objective of this National Policy, specific objectives were designed, based on three strategic lines of action (prevention, detection, investigation and punishment) and a fourth transversal one (articulation). In this context, SUNARP would fit in the "articulation" line of action.

In that sense, The Public Registry plays an important collaborative role in the prevention and fight against ML/TF carried out by the FIU-Peru.

However, despite the progress made, vulnerabilities persist that affect the general system of prevention and fight against ML/TF, such as the difficulty in accessing information affected by bank and fiscal secrecy regulation -which prevents this country from entering the Organization for Economic Co-operation and Development (OECD)<sup>1</sup>-, non-existence of any obligation to register in the Public Registry information on the real holder of legal persons, etc. ("National Assessment on the risk of Money Laundering and Financing of Terroris". SBS, 2016). In this respect, according to the "Anti-Money Laundering Index 2017" (AML), published by the Basel Institute on Governance and which annually evaluates a country's risk of vulnerability to money laundering and terrorist financing through 14 indicators, Peru is one of the countries that has regressed the most. (<http://www.controlcapital.net/noticia/4128/anti-lavado/indice-de-paises-2017-de-anti-lavado-de-dinero-del-instituto-de-basilea.html>).

Al respecto, la UIF-Perú refiere que desde enero de 2007 hasta noviembre 2017 esta entidad ha emitido informes de inteligencia financiera que involucran en total US\$ 14,103 millones de dólares americanos, referidos a tráfico de droga (39%), minería ilegal (32%), delitos contra la administración pública (10%), defraudación tributaria (4%), etc. ([http://www.sbs.gob.pe/Portals/5/jer/ESTADISTICAS-OPERATIVAS/20180109\\_BolEstadistico-Noviembre2017.pdf](http://www.sbs.gob.pe/Portals/5/jer/ESTADISTICAS-OPERATIVAS/20180109_BolEstadistico-Noviembre2017.pdf)). Igualmente, pese al vencimiento del plazo de amnistía tributaria (29/12/2017) establecida por Decreto Legislativo 1264 (2016), que aprobó el "Régimen temporal y sustitutorio del impuesto a la renta para la declaración, repatriación e inversión de rentas no declaradas", los resultados para el fisco no fueron alentadores al haber recaudado apenas S/. 1,136 millones de soles, es decir, el 28.4% de lo proyectado!

In this regard, the FIU-Peru reports that from January 2007 to November 2017, this entity has issued financial intelligence reports involving a total of US \$ 14,103 million, related to drug trafficking (39%), illegal mining (32 %), crimes against the public administration (10%), tax fraud (4%), etc. ([http://www.sbs.gob.pe/Portals/5/jer/ESTADISTICAS-OPERATIVAS/20180109\\_BolEstadistico-Noviembre2017.pdf](http://www.sbs.gob.pe/Portals/5/jer/ESTADISTICAS-OPERATIVAS/20180109_BolEstadistico-Noviembre2017.pdf)). Also, despite the expiration of the tax amnesty period (12/29/2017) established by Legislative Decree 1264 (2016), which approved the "Income tax

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<sup>1</sup> In 2016, the Congress denied an extension of powers for the UIF-Peru, except for the reduction of the term of attention of requests to the Criminal Judge, through Legislative Decree 1249) (<http://www2.congreso.gob.pe/Sicr/Prensa/heraldo.nsf/CNtitulares2/CB31D5E2DCD5AE5305257B64006F5F35/?OpenDocument>).

temporary and substitute regime for the declaration, repatriation and investment of undeclared income", results for the Treasury were not encouraging, having barely increased by S/ 1,136 million soles, that is, 28.4% of the projected amount!

Brothers, there is still a lot to be done!, as the poet Cesar Vallejo would say ("Los nueve monstruos", 1939).

Lima, January 2018.

**Key Words**

Money Laundering in Land Register