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PROTOCOL OF MEASURES FOR THE PREVENTION OF MONEY LAUNDERING AND FINANCING OF TERRORISM



Document Protocol of Measures for the Prevention of Money Laundering and Financing of Terrorism

Description Establishment of operating standards to comply with Law 10/2020

Start date June 2015

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Purpose To establish operating standards for the Foundation to act with diligence with respect to the prevention of money laundering and financing of terrorism

Classification Internal document



INTRODUCTION

Josep Carreras Leukaemia Foundation (hereinafter, the Foundation) is a non-profit entity included within the subjective scope of application of Law 10/2010, of 28 April, on the prevention of money laundering and the financing of terrorism (in Article 39), and Royal Decree 304/2014, of 5 May, which approves the Regulations of the Law (in Article 42) (hereinafter, the Law or Regulation).

In this regard, the Foundation is subject to a special regime: in other words, its obligations in terms of preventing money laundering and the financing of terrorism are limited.

I. OBJECT

The Foundation sought to develop this Protocol with a view to establishing procedures for those obligations that should enable it to comply with the aforementioned Law and Regulation in the best possible manner.

For these purposes, this Protocol seeks to establish the minimum duties of diligence to be observed by the staff and bodies of the Foundation and to ensure that the Foundation is not used for money laundering or the financing of terrorism.

II. SUBJECTIVE AND OBJECTIVE SCOPE

This Protocol shall apply to all members of the Foundation's Board of Trustees and to all staff involved in the procedures regulated herein.

The object of the Protocol is donations (funds or resources), in a general sense, that may be received or made by the Foundation as gifts.



III. DEFINITION OF CONCEPTS

The following are considered to be entities bound by the special regime:

Article 2.1.x of Law 10/2010 establishes that the following shall be obligated entities:

“Foundations and associations under the terms provided for in Article 39”.

Article 39, in turn, states the following:

The Protectorate and the Board of Trustees, in the exercise of the functions assigned to them by Law 50/2002, of 26 December, on Foundations, and the staff with responsibilities in the management of foundations shall ensure that these are not used for money laundering or to channel funds or resources to individuals or entities with links to terrorist groups or organisations.

For these purposes, all foundations shall retain records, for the period established in Article 25, with the identification of all individuals who provide or receive funds or resources from the foundation as gifts, under the terms of articles 3 and 4 of this Law. These records shall be made available to the Protectorate, the Commission for the Surveillance of Terrorist Financing Activities, the Commission for the Prevention of Money Laundering and Monetary Offences or its supporting bodies, and the administrative or judicial authorities with competence in matters related to the prevention or prosecution of money laundering or terrorism.

[...]

In view of the risks to which the sector is exposed, the other obligations provided for in this Law may be extended to foundations and associations by the subsequent regulations”.

Therefore, the regulations assign the tasks of monitoring compliance with money laundering regulations to the Protectorate and the Board of Trustees, as well as to the staff responsible for managing the Foundation.



The regulations also provide for the personal liability of members of the Foundation (administrative or management positions), in case of wilful misconduct or negligence (Art. 54 of the Law).

The following activities shall be regarded as **money laundering and financing of terrorism**:

The following conducts are considered to be money laundering:

“a) The conversion or transfer of property, knowing that such property is derived from criminal activity or from an act of participation in such activity, for the purpose of concealing or disguising the illicit origin of the property or of assisting any person who is involved in the commission of such activity to evade the legal consequences of his or her action.

b) The concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity or from an act of participation in such activity.

c) The acquisition, possession or use of property, knowing, at the time of receipt, that such property was derived from criminal activity or from an act of participation in such activity.

d) Participation in, association to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the actions mentioned in the foregoing paragraphs.

Money laundering shall be regarded as such even if the conduct described in the foregoing paragraphs is carried out by the person or persons who committed the criminal activity that generated the property.

For the purposes of this Law, property deriving from criminal activity means assets of any kind whose acquisition or possession originates from a crime, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments in any form,



including electronic and digital, evidencing title to or interests in such assets, and the amount defrauded in the case of tax fraud.

Money laundering shall be regarded as such even where the activities that generated the property were carried out in the territory of another member state”.

The following conducts are considered to be financing of terrorism:

The provision, deposit, distribution or collection of funds or property, by any means, directly or indirectly, with the intention of using them or with the knowledge that they will be used, in full or in part, to commit any of the terrorist offences punishable under the Criminal Code.

Terrorist financing shall be regarded as such even where the provision or collection of money or property were carried out in the territory of another state”.

Beneficial owner shall mean the following natural persons: i) natural persons on whose behalf it is intended to establish a business relationship or intervene in any transaction, or ii) natural persons who ultimately own or control, directly or indirectly, a percentage of more than 25 percent of the capital or voting rights of a legal person, or who, by other means, exercises control, directly or indirectly, over a legal person.

Where no person owns or controls more than 25 percent of the capital or voting rights of the legal person, control shall be deemed to be held by the administrator or administrators.

In the case of foundations, natural persons who own or control 25 percent or more of the voting rights of the Board of Trustees shall be considered beneficial owners, with due regard for the statutory agreements or provisions that may affect the determination of beneficial ownership.

When there are no natural persons who meet the criteria established in the foregoing paragraph, the members of the Board of Trustees shall be considered beneficial owners.



IV. OBLIGATIONS FOR THE FOUNDATION

a. General:

The Board of Trustees and the staff with responsibilities in the management of the Foundation shall ensure that it is not used for money laundering or to channel funds or resources to individuals or entities with links to terrorist groups or organisations.

Initially, the Foundation's risk shall be analysed; in other words, its activity and clients (generally beneficiaries and donors) shall be reviewed to guarantee compliance with the Law.

b. Receiving and providing funds or resources:

Receiving funds or resources:

The Foundation receives income from its normal activity (promotion, development, transfer, management and dissemination of research, scientific and technological knowledge, and teaching and training in the field of haematological biomedicine of excellence), public grants, legacies and patronage (through collaborations, sponsorships and donations).

The income received from patronage (collaborations, sponsorships and donations) always involve receiving the funds or resources as a gift (without prejudice to the benefits that the Foundation grants as consideration for the same). Such income may be (i) recurring (e.g. through contractual relationships that are renewed) or (ii) one-off (e.g. occasional donations).

Likewise, any natural person of legal age, or a minor represented by his or her legal guardian, as well as any legal person may be donors of funds or resources in favour of the Foundation ("donor" shall be referred to in any of the three contribution scenarios mentioned above).

Providing funds or resources:



The Foundation may promote joint projects, participation and cooperation with other foundations and public or private entities. Economic collaboration or any other type of collaboration with these or specific social events shall be allowed when:

- The objectives are related to the activity of the Foundation or are public projects;
- The use of resources is duly documented;
- There is express communication to the Committee on Good Practices.

In both scenarios:

All acts of receiving or providing funds or resources exceeding 1,000 euros shall be formalised by means of a contract or written agreement, without prejudice to the obligations established with respect to identification that are contemplated in the following sections.

In the event that funds or resources with a value of under 100 euros are received, a record of their origin shall be kept, as far as possible (e.g. from a donor who is a natural person), with no obligation to identify the donor. In the event that the Foundation provides funds or resources with a value of under 100 euros, as well as in other cases of receiving or providing funds, the appropriate measures shall be taken to formally identify the recipient, as detailed in the following section.

Likewise, all income received or paid by the Foundation shall always be made by bank transfer and never in cash, with the exception of donations received with a value of less than 100 euros.

In all the above cases, the Finance Department shall verify that all the necessary requirements have been met and shall then issue the corresponding certificate for the donations received to the beneficiaries and for the appropriate purposes.



The amounts indicated shall be understood per calendar year and in either a single or several transactions.

c. **Identification measures:**

In the above cases (that is, receiving funds or resources with a value equal to or greater than 100 euros and providing any funds or resources), the Foundation is obliged to comply with the following duties prior to the establishment of the relationship in question:

- **Formal** identification of all individuals who receive funds or resources from the Foundation as a gift.

When the nature of the project or activity makes individual identification unfeasible or when the activity carried out involves a low risk of money laundering or financing of terrorism, the group of beneficiaries and collaborators in the project or activity shall be identified;

- **Formal** identification of all individuals who contribute funds or resources to the Foundation as a gift, for an amount equal to or greater than 100 euros (annual or one-off), whether natural or legal persons, national or foreign.

Anonymous contributions equal to or greater than 100 euros (and therefore subject to identification procedures) shall be rejected or communicated to the Executive Service of the Commission for the Prevention of Money Laundering (hereinafter, SECPBC). This body is Spain's financial intelligence unit.

When there is an intermediary entity, both the intermediary entity and the final recipient shall be identified.

This **formal** identification shall be made by requesting any of the following documents, which must be in force on the date it is submitted (in the case of legal persons, the validity of the data provided shall be proven by a sworn statement by the respondent):



**NATURAL
PERSON**

Spanish:
National Identity Document (DNI).

Foreign:
Residency card; or passport; or alternatively, any other identification document that is valid in the person's country of origin and includes a photograph of the holder. Power of attorney, together with any of the above documents, when the person is acting on behalf of another. Any other of those mentioned in Article 6.1.a of the Regulation.

LEGAL PERSON

Spanish:
Deed of incorporation containing the company name, registered address, legal form, corporate purpose and identity of its administrators, articles of association and tax identification number (NIF);
In the case of Spanish legal persons, a physical certificate issued by the Provincial Registry of Companies provided by the respondent or obtained through telematic consultation shall be sufficient;
In the event of legal or voluntary representation:
Deeds of empowerment or document accrediting the representation, as well as the identification document of the natural person representing the legal entity.

Foreign:
The existence of the company shall be verified by means of documents similar to those mentioned in the foregoing paragraph.



Likewise, the Foundation shall identify, in addition to formal identification, the **beneficial owner** of the other party. This shall be done through a sworn statement by the person or representative of the legal person to that effect, prior to the establishment of the relationship (see annexes II and III).

In transactions where signs of irregular activity are observed, the Foundation may check whether the donor or recipient appears on sanctions lists.

When this information (identification of formal or beneficial ownership) is not provided by the respondent, under the terms that are considered sufficient, no type of business relationship or collaboration with the legal person shall be established.

When the relationship to be entered into is remote, the Foundation shall have a period of one month from the establishment of the relationship to ensure that the client or counterparty provides the documents needed for due diligence.

To facilitate all of the above, a donor or beneficiary identification form shall be used for these purposes (annexes II and III).

d. Duty to retain documents:

The Foundation shall retain the following documents for a period of 10 years, starting from the end of the business relationship or the execution of the transaction:

- (i) Records and documents supporting the identification and beneficial ownership of all individuals who contribute or receive funds or resources to or from the Foundation as a gift;



In general, documentation that proves the due diligence of the Foundation related to a specific file (e.g. signed collaboration contracts or agreements, invoices, transfers, donation certificates, signed annexes, identification of natural or legal persons, verification of beneficial ownership, origin of funds, etc.);

In the event that intermediaries were involved in any relationships established, documentation concerning said intermediaries shall also be safeguarded;

- (ii) Documents or records that prove that funds were assigned to the different projects;
- (iii) Whenever possible, the original document shall be retained.

These records shall be made available to the Protectorate, the Commission for the Surveillance of Terrorist Financing Activities, the Commission for the Prevention of Money Laundering and Monetary Offences or its supporting bodies, and the administrative or judicial authorities with competence in matters related to the prevention or prosecution of money laundering or terrorism. The above shall be without prejudice to the provisions of Article 25.1 of the Law regarding relationships terminated five years previously (in these cases the information shall be available only to the Foundation's internal control bodies and, where appropriate, to those responsible for its legal defence).

Once the 10-year period has elapsed, the documents shall be deleted in a confidential manner.

The Foundation shall be responsible for the safekeeping of the documents in a manner that ensures the data can be properly read, cannot be manipulated and is properly retained and located. In any case, the filing system must ensure that the documentation is



properly managed and made available, both for internal control purposes and to ensure that the requirements of the authorities are fulfilled in good time and in an appropriate manner.

e. **Duty to cooperate:**

The Foundation shall have the following duties to cooperate:

- It shall inform SECPBC in writing of any facts that may constitute evidence of money laundering or financing of terrorism. In such cases, it shall provide the following data: (i) identification of the natural or legal persons linked to the facts detected; and (ii) a description of the signs observed in relation to the possible money laundering or financing of terrorism. This notification shall be made through a document provided by SECPBC on its website (Annex IV) and an acknowledgement of receipt thereof shall be requested.

Any notifications made shall be documented and retained by the Foundation, together with the documentation that was analysed to obtain the information required to make the notification.

- It shall cooperate with the Commission for the Prevention of Money Laundering and Monetary Offences (hereinafter, the Commission) and its support bodies at its request, as well as with other authorities that may request information in the exercise of their powers.

Any information requests received by the Foundation shall be dealt with by the General Director (the Foundation's representative vis-à-vis SEPBLAC) in coordination with the Finance Director and the Committee on Good Practices and shall be addressed with utmost diligence.



Similarly, requests responded to shall be documented and stored by the Foundation.

In terms of confidentiality, the Foundation shall not disclose to donors or recipients that information has been communicated to the Commission in these cases.

These notifications shall also be submitted to the Protectorate.

V. ADDITIONAL MEASURES:

The Foundation shall also apply the following additional control measures:

(a) It shall implement procedures to ensure the suitability of members of the Board of Trustees and other positions of responsibility within the Foundation, such as the General Director. For example, it shall perform the following checks:

- Their commitment to the purposes and values of the Foundation and the CERCA Code of Conduct to which it adheres;
- A professional background that provides evidence of their capacity and experience to perform the proposed position (in cases where the Foundation is already well aware of these qualifications due to the information being common knowledge, it shall be sufficient to reflect the position of the individual in question);
- That they are not disqualified from exercising public positions or administering property;
- That they have not been convicted of crimes against property or the socioeconomic order or for misrepresentation crimes.

A declaration, attached as Annex V, must be completed by all members of the Foundation's Board of Trustees at the time of their appointment.



(b) It shall apply procedures to ensure knowledge of counterparties, including a suitable professional background and the honourable reputation of managers;

(c) It shall implement appropriate systems, depending on the risks, to control the effective performance of their activities and the proper allocation of funds as planned (application of enhanced diligence measures when deemed necessary, see Annex V);

(d) It shall cooperate with the Commission and its supporting bodies in accordance with Article 21 of the Law.

The following are considered high-risk relationships or situations:

1. Geographic risk: depending on the location of the natural or legal person, high-risk geographic locations are those that appear on lists as tax havens or non-cooperative territories, or those with a strong presence of terrorism.

2. Business risk:

a. Natural or legal persons who have been convicted of financial and/or fiscal crimes.

b. Casinos and gambling, betting and gaming entities.

c. Legal persons where there are suspicions of a lack of concurrence between formal ownership and beneficial ownership and/or actual composition of the governing and/or administrative body.

d. Collaborators related to the production of weapons and similar products.

e. Companies involved in the importation of vehicles.

f. Agencies involved in foreign currency exchange and money transfers.

g. Declarations or documentation delivered to the Foundation with signs of dishonesty, fraud or deceit.



(e) In any case, the following shall be considered collaborators or counterparties excluded from any relationship with the Foundation:

- Financial institutions whose territorial location is unknown.
- Entities or natural persons convicted of crimes of money laundering or financing of terrorism.
- Natural or legal persons that have not been identified in the manner established by this Protocol or whose beneficial owner, activity, registered address and/or source of the funds could not be determined after having been requested for this purpose.
- Natural or legal persons included in official sanctions lists in this matter.
- Entities that engage in gambling, betting, casinos, etc., without administrative authorisation.

The Committee on Good Practices shall draw up a list of third parties that have been considered excluded so that they can be effectively monitored.

The recommendations set out in the following public consultation guides shall also be taken into account:

- *“Best practices in the fight against money laundering and financing of terrorism in the non-profit sector”* from the Ministry of Economy and Competitiveness;
- The 40 recommendations of the FATF (Financial Action Task Force), available at the following link: <https://www.cfatf-gafic.org/index.php/es/documentos/gafi40-recomendaciones>, especially recommendation number 8 relating to non-profit organisations;
- A consolidated list of European Union financial sanctions is available at this link: <https://www.sanctionsmap.eu/#/main>



VI. BODY RESPONSIBLE:

The Committee on Good Practices shall be the body responsible for monitoring the prevention of money laundering in coordination with the General Director.

These shall define appropriate due diligence policies and controls in accordance with the requirements set out in those rules.

Likewise, those responsible within Management and the Finance Department shall ensure that the measures established in this Protocol are applied.

VII. EXEMPTION FROM LIABILITY

The communication of information in good faith to the competent authorities in accordance with the continuously referenced regulations by obligated entities or, exceptionally, by their managers or employees shall not constitute a violation of the restrictions on disclosure of information imposed by contract or by any legal, regulatory or administrative provision, and shall not imply any type of liability for obligated entities or their managers or employees (Art. 23 of the Law).

VIII. PROTECTION OF PERSONAL DATA

The Foundation shall also carry out its activities in accordance with the regulations in force at any time on the protection of personal data in this matter (Art. 32 of the Law).



IX. COMMUNICATION OF THIS PROTOCOL.

All subjects to whom this Protocol is addressed must be aware of the provisions contained herein.

Likewise, a copy of the same shall be delivered, by electronic means or on paper, to all recipients, who shall also be provided with training on the content thereof and their duty of confidentiality in the handling of this Protocol.

The Foundation shall keep sufficient evidence regarding the effective delivery of the Protocol to all subjects indicated, as well as the training provided and their commitment to adhere to it.

X. HISTORY, APPROVAL AND ENTRY INTO FORCE

History:

The following table reflects the different versions of the Protocol that have been drafted, as well as their date and any subsequent modifications to which each version of the document has been subject:

VERSION	DATE	AUTHORS	CHANGES
1.0	June 2015	CERCA	Initial version
2.0	June 2023	External consultant	Updating of the protocol and adaptation to Law 2/2023 of 20 February on the protection of persons who report regulatory infringements



Approval and entry into force:

This Protocol shall be approved by the Board of Trustees and the document shall enter into force on the date of its approval. From the moment of its approval, it shall apply to all relationships that may involve receiving or providing funds or resources from/to the Foundation.

XI. MONITORING, CONTINUOUS ADAPTATION AND AMENDMENTS OF THE PROTOCOL

Monitoring and continuous adaptation:

Periodic reviews of the content of the Protocol shall be established with a view to ensuring that it is continuously adapted to the Foundation's situation, changes in legislation or case law, etc.

Likewise, the Foundation shall provide continuous information to the Board of Trustees and its members with responsibility for the prevention of money laundering in the following aspects:

1. List of excluded clients or counterparties.
2. Legislative developments.
3. Recommendations in this field made by both state bodies and SEPBLAC, as well as by international bodies such as FATF.

Amendments:

The Foundation may amend the Protocol on its own initiative and/or in accordance with proposals made by any recipient thereof.



XII. COMMITMENT AND ACCEPTANCE BY RECIPIENTS OF THE PROTOCOL

All recipients of this Protocol must be aware of it, actively adhere to it and assess any breaches of which they are aware, as well as any deficiencies they may observe in its content or development.

In the event of noncompliance, or signs or evidence of the materialisation of an event that could constitute an offence in the field of money laundering or financing of terrorism, this circumstance must be reported through the Foundation's Internal Information System (hereinafter, the SII) through the means of communication established for this purpose or through a personal interview with the manager of the SII.

All members of the Foundation shall be obliged to report, through the SII, any suspicions they may have of the materialisation of an event that could constitute an offence in the field of money laundering or financing of terrorism. In the event that the evidence detected is confirmed as plausible, the situation shall be communicated to the General Director, the Board of Trustees and SEPBLAC in coordination with the provisions of the SII management policy and the procedure for managing information received.

Approved by the Foundation's Board of Trustees in a session held on 26 June 2023.



ANNEX I

Internal receipt of the Protocol

By signing this document, I certify that I have received, read and understood the Protocol of measures for the prevention of money laundering and financing of terrorism. I also undertake to respect and comply with it.

Likewise, I understand that in the event that I breach its content, this circumstance could lead to a disciplinary sanction by the Foundation.

I also assume my duty of confidentiality in the case of processing information or data under this Protocol; in other words, I shall not disclose the actions carried out to third parties.

I hereby also agree to stay informed of changes to the Protocol and read any future revisions that may be made to it.

DATE:

NAME / NATIONAL IDENTIFY DOCUMENT No.:

SIGNATURE:

