

GETTING THE DEAL THROUGH

# Anti-Money Laundering

in 24 jurisdictions worldwide

# 2014

Contributing editors: James G Tillen and Laura Billings



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**Anti-Money Laundering 2014**

**Contributing editors:**  
**James G Tillen and Laura Billings**  
**Miller & Chevalier Chartered**

*Getting the Deal Through* is delighted to publish the third edition of *Anti-Money Laundering*, a volume in our series of annual reports, which provide international analysis in key areas of law and policy for corporate counsel, cross-border legal practitioners and clients.

Following the format adopted throughout the series, the same key questions are answered by leading practitioners in each of the 24 jurisdictions featured. New jurisdictions this year include Argentina, Germany, Guatemala, Luxembourg and Turkey. This edition includes a global overview authored by James G Tillen, Laura Billings and Jonathan Kossak of Miller & Chevalier Chartered as well as an introduction written by the secretariat of the Financial Action Task Force.

Every effort has been made to ensure that matters of concern to readers are covered. However, specific legal advice should always be sought from experienced local advisers. *Getting the Deal Through* publications are updated annually in print. Please ensure you are referring to the latest print edition or to the online version at [www.gettingthedealthrough.com](http://www.gettingthedealthrough.com).

*Getting the Deal Through* gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We would also like to extend special thanks to contributing editors James G Tillen and Laura Billings of Miller & Chevalier Chartered for their assistance with this volume.

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Global Overview – The cutting edge:  
 keeping abreast of the global AML/CFT  
 legal and regulatory landscape 3

**James G Tillen, Laura Billings and  
 Jonathan Kossak**  
 Miller & Chevalier Chartered

FATF: the global standard-setter 5

**The Secretariat**  
 Financial Action Task Force

Andorra 7

**Marc Maestre**  
 Maestre & Co Advocats

Argentina 12

**Maximiliano D'Auro and Lucía Degano**  
 Estudio Beccar Varela

Australia 19

**Philip Trinca and James Morris**  
 Ashurst Australia

Brazil 25

**Leopoldo Pagotto and  
 Marina Troncoso Esposito**  
 Zingales & Pagotto Sociedade de Advogados  
 (ZISP Law)

Canada 31

**Benjamin P Bedard and Paul D Conlin**  
 Conlin Bedard LLP

Denmark 38

**Anne Birgitte Gammeljord**  
 Gorrissen Federspiel

Germany 42

**Daniel Gutman and Christian Rathgeber**  
 Knierim | Huber Rechtsanwälte

Greece 49

**Ilias G Anagnostopoulos and  
 Jerina (Gerasimoula) Zapanti**  
 Anagnostopoulos Criminal Law & Litigation

Guatemala 55

**Estuardo Mata Palmieri**  
 Quiñones, Ibargüen, Luján & Mata SC

India 61

**Aditya Bhat and Richa Roy**  
 AZB & Partners

Italy 71

**Roberto Pisano and Chiara Cimino**  
 Studio Legale Pisano

Japan 80

**Yoshihiro Kai**  
 Anderson Mōri & Tomotsune

Luxembourg 85

**Laurent Lenert**  
 Laurent Lenert, Avocat à la Cour

Mexico 91

**Juan Carlos Partida Poblador,  
 Alejandro Montes Jacob and  
 Marcela Trujillo Zepeda**  
 Rubio Villegas y Asociados, SC

Netherlands 96

**Enide Z Perez and Max J N Vermeij**  
 Sjöcrona Van Stigt Advocaten

New Zealand 103

**Gary Hughes and Rachel Sussock**  
 Wilson Harle



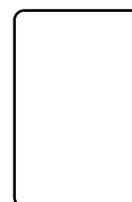
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## CONTENTS

---

Nigeria 112

**Babajide O Ogundipe and  
Chukwuma Ezediario**

Sofunde, Osakwe, Ogundipe & Belgore

Philippines 116

**Chrysilla Carissa P Bautista**

Angara Abello Concepcion Regala & Cruz  
Law Offices (ACCRALAW)

Russia 124

**Vasily Torkanovskiy**

Ivanyan & Partners

Saudi Arabia 131

**Robert Thoms and Sultan Al-Hejailan**

The Law Firm of Salah Al-Hejailan

Switzerland 135

**Adrian W Kammerer and Thomas A Frick**

Niederer Kraft & Frey Ltd

Turkey 141

**Şafak Herdem**

Herdem Attorneys at Law

United Kingdom 148

**Nick Benwell, Cherie Spinks, Emily Agnoli  
and David Bridge**

Simmons & Simmons LLP

United States 156

**James G Tillen, Laura Billings and  
Jonathan Kossak**

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# Argentina

Maximiliano D'Auro and Lucía Degano

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## Domestic legislation

### 1 Domestic law

Identify your jurisdiction's money laundering and anti-money laundering (AML) laws and regulations. Describe the main elements of these laws.

Law 25,246, enacted in 2000, was the first to regulate both criminal money laundering (by means of inclusions of specific money laundering and terrorism financing offences in the Argentine Criminal Code (ACC) and anti-money laundering provisions.

Law 25,246 has been amended several times, most importantly in 2011 by Law 26,683, which, apart from several changes to the anti-money laundering sections of the law, included a new chapter to the ACC called 'Crimes against the Economic and Financial Order', where money laundering is included among other financial crimes.

Regarding money laundering, section 303 states that the offence of money laundering shall be committed when a person:

*converts, transfers, administrates, sells, encumbers, disguises or in any other way introduces into the market assets which proceed from a criminally illicit act, with the possible consequence that the origin of said original or any subsequent assets acquires the appearance of legal origin.*

This section also penalises the person who receives money or other assets from the commission of a crime in order to apply them in any of the described transactions.

Section 304, in turn, sets forth specific sanctions for cases in which money laundering was committed on behalf, with the intervention or to the benefit of a legal entity.

As for anti-money laundering, Law 25,246, as amended, sets forth a list of 'compelled subjects' (which involve both public and private entities, as well as natural persons) that are obligated to, among other duties, inform suspicious operations to the Financial Information Unit (UIF).

These compelled subjects have three main obligations:

- know-your-client (KYC);
- to report suspicious operations to the UIF; and
- no-tipping off.

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## Money laundering

### 2 Criminal enforcement

Which government entities enforce your jurisdiction's money laundering laws?

The ACC is a national law applicable to the entire Argentine territory. The enactment of the ACC is an authority specifically delegated by the provinces to the national government in the national Constitution, and thus the provinces cannot issue regulations that

supersede it. Thus, money laundering is only criminalised at a national level.

This notwithstanding, enforcement of the ACC and prosecution of any crimes set forth therein is, with some specific exceptions, the competence of each province's judicial system. Regarding money laundering, this crime is not subject to federal jurisdiction and thus is prosecuted locally.

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### 3 Defendants

Can both natural and legal persons be prosecuted for money laundering?

Section 303 is only applicable to offences committed by natural persons. However, section 304 states that when the crimes have been performed on behalf, with the intervention, or in benefit of legal persons, then the entity shall be subject to the alternative or joint application of the following sanctions:

- a fine of from two to 10 times the value of the involved assets;
- a total or partial suspension of activities, which may not exceed 10 years;
- suspension of participating in bidding processes for public works or services or any other activity related to the national state, for a period that shall not exceed 10 years;
- cancellation of the legal entity when it has been created solely to the effect of committing the crimes, or when the commission of such crimes is its main corporate object;
- loss or suspension of any state benefits; and
- publication of an extract of the verdict at the expense of the legal entity.

It is important to point out that according to section 304, when applying these sanctions, judges must take into account the lack of compliance of internal rules and procedures, omission of vigilance over the activity of the perpetrators, the extent of the damage caused, the amount of money involved in the commission of the crime and the size, nature and economic capacity of the legal entity.

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### 4 The offence of money laundering

What constitutes money laundering?

According to section 303 of the ACC, a person shall be deemed to have committed the crime of money laundering if he or she:

*converts, transfers, administrates, sells, encumbers, disguises or in any other way introduces into the market, assets that proceed from a criminally illicit act, with the possible consequence that the origin of said original or any subsequent assets acquires the appearance of legal origin.*

Section 304 of the ACC sets forth that if any of the crimes described in section 303 have been performed to the benefit of, or with the

intervention of, any legal entity, then penalties shall be applied to the entity as well.

As for liability standards, under the ACC, money laundering can only be committed with wilful misconduct – it is not a crime that can be committed through negligence.

Finally, it is worth pointing out that only the perpetrators of the crime can be prosecuted for money laundering; any entities used for the commission of the crime (such as banks, stockbrokers, etc) that did not take part in the money laundering manoeuvre, cannot be subject to criminal prosecution, notwithstanding any administrative fines or penalties that may apply if they have failed to comply with any of their AML obligations.

## 5 Qualifying assets and transactions

Is there any limitation on the types of assets or transactions that can form the basis of a money laundering offence?

There is no limitation on the types of assets or transactions that can form the basis of a money laundering offence, as long as these transactions can be categorised as one of the classes listed in section 303.

Monetary thresholds only affect the penalties applicable to the commission of the money laundering crime; if the money laundering offence exceeds 300,000 Argentinian pesos, then the penalty shall be of between three and ten years of imprisonment and a fine of two to 10 times the amount of the operation, whereas if the amount of the offence does not exceed the said threshold then the sanction shall be between six months and three years of imprisonment.

## 6 Predicate offences

Generally, what constitute predicate offences?

Pursuant to Argentine law, any ‘criminally illicit act’ can be deemed a ‘predicate offence’ for money laundering. Violations of tax or currency exchange laws may amount to criminal offences in certain cases and, as such, can also serve as predicate offences for money laundering. It is important to point out that since the last reform, money laundering is an independent crime; it was previously regulated under the figure of concealment (and thus depended on the predicate offence).

As for predicate offences committed abroad, section 303 subsection 5 sets forth that the penalties established in section 303 shall be applicable even when the predicate offence was committed outside the ACC’s sphere of application, provided that the predicate offence is also sanctioned as a crime in accordance to the laws of the place where such a crime was committed.

This notwithstanding, it is important to point out that Law 25,246 sets forth that the FIU shall be in charge of the analysis, treatment and transmission of information in order to prevent the commission of money laundering crimes preferably (and thus, not exclusively) from the following offences:

- crimes related to drug sales and trafficking;
- weapon and drug smuggling;
- crimes related to the activities of an aggravated illicit organisation (section 210 bis of the ACC), or a terrorist organisation;
- crimes committed by illicit organisations formed in order to commit crimes for political or racial motives;
- fraud related to public administration;
- bribery, trafficking of influence, embezzling of public funds and illicit remuneration to public officers;
- child prostitution and child pornography;
- terrorism financing;
- extortion;
- crimes set forth in the criminal tax regime (eg, tax evasion); and
- human trafficking.

## 7 Defences

Are there any codified or common law defences to charges of money laundering?

Argentine law does not provide for any codified or common law defences to charges of money laundering.

## 8 Resolutions and sanctions

What is the range of outcomes in criminal money laundering cases?

The penalties for money laundering are:

- when the assets involved are valued at least 300,000 Argentinian pesos, three to 10 years imprisonment and a fine of two to 10 times the amount of the assets involved;
- the scale of penalties stated in the first bullet point is increased by a third of its maximum and half of its minimum amount if:
  - the perpetrator performs the act habitually or as part of an association or group formed for the purpose of continually committing these types of crimes; or
  - the perpetrator is a public officer who committed the crime in the exercise of or due to his or her role. In this case, the public officer shall also be disqualified from public office from three to 10 years. In addition, any person who committed this crime in exercise of any profession that requires special qualification shall also be disqualified for the same amount of time; and
- if the assets are valued at less than 300,000 Argentinian pesos, then the prison penalty scale shall be between six months and three years.

In addition, the person who receives money or other assets that proceed from a criminally illicit act in order to apply them to a money laundering scheme shall be sanctioned with imprisonment of between six months and three years.

It is important to point out that the Argentine criminal system does not allow for prosecutorial discretion and, thus, prosecutors are not empowered to bring forward plea bargains, strike deals or any kind of settlements with the defendant.

This notwithstanding, the ACC regulates a procedure called a ‘suspension of trial’, which is only applicable for cases in which the maximum sanction does not exceed imprisonment for three years (and thus would only be applicable to certain money-laundering cases, such as money laundering of assets valued at less than 300,000 Argentinian pesos or the acts committed by a person who receives assets from a third party to apply them to a money laundering scheme).

This suspension of trial has to be requested by the defendant, who must offer to undertake reparation of any damages (without it either implying confession or causing any effects in a civil liability procedure). The public prosecutor must consent to this request, and if the judge finds the request reasonable he or she can suspend the trial for between one and three years. In the resolution granting the suspension, the judge shall set forth the behaviour rules with which the defendant must comply during the suspension period.

If the crime for which the defendant is being taken to trial involves the penalty of a fine, the defendant shall have to pay the minimum fine in order to obtain this benefit.

If, during the period of suspension, the defendant does not commit any crimes, repairs the damages as offered and complies with all the behavioural rules set forth by court, the criminal action shall be extinguished.

**9 Forfeiture**

Describe any related asset freezing, forfeiture, disgorgement and victim compensation laws.

Section 305 of the ACC sets forth that judges can issue any preventive measures necessary to ensure the custody, administration, conservation, foreclosure or sale of assets that are instruments, products or proceeds or are related to money laundering crimes.

Additionally, in money laundering operations, and even without the need for a criminal conviction, all assets of a proven illicit origin, or related to an illicit material event, shall be forfeited when the defendant cannot be brought to trial due to his or her death or escape, expiration of the statute of limitations or any other reason of suspension or termination of the criminal enforcement action, or the defendant has acknowledged the illicit origin or use of the assets.

All forfeited assets must be used to repair the damages caused to society, the specific victim or the national state.

There are no specific regulations regarding asset freezing for money laundering operations, the legal framework only provides for asset freezing in connection with counter-terrorism financing.

**10 Limitation periods**

What are the limitation periods governing money laundering prosecutions?

Money laundering prosecutions are subject to the general rules of termination of the criminal action set forth in the ACC.

In that connection, section 59 of the ACC sets forth the reasons for which a criminal action can be extinguished, the following being applicable to money laundering:

- death of the defendant;
- amnesty; and
- expiration of the statute of limitations.

As for the statute of limitations, section 62 subsection 2 states that the statute of limitations for crimes with imprisonment penalties is the maximum duration of the penalty, provided that the term cannot exceed 12 years nor be shorter than two years. Therefore, the statute of limitations for the offence of money laundering shall depend on which money laundering crime the defendant allegedly committed.

**11 Extraterritorial reach**

Do your jurisdiction's money laundering laws have extraterritorial reach?

The ACC mainly follows the territoriality principle, that is, it applies to all crimes committed in Argentina, without distinguishing whether the criminal perpetrators are Argentine nationals or residents.

This general principle notwithstanding, section 1 of the ACC sets forth two exceptions to the territoriality rule: it shall be applicable to any crimes whose 'effects must be produced in the territory of Argentina' and it also applies to 'crimes committed abroad by agents or employees of Argentine authorities while performing their duties'.

**AML requirements for covered institutions and individuals****12 Enforcement and regulation**

Which government entities enforce your jurisdiction's AML regime and regulate covered institutions and persons? Do the AML rules provide for ongoing and periodic assessments of covered institutions and persons?

Pursuant to the AML Law, the UIF is the entity that enforces the AML regime and issues the regulations applicable to covered institutions and persons ('compelled subjects' in the terms of the AML Law). The UIF has support from several public entities and agencies (some of which are compelled subjects themselves), of which the

most important are the Ministry of Foreign Affairs, the Ministry of the Interior, the Central Bank of Argentina, federal tax authorities, public registries of commerce, the Securities Exchange Commission, the National Superintendence of Insurance, general inspection of corporations, the Superintendence of Financial and Exchange Entities, public registries of real property and national law enforcement authorities. Most of these agencies participate in AML enforcement and can also issue specific procedural regulations applicable to the entities they supervise, but the regulations issued by the UIF shall always prevail.

**13 Covered institutions and persons**

Which institutions and persons must carry out AML measures?

The institutions and persons that must carry out AML measures, set out in section 20 of the AML Law, are:

- financial institutions;
- exchange houses and any persons or legal entities authorised by the Central Bank to operate in currency exchange;
- persons or legal entities that exploit gambling games;
- stock agents, managing entities of investments funds, agents of the open electronic market and any intermediaries in the purchase, rent or lending of securities that operate under the scope of an exchange;
- brokers registered in the futures and option markets;
- public registries of commerce, agencies of control of legal entities, real estate property registries, property registries of motor vehicles, pledge registries, boat ownership registries and airplane registries;
- persons or legal entities dedicated to the trading of works of art, antiques or other luxury items, stamps or coin investments or to the export, import, manufacturing or industrialisation of jewellery or goods with precious metals or stones;
- insurance companies;
- companies that issue travellers' cheques, operators of credit or purchase cards;
- companies dedicated to cash-in-transit services;
- companies that exploit postal services that perform wires or transport of money;
- public notaries;
- capitalisation or savings entities;
- customs brokers;
- the Central Bank of Argentina, the federal tax authorities, the National Superintendence of Insurance, the Securities Exchange Commission, the General Inspection of Justice, the National Institute for Associations and Social Economy, and the National Antitrust Court;
- insurance producers, consultants, agents, brokers, assessors and loss adjusters;
- licensed professionals whose activities are regulated by professional councils of economic sciences;
- legal entities that receive donations or contributions from third parties;
- licensed real estate agents or brokers and entities whose corporate object is real estate brokerage, owned by or administrated exclusively by licensed real estate agents or brokers;
- persons or legal entities whose usual activity is the sale or acquisition of cars, trucks, motorcycles, buses and minibuses, tractors, agricultural machinery, road machinery, boats, yachts and the like, aeroplanes and aerodynes;
- persons or legal entities that act as trustees, and persons or legal entities that own or are affiliated with trust accounts, trustors and trustees in connection with trust agreements; and
- legal entities that organise and regulate professional sporting activities.

It is important to point out that the UIF has issued resolutions regarding the obligations of each of these categories of persons and entities, which in some cases set forth certain additional requirements to qualify as a compelled subject (eg, for the cases of entities that receive donations or contributions from a third party, Resolution 30/2011 sets forth that for such entities to be obligated to have an AML programme they must receive donations of at least 50,000 Argentinian pesos).

#### 14 Compliance

Do the AML laws in your jurisdiction require covered institutions and persons to implement AML compliance programmes? What are the required elements of such programmes?

Covered institutions must implement measures and policies to prevent money laundering and terrorism financing that are covered in the specific UIF resolutions for each class of compelled subjects. In general, the AML compliance programme includes:

- know-your-client procedures, both at the beginning and throughout the commercial relationship with the client;
- the issuance of an AML manual, which must be known by all employees, kept constantly updated and available to the UIF at any time;
- for those compelled subjects that are organised as legal entities, the appointment of a compliance officer, who must be a member of the senior management of the entity (a member of the board, in the case of corporations);
- for certain types of compelled subjects, Resolution 70/2011 sets forth the obligation to perform systematic monthly reports based on objective parameters (eg, casinos and other entities that exploit gambling games must report on a monthly basis all prizes granted of over 50,000 Argentinian pesos, irrespective of whether said operations are suspicious or not);
- training of all employees on their AML obligations, which must be performed on a regular basis;
- certain compelled subjects are obligated to perform internal audits on their AML policies and procedures; and
- implementation of technological tools to enable successful implementation of the AML control programme.

In addition, the UIF Resolutions sometimes set forth specific requirements for the AML compliance programme for a particular type of compelled subject (eg, casinos must have a record of prizes granted above 50,000 Argentinian pesos).

#### 15 Breach of AML requirements

What constitutes breach of AML duties imposed by the law?

The AML law mainly sets forth three types of breaches to AML duties:

- failure to report a suspicious operation;
- breach of one of the 'formal' obligations of the AML Law (eg, failure to issue an AML policies and procedures manual); and
- breach of the confidentiality or a 'no tipping-off' obligation.

See question 20 for the sanctions for breaching any of the obligations referred to above.

#### 16 Customer and business partner due diligence

Describe due diligence requirements in your jurisdiction's AML regime.

Specific due diligence requirements for clients are set forth in each UIF Resolution, and vary from compelled subject to compelled subject. This notwithstanding, all UIF Resolutions set forth certain common due diligence requirements, such as that at the start of the commercial relationship of the client, the compelled subject

must identify the clients by requesting the information stated in the applicable UIF Resolution, which generally includes, for natural persons, personal information such as full name, address, tax registration number, etc, and for legal entities, certified copies of by-laws, appointment of representatives, contact information and certain personal information of the representatives or attorneys-in-fact who will have contact with the compelled subject.

Legal entities also have to identify the beneficial owners, which are defined as those individuals that have at least 20 per cent of the capital or rights to vote of the entity or through other means exercise final, indirect or direct control of such entity. For both types of clients, the UIF Resolutions generally require the compelled subject to obtain sworn statements both of the origin of funds and the condition of the politically exposed person of the client or its representative. As for clients who are also compelled subjects, they must present a copy of their registration before the UIF and a sworn statement regarding AML compliance. Additionally, compelled subjects must verify that the client is not included in the list of terrorists published by the UN's Security Council. These client files must be kept updated throughout the entire relationship with the client.

In addition, certain compelled subjects have the obligation to set up a 'client profile' (a kind of enhanced due diligence) for clients who hire a specific product or surpass a legally established monetary threshold; in these cases, they must request information and documents regarding the client's economic, financial, asset and fiscal situation in order to establish an annual amount of the usual operations performed by that client.

#### 17 High-risk categories of customers, business partners and transactions

Do your jurisdiction's AML rules require that covered institutions and persons conduct risk-based analyses? Which high-risk categories are specified?

Pursuant to the Argentine AML regulations, covered institutions and persons must conduct risk-based analyses. The risk-based approach is specifically highlighted in the UIF Resolution applicable to financial institutions and exchange agencies, which have an obligation to set up risk management policies.

As for the different categories of increased risk, the UIF Resolutions set forth that compelled subjects must pay special attention to the risk entailed in transactions with tax havens and operations with countries the Financial Action Task Force (FATF) deems as 'non-cooperative'. The UIF resolutions also establish that when there are elements that may lead a compelled subject to suppose that the clients are not acting on their own behalf, then it needs to take special measures to determine the identity of the client and perform the applicable know-your-client procedures.

In addition, pursuant to UIF Resolution 11/2011, compelled subjects must request from all their clients a sworn statement regarding their condition as a 'politically exposed person' (PEP). Under Argentine law, the categories of a PEP can be divided into two large groups: foreign PEPs, which are certain foreign officials and their spouses, children, parents and 'close friends'; and local PEPs, which are certain local officials and their spouses, children and parents. Regarding foreign PEPs, compelled subjects must obtain prior approval from their compliance officer in order to accept them as clients, reinforce all measures aimed at determining the origin of the funds and carry out a closer, continuous monitoring of the commercial relationship. As for local PEPs, after having identified them, in principle compelled subjects are not obligated to carry out any specific measures unless they understand that dealing with said client entails a specific, higher risk.

**18** Record keeping and reporting requirements

Describe the record keeping and reporting requirements for covered institutions and persons.

Compelled subjects must report all suspicious operations to the UIF. Pursuant to the AML Law, a 'suspicious operation' is:

*any transactions, which in accordance to the customs and uses of the applicable activity, as well as the experience and training of the persons obligated to inform, are unusual, without economic or legal justification or with an unusual or unjustified complexity, regardless of whether they are performed in an isolated way or repeatedly.*

The UIF, on the other hand, in its regulations uses two types of definitions: 'unusual operations', defined as:

*those attempted or performed operations, whether isolated or repeated, which do not have economic and/or legal justification, do not correspond with the usual market practices and customs, due to their frequency, regularity, amount, complexity, nature and/or particular characteristics.*

The other is 'suspicious operations', which are:

*those attempted or performed operations which, after being identified as unusual, after the analysis and evaluation performed by the compelled subject, do not correspond to the licit activities declared by the client or there are doubts on the authenticity, truthfulness or coherence with the documents filed by the clients, generating a suspicion of money laundering, or, even when they are operations related to licit activities, there is a suspicion that they are related or are to be applied to finance terrorism.*

Consequently, compelled subjects must identify all 'unusual operations', and are granted a 150-day period from the date the operation was performed to duly analyse and investigate if the unusual operation is a suspicious operation or not. The UIF regulations applicable to each compelled subject set forth the obligation to keep internal records of all detected unusual operations (identifying, if applicable, which operations were deemed suspicious and thus reported), with sufficient information to enable the reconstruction of the operation. Resolution UIF 3/2014, in addition, sets forth that once the compelled subject has determined that an unusual operation is suspicious, it should report it within 30 days (unless the 150-day period ends before such 30 days).

Finally, compelled subjects must keep all records for at least 10 years.

**19** Privacy laws

Describe any privacy laws that affect record keeping requirements, due diligence efforts and information sharing.

Pursuant to section 14 of the AML Law, the UIF can request information from any public entity, agency, private legal entity or person, all of which are obligated to provide such information in the terms set forth in the request. In addition, when the UIF is investigating a report of suspicious operation, compelled subjects must collaborate and cannot allege against the UIF, any bank, fiscal, stock market, professional secrecy or any contractual confidentiality agreement.

**20** Resolutions and sanctions

What is the range of outcomes in AML controversies? What are the possible sanctions for breach of AML laws?

The range of outcomes is:

- failure to report an operation is sanctioned with a fine of one to 10 times the amount of the operation, or, if the amount of the operations cannot be determined, from 10,000 to 100,000 Argentinian pesos; and
- as for the breach of one of the formal obligations of the AML Law (eg, failure to issue an AML policies and procedures manual), since the AML Law does not clearly set forth the penalty, the UIF uses the scale of fines applicable to operation of an indeterminate amount.

In both cases, the fines are applied (on an accumulative basis) to the compliance officer and the legal entity where the compliance officer performed its duties. The members of the administrative body of the entity are joint and severally liable for the entities fine. These sanctions are first imposed through an administrative investigation and procedure held before the UIF and are appealable to the administrative law courts (that is, they are not of a criminal nature).

The only AML obligation that is of a criminal nature and involves a prison sentence is a breach of the confidentiality or 'no tipping-off' obligation, which is sanctioned with prison for a period of between six months and three years.

**21** Limitation periods

What are the limitation periods governing AML matters?

After the enactment of Law 26,683, the statute of limitations for both failure to report an operation and breach of a formal obligation is of five years from the date of the breach.

The statute of limitations for breach of the 'no tipping-off' obligation is determined pursuant to the rules of the general criminal statute of limitations rules (see question 10).

**22** Extraterritoriality

Do your jurisdiction's AML laws have extraterritorial reach?

The Argentine AML Law does not have an extraterritorial reach; it is only applicable to persons and entities located in Argentina. However, it is worth pointing out that the local AML Law does apply to any subsidiaries or branches of foreign entities registered in Argentina.

**Civil claims****23** Civil claims and private enforcement

Enumerate and describe the required elements of a civil claim or private right of action against money launderers and covered institutions and persons in breach of AML laws.

Regarding money launderers and breaches by compelled subjects, there are no specific regulations for bringing forth a civil claim. Therefore, the general rules of civil liability apply, namely:

- a breach of either a legal or contractual obligation (illicit act);
- the existence of actual damage;
- sufficient causal relationship between the illicit act and the damage; and
- negligence or wilful misconduct on the part of the damaging party.

In addition, it is necessary to point out that since civil liability is of an indemnificatory nature, it necessarily requires the existence of damage to a certain person (and only the said damaged person may bring forth a claim), whereas criminal liability requires the subject to

**Update and trends**

There have been very few convictions for money laundering in Argentina. Notwithstanding this, in order to comply with the commitment before the FATF, undertaken after the last mutual evaluation, there have been some enforcement efforts in the past few years, such as the reform of the Criminal Code in 2011 and the creation, in 2012, of the PROCELAC, a special division of the Public Ministry of Prosecutors dedicated to economic crimes and money laundering, which in turn has a special area dedicated to the crimes of money laundering and terrorism financing.

As for anti-money laundering, after the last reform in 2011, which included new compelled subjects (such as trustees), the UIF has issued a great number of resolutions regulating the obligations of each compelled subject. In addition, the UIF (in some cases, acting jointly with the applicable regulatory entity, such as the Central Bank, Superintendence of Insurance, etc) is carrying out, on a regular basis, inspections of compelled subjects in order to verify their compliance with the applicable anti-money laundering regulations.

This increase in AML regulations and enforcement has increased pressure on companies and financial institutions, which have responded by implementing or improving their compliance programmes. These increased AML efforts on the part of the compelled subjects not only seek to avoid the applicable sanctions, but also avoid the risk to reputation entailed in being involved in a potential money laundering scheme.

have performed the specific act described in the law, irrespective of whether any repairable damages have been caused.

Also, criminal liability is held to a much higher standard. The act may not qualify as money laundering in accordance with the ACC, but if the four rules for civil liability are met, there could be an adverse ruling under civil law. In that sense, sections 1101 to 1003 of the Civil Code state that:

- if the criminal action was initiated before the civil action, there shall not be any ruling in the civil procedure before the criminal ruling (with the exception of death or absence of the accused, in which case the criminal action shall not continue but the civil procedure may); and
- if a defendant is found guilty in the criminal proceeding, then the existence of the main event and the guilt of the defendant shall be deemed proven in the civil case, whereas, if the defendant is found not guilty, then the existence of the main event over which the verdict was given cannot be alleged in the civil trial.

Regarding AML compliance liability, it is important to point out that the Argentine AML Law does include a safe harbour provision,

which states that compliance in good faith of the obligation to report a suspicious operation cannot result in any liability of any kind for the informer.

**International anti-money laundering efforts****24** Supranational

List your jurisdiction's memberships of supranational organisations that address money laundering.

Argentina is a full member of both the FATF and the Financial Action Task Force on Money Laundering in South America (GAFISUD). In addition, the UIF is a member of the Egmont Group.

**25** Anti-money laundering assessments

Give details of any assessments of your jurisdiction's money laundering regime conducted by virtue of your membership of supranational organisations.

The FATF and GAFISUD released a mutual evaluation report on Argentina on 22 October 2010. This was the FATF's third mutual evaluation of Argentina (and the second performed jointly with GAFISUD). According to the 2010 report Argentina 'has not made adequate progress' in addressing a number of deficiencies identified at the time of the last report (finalised in June 2004).

In June 2011, Argentina made a high-level political commitment to work with the FATF to address its strategic AML and CFT deficiencies. In the last update issued by the FATF on its ongoing monitoring of Argentina, the FATF stated that while Argentina has taken steps towards improving its AML and CFT regime, certain strategic AML and CFT deficiencies remain.

**26** FIUs

Give details of your jurisdiction's Financial Intelligence Unit (FIU).

The UIF was created by the AML law in 2001, and it is a member of the Egmont Group. Its president is Jose Alberto Sbatella.

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**27** Mutual legal assistance

In which circumstances will your jurisdiction provide mutual legal assistance with respect to money laundering investigations? What are your jurisdiction's policies and procedures with respect to requests from foreign countries for identifying, freezing and seizing assets?

The exchange of information between the UIF, the Central Bank, the Superintendence of Insurance and the Securities Exchange Commission, and similar entities from other countries is regulated by UIF Resolution 30/2013. This Resolution mainly states that all requests for information shall be centralised by the UIF.

As for cooperation with other countries, the UIF has signed memoranda of understanding for the exchange of information with Albania, Australia, Belgium, Bolivia, Brazil, Canada, Chile, Colombia, Ecuador, El Salvador, France, Greece, Guatemala, Honduras, Israel, Japan, Macedonia, Mexico, the Netherlands Antilles, Panama, Paraguay, Peru, Poland, Portugal, Romania, Russia, Serbia, Singapore, Spain, South Africa, the United States and Venezuela.

Regarding requests for asset freezing and other measures, there are no specific regulations regarding these requests in money laundering cases. The enforcement of said request shall be subject to the existence of specific treaties regarding cooperation in criminal cases with the applicable country.

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