
11.3. Vulnerability of the professional sector: notaries

11.3.1. General description of the sector

Pursuant to § 2 (1) and (3) of the Notaries Act (NA), a notary is a holder of a public office, an independent official to whom the state has delegated the task of ensuring the security of legal relations and preventing legal disputes. A notary holds his or her office as a liberal professional in his or her own name and under his or her responsibility. He or she is not an undertaking or a civil servant, and pursuant to § 12 (1) of the NA, a notary may not hold any remunerated position other than the notarial profession or engage in any other remunerated work, except teaching, research, and creative work.

A citizen of a Member State of the European Union who has passed the service of a candidate and passed a notarial examination or assessment of a notary candidate who speaks and writes Estonian and has honest and high moral qualities and meets the educational requirements for judges pursuant to § 47 (1) 1) of the Courts Act may become a notary. The position of the notary is filled on the basis of competition, the conditions, and procedure of which are determined by the minister responsible for the field, after hearing the opinion of the Chamber of Notaries. A notary is appointed for life appointed to a specified territorial jurisdiction and a professional certificate is issued to the notary.

Table 75. Description of the notaries sector

Market participants	Number of market participants as of 31.12.2019	Number of obliged entities	Existence of a professional association or umbrella organization
Notaries	89	conditional	Chamber of Notaries

Pursuant to § 43 (1) of the NA, all notaries are members of the Chamber of Notaries. Membership is specified in the statutes of the Chamber of Notaries, according to which all appointed notaries belong to the Chamber of Notaries. A notary becomes a member of the Chamber of Notaries on the day of his or her appointment, and his or her membership ends on the day of his or her removal from office. In 2017 and 2018, there were 91 notaries in office. As of 31.12.2019, there were 89 notaries in office in Estonia. Two or more notaries appointed to the same working area may, with the consent of the Board of the Chamber of Notaries, maintain a joint office. As of 31.12.2019, there were 67 notary offices. The largest office had six notaries. Notaries have been actively participated in the NRA survey.

Table 76. Data from a survey conducted in the notaries sector.

Sector	Number of market participants	Sample scope	Sample size/ number of responses required	Number of invitations sent out	Number of responses received	Response rate
Notaries	89	sample	73	89	47	64% ¹

In 2017, notaries performed 318,793 professional activities and professional services; in 2018, 328,575; in 2019, 332,768; and in 2020, 301,307 professional activities and professional services.

The obligation of notaries to apply due diligence measures to prevent money laundering and terrorist financing is provided in §§ 19 and 20 of the Money Laundering and Terrorist Financing Prevention Act. The purpose of

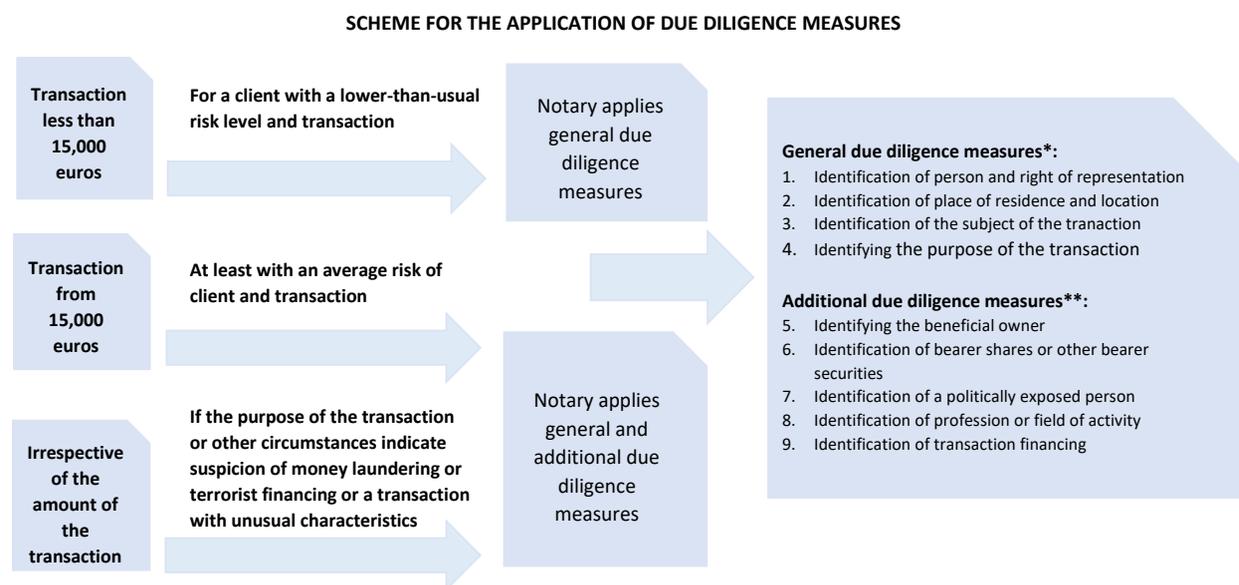
¹ The share of respondent notary offices is even higher

due diligence measures is to apply the know-your-customer principle in order to understand who the customer is and what the purpose of making the transaction is, and the origin of the money used in the transaction. The Chamber of Notaries has prepared "Rules of Procedure and Rules of Internal Control provided by the Money Laundering and Terrorist Financing Prevention Act and the International Sanctions Act" for notaries to assess and manage customer and transaction risks. The obligation to establish rules of procedure and internal control rules is stated in § 14 of the Money Laundering and Terrorist Financing Prevention Act. The rules of procedure, including due diligence measures, are applied by the notary from the moment the transaction is prepared.

The transactions to which the rules of procedure apply are pursuant to § 2 (2) of the Money Laundering and Terrorist Financing Prevention Act:

1. certification of a contract for the sale of shares in a real estate, enterprise, or company;
2. proof of the formation of a company or other such entity;
3. representation of the founders upon establishment of a company on behalf of the company to be established for opening an account pursuant to § 520 (4) of the Commercial Code;
4. managing the money, securities, or other assets of a participant in a professional activity or a user of a professional service;
5. any other transaction in connection with which money laundering or terrorist financing is suspected. Doubt may arise in particular, but not exclusively, if the notary has a feeling that the person has been pressured to enter into the transaction, the beneficial owner is someone else, or the funds of the transaction are not of legal origin.

Figure 23. Scheme for the application of notarial due diligence measures



*Pursuant to the Notarization Act, a notary must establish the legal capacity of the person participating in the transaction, the right of representation of the representing person, the identity and active legal capacity and capacity to exercise will, and also, the will to enter into the transaction. This obligation partially overlaps with the requirements of § 20 (1) 1-2 of the Money Laundering and Terrorist Financing Prevention Act. In addition, a notary shall make warnings request from an e-notary on the basis of § 21 (1) of the International Sanctions Act.

** Requirements provided for in § 20 (1) 3-5) of the Money Laundering and Terrorist Financing Prevention Act.

11.3.2. Description of risk typologies

In order to identify and manage risks, notary assigns risk level to the client and the transaction. The more detailed content of the risk levels is defined in the rules of procedure prepared by the Chamber of Notaries. Based on the collected information, the risk level of the client and the transaction determined by the notary may be:

- lower than usual;
- average;
- higher than usual.

A customer with a higher than usual risk level is:

- a natural person who originates in or resides in a high-risk country or a high-risk third country;
- a legal person domiciled in a risk country or in a high-risk third country or the partner or beneficial owner or member of the management body of the legal person is domiciled in a risk country or in a high-risk third country;
- a politically exposed foreign national, his or her family member or close associate;
- a person with a previous suspicion of money laundering or terrorist financing;
- a person with a known criminal connection.

A transaction with a higher-than-usual risk level is:

- if it is financed other than by a credit or financial institution of a low-risk country in an amount exceeding EUR 32 000, or
- the money used to finance it originates from a foreign country or is transferred through a foreign credit or financial institution, or
- there is a suspicion of money laundering or terrorist financing.

Possible risk scenarios that may be encountered in notarial transactions:

1. If a person from a foreign country participates in the transaction, the notary must also collect data from the registers of other countries. Access to these registers is often unreasonably difficult or impossible to obtain. This makes it difficult to obtain the information needed for the risk assessment or to verify the information provided from an independent source. The availability of information concerns both the beneficial owners and the PEPs. If it is difficult to verify the submitted data from an independent source, it is also difficult to determine the appropriate level of risk for the client and the transaction. The consequence may be an overestimation or underestimation of the risks and the submission of unnecessary notifications, or the non-submission of relevant information to the FIU.
2. As the instructions contained in the legislation necessary for the performance of due diligence measures are not detailed, a notary cannot be convinced with sufficient conviction that he or she has performed the obligations imposed on him or her to the correct extent. High notarial fines for non-compliance with due diligence measures can also increase prudence. This may result in the unnecessarily strict application of due diligence measures, even in situations that do not require it.
3. Upon transfer of the shares of a private limited company, the actual value of the transaction may be obscured. Companies with an opaque ownership structure might be set up to invest and move assets and hide the beneficial owners. Although it is not the notary's responsibility to prove the real value of the company, the transfer may reveal manipulation of the company's value or other aspects important for the prevention of money laundering on the basis of documents and verified the information submitted to the notary. With the amendment to § 149 (6) of the Commercial Code, which entered into force on 1 August 2020, the articles of association of a private limited company may waive the formal requirement for notarial certification and prescribe that a share disposal transaction be performed at least in a form that can be reproduced in writing. As a result of this change, situations may arise where persons related to the company manipulate the value of the company, do not verify the accuracy of the data of the beneficial owners, or fail to verify the origin of the assets used in the transaction. If all dispositions were still in the form of notarial deeds, the existence of those circumstances would be precluded by the exercise of due diligence measures.
4. The use of cash is mentioned as a threat in the real estate sector, but it is also a threat, for example, in the transfer of companies. There have been situations where cash is paid into a bank account and immediately forwarded to a notary's deposit account to notarize a transaction. As the money is transferred in a short period of time, the bank may not have been able to verify the origin of the money, and its origin is unknown when it reaches the notary's deposit account. In such cases, the notary does not notarize the transaction because the person has waived the transaction when asked for information

about the origin of the money. In this case, the notary has an obligation to notify the FIU pursuant to § 42 (1) of the Money Laundering and Terrorist Financing Prevention Act.

5. The notary is obliged to notify the FIU of a transaction executed in cash in excess of EUR 32,000 or in an equivalent amount in another currency. There have been cases where a notary has submitted a cash notice but has not identified the origin of the money before that. Such cases lead to the need for the FIU to collect additional information, which in turn prolongs the detection of a possible money laundering case.

11.3.3. Threats

11.3.3.1. Threats of money laundering

Proceeds obtained as a result of predicate offenses of money laundering (for example, offenses related to the activities of companies) may be used in notarial transactions in all transactions specified in § 2 (2) of the Money Laundering and Terrorist Financing Prevention Act. In practice, notaries have felt that various schemes for channelling illicit proceeds into the ordinary course of trade are used primarily in real estate transactions and transactions involving companies. These can be complex mortgage schemes, asset valuation and value manipulation, opaque ownership structures, or incomprehensible sources and ways of financing.

Conclusion

Table 77. Threat level of money laundering in the notary's sector

Sector	Threat level of money laundering at the sector level	
Notaries	1.45	Low

As long as there is a desire to channel illicit proceeds into the economy and consumption, there is also a threat of being included and exploited in the schemes set up for this purpose. Although notaries have perceived threats in their practice in the case of average and high-risk transactions and persons, the notarization of such transactions is not encountered on a daily basis. This is mainly because the list of transactions requiring the application of due diligence measures in the Money Laundering and Terrorist Financing Prevention Act does not cover all notarial acts but only a part of them. Also, these operations are not always of average or high threat. It is also important to remember that Money Laundering and Terrorist Financing Prevention Act provides additional due diligence measures for a notary, which are applied in addition to the general due diligence measures (i.e., identification of the person and right of representation, understanding of the purpose of the transaction). The rules of procedure of the Chamber of Notaries have also been established with this principle in mind.

Due to the above, the level of threat in the sector can be considered **low** from the point of view of money laundering.

11.3.3.2. Threats of terrorist financing

Terrorist financing and the associated threats are unlikely to occur in the practice of notaries. However, more attention is paid to transactions related to persons from a high-risk country, regardless of the amount of the transaction. When notarizing the activities of companies, the notary must understand the ownership and control structure of the company in order to understand whether the establishment and activities of companies may involve terrorist financing threats.

Conclusion

Table 78. Threat level of terrorist financing in the notary's sector

Sector	Risk level of terrorism at the sector level	
Notaries	1.40	Low

Based on the available information, the threat of terrorist financing in notarial transactions is rather **low**. However, it cannot be said that this does not occur at all. In order to identify threats, competent authorities should continue to gather the information necessary for analysis and, in the event of threats, inform notaries so that they can take the necessary mitigation measures.

11.3.4. Vulnerabilities

11.3.4.1. Vulnerabilities of prevention of money laundering

The vulnerability of notaries can be caused in particular by the complexity of applying due diligence measures in practice. This applies to both persons from foreign countries and Estonian residents.

All EU Member States must have appropriate registers to identify the beneficial owners. Once the register has been set up, it is often not quick or unhindered for a notary to request data from a foreign register. Generally, obtaining data from a foreign register requires the payment of a fee, registration as a user, or justification of a legitimate interest. The data of the beneficial owners of legal persons registered in Estonia are kept in the commercial register, which the notary receives via the e-notary environment (hereinafter e-notary). However, the reliability of the data cannot be assured because there is no verification of the accuracy of the data upon registration, and the data in the commercial register is of an informative nature.

In order to identify PEPs and their relatives, the notary collects information from the person himself/herself (e.g., asks to fill in a questionnaire). If necessary, the international database Accuity, which contains data of PEPs around the world, is used to identify PEPs. Where appropriate, there are also other ways to collect information of PEP status (e.g., free PEP databases, investigative journal portals). In Estonia, it is not possible to check a person's PEP status at the national level (for example, from a state database). Therefore, notaries have stated that they are not sure whether the information received from the person is sufficient to identify PEP and whether such information is reliable. In order to identify Estonian PEPs, the Chamber of Notaries has created an e-notary tool for notaries. This is a personalized list of PEPs. As there is currently insufficient and unreliable information about the relatives of PEPs, it is not possible for the Chamber of Notaries to create a similar list to identify these persons.

Money Laundering and Terrorist Financing Prevention Act's due diligence measures require the identification of the origin of the money used in the transaction from 15,000 euros or, in case of doubt, regardless of the amount. The role of notaries in determining the origin of money is particularly important in cases where cash is either used or amounts transferred to a person's bank account in cash immediately before being transferred to the notary's deposit account. As notaries have to identify the origin of money regardless of the method of receipt in the deposit account and whether the bank has already established the origin of the money, there is an additional burden for both the persons participating in the transaction and the notary.

Until now, cooperation between obliged entities has been minimal because the Money Laundering and Terrorist Financing Prevention Act has been too general in cooperating, and it is not clear to obliged entities what information can be exchanged and in which cases.

11.3.4.1.1. Exposure to the threat

Estonian notaries have felt the threats in their official duties, especially when it comes to:

- large-scale transactions between enterprises where the enterprises are related to foreign persons, such as a non-resident beneficial owner;
- offsetting large sums to meet past claims, such as an earlier loan;
- unusual and suspicious cash transactions;
- large unsecured loans;
- large receipts from bank accounts in high-risk countries;
- with the use of front persons (this has been observed in favour of both close relatives and foreign nationals);
- making transactions with persons who are exploited due to their helplessness (illness, age, mental health);
- the complex ownership structures of foreign legal entities, which makes it difficult to identify the beneficial owner;
- on suspicion that a broker, lawyer, or accountant is being used to disguise the beneficial owners or the source of the illicit proceeds;
- with a possible front company if economically illogical transactions are made, or NPOs are used;
- establishment of companies for unclear purposes and there is a suspicion of concealing real goals;
- with third parties with whom the party to the transaction has no business or other relationship;
- by submitting a large number of different documents in order to try to conceal the actual activities of the company or to add legitimacy to it.

The number of notarial acts and services has exceeded 300,000 over the last four years, of which more than 70,000 transactions have been real estate related (74,219 in 2017, 72,008 in 2018, 73,398 in 2019, and 72,005 in 2020) and more than 2000 transactions involving legal persons (2,551 in 2017, 2,635 in 2018, 2,297 in 2019 and 2,065 in 2020).

Table 79. Certification of notarial acts, including transactions with immovables, in the period 2017-2020

PROFESSIONAL ACTIVITY	2017		2018		2019		2020	
	amount	percentage	amount	percentage	amount	percentage	amount	percentage
Authentication of transaction with real estate	74 219	24%	72 008	22%	73 398	22%	72 005	24%
TOTAL ACTIVITIES	315 704	100%	322 972	100%	328 447	100%	298 433	100%

From the point of view of money laundering, transactions with real estate, where the money of dubious origin, including cash, may move, account a quarter of notarised transactions.

There were more notaries' reports of more suspicious transactions in 2019 than in previous years. 66% of the notifications concerned real estate transactions in the total amount of approx. 60.62 million euros. The majority of the remaining notifications were company start-ups and unit transactions in the amount of 57.2 million euros. The increase in the number of notifications in 2019 was mainly due to the increase in the awareness of notaries due to suspicious circumstances. In 2019, notaries submitted 268 notifications to the FIU due to suspicious circumstances; in 2018, 36 notifications and in 2017, 61 notifications. The number of notaries' notifications is not large compared to the total number of operations and services, but in the opinion of the FIU, it is still an important input for further analysis in the prevention of money laundering. For example, in 2019, 57 notifications were sent for more in-depth analysis. In addition, notaries submitted mandatory cash notifications to the FIU, in 2019 123, in 2018 132, and in 2017 107. For more information on the use of cash in real estate transactions, see the analysis of real estate transactions.

11.3.4.1.2. Risk awareness

Management commitment and leadership

On the basis of § 44 (3) 10) of the Notaries Act, the Chamber of Notaries has prepared rules of procedure that set out the risks and selected appropriate due diligence measures. Based on the rules of procedure, notaries may establish internal procedures based on the activities and needs of a particular office. In addition, an information sheet for notary clients has been prepared, which explains the notary's responsibilities in preventing money laundering and terrorist financing. Information sheets on paper have been distributed to all notary offices.

Other guidelines and instructions that affect the assessment of risks and the performance of the due diligence measures are communicated to notaries by e-mail and added to the intranet of the Chamber of Notaries.

The Chamber of Notaries ensures the infrastructure necessary for the performance of due diligence measures in accordance with its competence, manages and develops the information systems necessary for the work of a notary, and provides access to such technical solutions to all members. Technical solutions include, for example, e-notary and foreign databases if the Chamber of Notaries has entered into corresponding agreements with the latter. To ensure compliance with due diligence measures, the commercial register is interfaced with the e-notary, including information on the beneficial owners, the population register, and the database of identity documents of the PBGB. It is also possible to request data from the land register and the land office database via e-notary in order to perform due diligence measures.

Over the next few years, the Chamber of Notaries plans to introduce a technical solution that would help the notary assess the threats related to the client and the transaction and select appropriate due diligence measures based on the degree of risk. Consideration will also be given to establishing an interface with a suitable private service provider to verify customer data and customer background and to exchange information with other obliged entities.

The Chamber of Notaries organizes training for notaries and employees of notary offices, including training aimed at the prevention of money laundering, and, if possible, the FIU also participates as a trainer. The intranet of the Chamber of Notaries provides access to all necessary information materials and other important information. According to the results of the NRA survey, notaries provide their employees with self-improvement and training, and employees are aware of the requirements for the application of due diligence measures.

The obligation to report suspicious transactions is provided for in the rules of procedure of the Chamber of Notaries, and the obligation of a notary to introduce it to employees is provided for in the internal control rules. According to the results of the NRA survey, employees have been provided with training and self-improvement to understand their responsibilities. Based on the results of the survey, the majority of responding notaries have stated that they do not see that the notification obligation could have negative consequences for the employee and currently do not see a direct need to establish more detailed notifier protection rules in the notary office than those set up in the Money Laundering and Terrorist Financing Prevention Act.

The legislation does not obligate to conduct a background check of an employee of a notary office. According to the results of the survey, more than half of the responding notaries have stated that they still perform the background check either partially or completely.

The vulnerability of management commitment and leadership in the Sector **is low**.

11.3.4.1.3. Legal framework and control

Quality of supervision

Supervision over the prevention of both money laundering and terrorist financing is provided for in § 64 (4) of the Money Laundering and Terrorist Financing Prevention Act. Supervision over compliance with the requirements of the Money Laundering and Terrorist Financing Prevention Act and legislation established on the basis thereof by notaries is performed by the Ministry of Justice, which has delegated supervision to the

Chamber of Notaries on the basis of § 44 (1)¹) and § 2 (3) of the Notaries Act.

Until 31.12.2020, the Chamber of Notaries exercised supervision as an internal control on the basis of its statutes. The internal control rules established to prevent money laundering and terrorist financing provide the right to carry out regular and extraordinary inspections and remote monitoring. The Chamber of Notaries has not identified any breaches of due diligence measures to prevent money laundering in the course of supervision. The Chamber of Notaries has also not received any information or complaints that would have been a sufficient basis for conducting an extraordinary inspection. At the request of the FIU, extraordinary supervision of the activities of a notary has been performed once in 2010. As a result of the supervision, it was found that in performing official acts, the notary has not violated the rules of notarial acts or due diligence measures necessary for the prevention of money laundering. The remote monitoring was planned for autumn 2019 but was postponed due to the preparation of the national risk assessment and the coordination of the questionnaires and was carried out in January 2020.

As of 01.01.2021, the regulation of supervision changed, and internal control was replaced by administrative supervision performed by the Chamber of Notaries. The Ministry of Justice has also retained the right to exercise administrative supervision.

Administrative supervision verifies compliance with due diligence measures to prevent money laundering and terrorist financing, as well as compliance with other requirements related to the professional activities of notaries (e.g., storage of documents, electronic processing of personal data, access to registers and their intended use). Supervision is performed as regular, extraordinary, and remote supervision. A monitoring procedure has been prepared for supervision. The planning of inspections is based on a risk-based approach, and the Chamber of Notaries prepares an annual inspection plan for supervision.

If, as a result of supervision, the Chamber of Notaries identifies deficiencies in the work of a notary, the notary's attention shall be drawn to it. Circumstances established in the course of supervision which give reason to believe that a notary has committed a disciplinary offense (for example, wrongful non-performance of official duties) are the basis for initiating disciplinary proceedings pursuant to § 5 of the Notaries Disciplinary Liability Act. If in the process of supervision, the Chamber of Notaries identifies a situation whose characteristics refer to a suspicion of money laundering or terrorist financing, the FIU shall be notified immediately on the basis of § 67 (1) of the Money Laundering and Terrorist Financing Prevention Act. Liability for non-compliance with due diligence measures is provided in Money Laundering and Terrorist Financing Prevention Act.

In 2019, a position was created in the Chamber of Notaries to deal with issues related to the prevention of money laundering and terrorist financing. Although the workload of both notaries and the Chamber of Notaries has increased significantly in recent years due to the tasks related to the prevention of money laundering, there have been no major resource problems until the COVID-19 virus outbreak and the resulting economic downturn. Further resource needs will depend in particular on the potential economic downturn, its magnitude, and its duration. As the sector includes 90 notaries, there will probably be no major problems with supervision and monitoring.

Cooperation with other obliged entities, such as the Estonian Banking Association and banks, takes place primarily to solve problems that have arisen in practice. It has also been discussed how notaries and banks could exchange information for due diligence purposes. The Chamber of Notaries has also shared information with the FIU in order to understand the problems that notaries face when submitting notifications to the FIU.

Internationally, information (e.g., practical examples, experiences) is exchanged with foreign notaries through training, seminars, and meetings.

The vulnerability of the quality of the supervisory measures described above in the sector **is low**. However, it remains important to focus on developing good supervisory practices.

Effectiveness of compliance control systems and reporting

The internal control rules prepared by the Chamber of Notaries stipulate that compliance with the rules of procedure in a notary office is controlled by a notary. The Chamber of Notaries supervises the compliance of Money Laundering and Terrorist Financing Prevention Act and the legislation established on the basis thereof by a notary. In the course of supervision, it is checked, among other things, whether the notary and the office staff entitled to do so have the necessary resources and access to the work and whether they are used for the intended purpose.

The results of the NRA survey show that notaries are aware of the requirements for preventing money laundering and terrorist financing and the duty to exercise due diligence. Notaries are also familiar with procedural rules and internal control rules and introduce them to those involved in the field. In practice, notaries constantly monitor the compliance of employees with the due diligence measures set out in the Money Laundering and Terrorist Financing Prevention Act on a transaction-by-transaction basis.

The Chamber of Notaries provides the necessary infrastructure in accordance with its competence. For example, it manages and develops the information systems necessary for the work of a notary and provides all members with access to such technical solutions. For example, e-notary and foreign databases, if the Chamber of Notaries has entered into the respective agreements. In addition, the sanctions request database interfaced with the e-notary.

The Chamber of Notaries organizes relevant training on typologies and scenarios for notaries and employees of notary offices and provides access to all necessary information materials and relevant information on the intranet. More than half of the notaries who responded to the survey stated that they had participated in a training organized by the FIU or Estonian Internal Security Service. It can be assumed that the respondents have taken into account the training organized by the Chamber of Notaries, which deals with the prevention of ML and TF, and where a representative of FIU or another expert in the field has acted as a lecturer.

The Chamber of Notaries has had difficulties in finding competent lecturers by organizing anti-money laundering training. In particular, there is a need for lecturers who have legal education and master well the specifics and implementation of anti-money laundering, who would also be familiar with the field related to the activities of notaries.

The requirements for the identification of PEPs are specified in the rules of procedure prepared by the Chamber of Notaries. Estonian PEPs can be found from the autumn of 2020 through an e-notary inquiry. Notaries can use the international Accuity database to find persons with a foreign national background. However, more than half of the notaries in the NRA survey indicated that they could not say whether the information received was sufficient to identify PEP because there were no necessary national databases to identify PEP and their family members.

In case of doubt or an obligation provided by law (e.g., cash notifications), notifications to the FIU are usually submitted either by the notary himself/herself or by a substitute notary. More than half of the notaries are on the opinion that submitting a suspicious transaction report to the FIU via their website is user-friendly.

In 2019, notaries submitted a total of 394 notifications to the FIU. Twelve notaries sent ten or more notices. The FIU directed 57 notifications for more in-depth analysis, and information was forwarded to Estonian investigation authorities 71 times, and the information contained in the notification was forwarded to foreign competent authorities three times. The FIU imposed restrictions on the use of the property four times. In 2017 and 2018, notaries submitted 168 notifications.

The FIU's feedback is given on specific notifications, and once a year, a summary of the notifications was submitted last year. Sectoral feedback was first provided in spring 2020. The feedback of the FIU sent to the Chamber of Notaries is forwarded either to a specific notary or, in the case of general notices, to all notaries. More than half of the notaries who responded to the survey stated that they had not received any feedback from

the FIU concerning the quality of the suspicious transaction report, but on some specific reports.

The vulnerability to the effectiveness of compliance control systems and reporting can be considered **low**. In order to keep vulnerabilities low, it is necessary to continue to work on strengthening both regulations and measures, such as the creation of reliable sources to identify PEPs and beneficial owners.

Quality of the framework of due diligence measures applied with regard to customers

The rules of procedure of the Chamber of Notaries shall apply from the moment of preparation of the transaction. In the event of operational or interpretative problems arising from the application of the Rules of Procedure, the principle of reasonableness shall apply, interpreting, where necessary, the various points in synergy and taking into account their general purpose. The main aim of the implementation is to apply preventive measures to prevent money laundering. In order to facilitate compliance with the rules of procedure, the Chamber of Notaries has prepared a tool for notaries, i.e., a so-called step-by-step guide (in the form of a table).

In order to identify PEPs, notaries ask the person for information, including filling in a form of a natural or legal person and verifying the accuracy of the information received through an e-notary or in any other way. In order to identify foreign PEPs, notaries ask a client to submit the relevant information, including being asked to fill in a form of a natural or legal person, and the accuracy of the information received is checked from registers and databases. More than half of the notaries who responded to the NRA survey have indicated that they cannot say whether the information acquired from the sources is sufficient to identify PEP. In order to improve the identification of PEPs, the Chamber of Notaries has provided notaries with access to the international database Accuity, which provides an opportunity to search for both domestic and foreign PEPs. Pursuant to § 9¹ (4) of the Money Laundering and Terrorist Financing Prevention Act, the Chamber of Notaries has set up a personalized list of Estonian PEPs on the basis of the regulation of the Minister of Finance "List of Estonian positions the persons of which are considered to be politically exposed persons." The list of Estonian PEPs can be found through an e-notary query.

All data collected on the basis of the rules of procedure prepared by the Money Laundering and Terrorist Financing Prevention Act or the Chamber of Notaries, including questionnaires, documents on the beneficial owners, or the origin of the money, are generally stored in an e-notary before the transaction is made. If there is one notary in the office, he or she mostly makes all inquiries and collects the necessary data and documents himself or herself. If the compliance with the requirements is a task of an employee, the notary checks whether inquiries have been made in the e-notary and whether, in case of doubt, the client has been asked for additional information (documents, explanations). Checks are performed on a random or continuous basis for each transaction.

The effectiveness of risk management measures for higher-risk non-resident clients is ensured both by complying with Money Laundering and Terrorist Financing Prevention Act's due diligence measures and by following the rules of procedure prepared by the Chamber of Notaries. Notaries who responded to the survey have noted that in higher-risk cases, the necessary information is requested from the client (e.g., on the origin of the money used in the transaction), and the information obtained is verified from a reliable source (e.g., bank statements). If necessary, an Internet search is also used.

11.3.4.1.4. Sector-specific risk assessment with the quality of Sector-specific controls

Concerning the identification of trust and corporate service providers used by criminals to set up complex and opaque structures for illegal purposes, more than half of the NRA notaries surveyed said they had not identified "guarding" professions (lawyers, accountants, brokers, etc.) used to conceal beneficial owners and the source of illicit income. Notaries who have observed such activities refer in particular to the profession of lawyer. Databases and state register interfaced with e-notaries, foreign databases, and Internet searches are used for identification.

When identifying companies that support the concealment of a person in a transaction, the majority of notaries who participated in the survey replied that they had no doubts in the course of their activities that the client

could use front companies in concluding the transaction. If such activities have been identified, they are mainly either NGOs or foreign companies. Databases and registers interfaced with e-notaries, external databases, and Internet searches are used for identification.

Notaries have not detected companies that support the concealment of ownership of the property from the beneficial owner or the ultimate owner of the property.

The identification of trust and corporate service providers that provide money laundering services for a commission, fee, or another type of income has indicated that more than half of the notaries who responded to the NRA survey did not observe "guarding" professions (lawyers, accountants, brokers, etc.) to conceal the identity of the beneficial owners and the source of the illicit proceeds. Notaries who have observed such activities refer mostly to the profession of lawyer.

The identification of cases where a legal person or legal entity may be used to conceal the beneficial owner shall be based on the rules of procedure prepared by the Chamber of Notaries and the due diligence measures of the Money Laundering and Terrorist Financing Prevention Act. Databases and state register interfaced with e-notaries, foreign databases, and Internet searches are used. In the practice of notaries, there are rather rare cases where an attempt is made to conceal the real beneficial owner. In some cases (e.g., foreign legal entities), it is difficult to identify the beneficial owner. If due diligence is not possible, the transaction will not be executed, and the FIU will be notified. In case of suspicion of money laundering or signs of an unusual transaction, the FIU shall also be notified.

If a notary suspects that a front company has been set up to commit fraud through fictitious invoices, the purpose of the transaction will be examined in more detail. However, a notary does not always have the opportunity to firmly identify whether a company is being set up for the purpose of drawing up fictitious invoices. The FIU shall be notified with the aim to identify the use of front companies by the client or if the notary suspects, for example, tax-related offenses. Doubts are reported to the FIU via the online notification form on their website.

Notaries are not often exposed to client due diligence measures related to trusts, such as the identification of the trustee, the lawyer, the beneficial owners, and other natural persons exercising final control over the trust. If it is not possible to identify the beneficial owners, § 9 (1) 4.) and 4¹) of the Money Laundering and Terrorist Financing Prevention Act be invoked.

More than half of the notaries who responded to the NRA survey, indicated that they have not observed "guarding" professions (lawyers, accountants, brokers, etc.) who are used to disguise the identity of the beneficial owners and the source of the illicit proceeds in cases related to other non-financial corporations and professions providing money laundering services for commissions, fees, or other types of income. Notaries who have observed such activities refer in particular to the profession of lawyer.

When identifying the use of professional services by "gatekeepers" (lawyers, accountants, brokers) to conceal the identity of the beneficial owners and the source of the illicit funds, more than half of the notaries who responded to the survey stated that they had not observed any such activity. Notaries who have observed such activities refer in particular to the profession of lawyer.

Both the Money Laundering and Terrorist Financing Prevention Act and the rules of procedure drawn up by the Chamber of Notaries stipulate the obligation to keep the notification submitted to the FIU confidential. Therefore, the results of the NRA survey shows that notaries are aware of the fact that reporting doubts are more important than the confidentiality of the client relationship.

As a result of the NRA survey, the majority of notaries have answered that when providing the notarial services, there have been no doubts concerning the providers of currency exchange and money transfer services. In one case, it was noted that such suspicion had arisen when a transfer was attempted to be made through a payment intermediary to deposit money in a notary's account.

The forgery of signatures and the use of forged documents in notarial certification have been identified

by notaries. Other notaries will be notified of such documents via e-notary. If a forged document is detected, no transaction is performed.

Notaries apply enhanced due diligence measures and the "know your client" principle in notarial acts when money is received from a person or entity established or registered in a high-risk country or region. The obligations are specified in the rules of procedure prepared by the Chamber of Notaries.

In identifying and preventing fraudulent schemes (e.g., misuse of company assets), more than half of the notaries who responded to the NRA survey have stated that they have not, or cannot say, whether they have prevented money laundering and terrorist financing schemes in the course of their activities. If fraud is suspected, the FIU will be notified. Notaries have no feedback on whether or not a specific notice submitted to the FIU has been relevant.

The obligation to establish and verify the origin of cash is specified in the Rules of Procedure of the Chamber of Notaries. Notaries do not accept cash when certifying transactions. If the client wishes to pay in cash, he or she will be directed to the bank with the request to pay by bank transfer. The FIU will be notified if the transaction is executed in cash exceeding EUR 32,000 or under the referred sum and there is a suspicion of money laundering.

Vulnerability in assessing sector-specific risks with the quality of sector-specific controls can be considered **low**.

11.3.4.1.5. Quality of response to risks identified in previous evaluations

The shortcomings identified on the basis of the NRA in 2015 were not affecting by the acts of notaries. Insufficient supervision by the Chamber of Notaries was pointed out. To date, there have been significant changes in the regulations governing supervisory activities. The Chamber of Notaries has also created a separate post for the prevention of money laundering and terrorist financing and for the supervision of notaries.

As part of the follow-up to the previous Moneyval evaluation visit, the Chamber of Notaries presented an overview in May 2019, highlighting additional activities that have been carried out in conducting training, identifying violations, and exercising supervision.

11.3.4.1.6. Conclusion

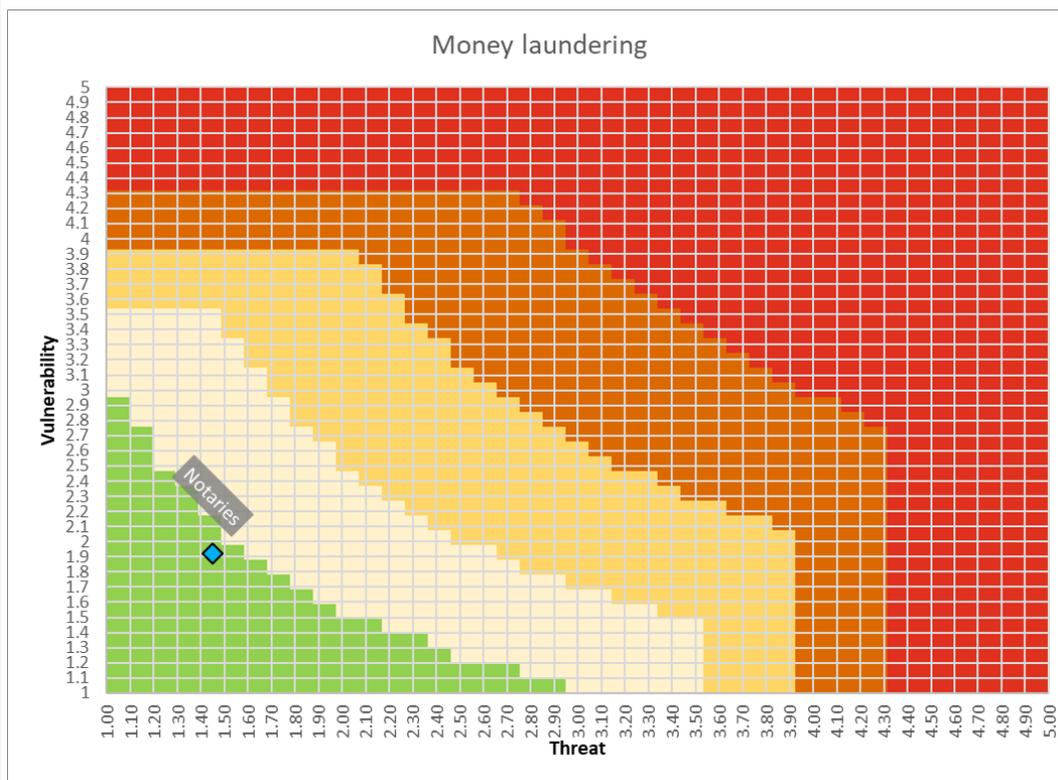
Table 80. Level of money laundering vulnerability in the notary's Sector.

Sector	Level of money laundering vulnerability at the Sector level	
Notaries	1.92	Low

On a scale of 1-5, the notaries sector's vulnerability rating in terms of money laundering is 1.92, i.e., **low**.

As a result of due diligence measures applied by notaries, instructions of the Chamber of Notaries and requirements provided for in §§ 42-44 of the Money Laundering and Terrorist Financing Prevention Act (prohibition to enter into a transaction, right to postpone the conclusion of a transaction, restrictions on transfer of client's property) the assessment module deems the vulnerability level of notaries with respect to money laundering to be low.

Figure 24. Heat map of the money laundering risk level of the notary's sector



Summary

The risk level of the sector in terms of money laundering is **low**, which means that the risk and its consequences must be accepted, and no specific measures are considered necessary. Simplified due diligence measures may be applied in the sector.

11.3.4.1.7. Risk management strategy

11.3.4.1.7.1. Mitigation measures at the national level

During 2020, amendments to the Money Laundering and Terrorist Financing Prevention Act entered into force, which clarified and amended, among other things, the regulation of due diligence measures, approved the list of positions of Estonian PEPs by a ministerial decree and supplemented the bases for cooperation between obliged entities.

In order to improve the identification of risks related to money laundering and terrorist financing and compliance with the requirements arising from legislation and international standards, the Chamber of Notaries considers that in the future, attention should be paid, inter alia, to the following:

1. Although a list of PEP posts has been approved nationally, making it easier to find information would help to identify them. For example, compiling a personalized list of PEPs (e.g., on the basis of a personal identification code). To ensure data protection, this list should only be accessible to obliged entities. The Chamber of Notaries has created the corresponding personalized list for notaries, but considering that there are more than a thousand names in the list, keeping the list up to date is an additional resource cost. At the same time, it is an important tool for following due diligence measures.
2. The issue of the reliability of the register of beneficial owners has been understood in Estonia, and an updated register with new rules is being developed. In the course of notarial activities, it is recommended that this register be made available as soon as possible for the implementation of the Money Laundering and Terrorist Financing Prevention Act.

3. In order to mitigate the risks and ensure compliance with due diligence measures, obliged entities from the Member States should have access to business registers of the other Member States, registers of beneficial owners, and lists of personalized PEPs. Where necessary, access to them should be coordinated by the EU Commission and, in order to ensure data protection, should only be granted to obliged entities.
4. In the course of making the latest amendments to the Money Laundering and Terrorist Financing Prevention Act, the Chamber of Notaries has pointed out that in Estonia, the state could create a technical solution that would simplify cooperation and exchange of information between obliged entities and enable reliance on data identified and verified once. Such a technical solution would be appropriate if the same transaction involves obligated entities from different sectors (for example, in the case of a real estate transaction, a broker, a notary, and a credit institution). This would avoid unnecessary duplication of data collection from the customer, and the customer would not have to provide the same information to different obligated entities several times during one transaction. An impact assessment should be carried out in advance to establish a technical solution, and legislation is likely in need of supplement.

11.3.4.1.7.2. Mitigation measures at the level of obliged entities

In order to improve the identification of risks related to money laundering and terrorist financing and compliance with the requirements arising from legislation and international standards, the Chamber of Notaries considers it necessary to pay attention to the following:

1. The FIU should provide training to obliged entities focusing on the specific money laundering and terrorist financing risks that may be associated with various transactions. Until now, the main obstacle to organizing specific training has been finding suitable lecturers. It would be important for notaries that the lecturer has legal education, knowledge of the specifics of money-laundering prevention, and in the field related to the activities of notaries.
2. Attention should be paid to the development of teaching materials (e.g., analyses, research, articles) that could be used for independent study in the field. The study materials should describe the risks in the Estonian context (risks in business relations, complex ownership structures, use of offshore companies, etc.).
3. Notaries have noted that they have not received any feedback from the FIU on the quality of the suspicious transaction report but on some specific reports. In individual cases, the FIU has provided feedback on specific notices to both notaries and the Chamber of Notaries. This is especially the case if there have been problems submitting the notification. The feedback of the FIU sent to the Chamber of Notaries is forwarded either to a specific notary or, in the case of general notices, to all notaries. Once a year, the FIU summarizes all notifications submitted in the previous year. Sectoral feedback was first provided in spring 2020. This practice, in the form of regular feedback once a year, should be continued in the future. However, in the notifications the FIU could also provide feedback on when the suspicions were justified. In the absence of such feedback, there is also a lack of knowledge where additional attention should be given when verifying transactions.
4. Although notaries generally consider the technical solution for submitting a report to the FIU to be user-friendly, it could be considered whether the format for submitting a suspicious report could be further improved. The fields containing the details of the author and the submitter of the notice could be pre-filled. For example, if a "notary" is selected as the obliged entity under the submitter of the notice, the system would automatically fill in all other necessary fields related to the profession: "type of person," "main activity," "activity related to the notification." This would reduce the time required to prepare the notification.
5. In order to enhance cooperation between obliged entities, it is worth considering (e.g., at the meeting of the Market Participant's Advisory Board of the Government Committee on Money Laundering and Terrorist Financing Prevention) whether it would be possible to take a more risk-based approach to the application of due diligence measures by different obliged entities. The fact that the law allows obliged

entities to approach customers and transactions on a risk-based basis it does not allow to choose due diligence measures. Only the scope of the due diligence measures can be selected. The law provides for the possibility outsourcing of activities, including the data collection in the application of due diligence measures, but here the question arises as to whether the activity can be transferred only to a person with similar competence (e.g., a broker to a broker, not a broker to a notary or a broker to a bank) or not, how the exchange of information and the transfer of activities to obliged entities from different sectors could take place.

11.3.4.2. Vulnerabilities of terrorist financing prevention

As the due diligence measures set out in the Money Laundering and Terrorist Financing Prevention Act apply to the prevention of both money laundering and terrorist financing, the following subsections provide only descriptions that are not reflected in the chapters on the prevention of money laundering.

11.3.4.2.1. Exposure to the threat

No direct exposure to terrorist financing has been identified in notarial transactions. During a training organized by the Estonian Internal Security Service in the end of 2020, attention was drawn to possible threats in real estate transactions where the buyers are persons from a high threat country. At the same time, on the basis of a threat-based approach, notaries have been instructed that a notification must be submitted to the FIU in the case of a person or transaction related to the country of threat only if there are doubts in the circumstances. Similarly, the FIU has described compliance with the notification obligation in its guidance. Thus, there may be situations where the buyer of real estate is a person from a high-risk country, but as there is no doubt about the person or the transaction, no notification is provided. Rather, it could not be called a shortcoming of the regulation because the requirement of the existence of doubt is appropriate.

Some notaries have noted that they monitor transactions for possible links with radical movements, hostile information campaigns, and foreign propaganda. This is done mainly through the media and following the know-your-customer requirements. However, even if such radical movements and information campaigns are not monitored, notaries are aware of the threats and apply enhanced due diligence measures to high-risk clients and transactions.

11.3.4.2.2. Risk awareness

Management commitment and leadership

In addition to what is described in clause 11.3.4.1.2, the request for EU and UN sanctions is interfaced with the e-notary as a technical solution. The special training on the prevention of terrorist financing organized by the Estonian Internal Security Service took place for the first time at the end of 2020.

The vulnerability of the sector **is low** due to the commitment and leadership of the management.

11.3.4.2.3. Quality of terrorist financing detection and prevention of financing of proliferation of weapons of mass destruction

Quality of supervision

In addition to what is reflected in Section 11.3.4.1.3, the vulnerability of the quality of supervision in the sector is low.

Effectiveness of compliance control systems and reporting

In addition to what is stated in Section 11.3.4.1.3, when applying due diligence measures to clients, notaries carry out activities aimed at identifying terrorist financing risks in the framework of background checks. The main measure to prevent terrorist financing is the sanctions verification request to the EU and UN sanctions

lists.

More than half of the notaries have stated that they have not notified the FIU of cases related to sanctions, as they do not come into contact with the subjects of international sanctions or, through it, terrorist financing.

Notaries submitted an ISR suspicion report to the FIU 3 times in 2019 and 1 time in 2018. The Chamber of Notaries has no information as to whether the notices were relevant.

Vulnerability to the effectiveness of compliance control systems and reporting is low.

Quality of the framework of due diligence measures applied with regard to customers

By analogy with the part of Money Laundering discussed in paragraph 11.3.4.1.3.

Quality of identifying Sector-based international sanctions

Under § 24 of the International Sanctions Act, notaries have an obligation to establish whether the person participating in the transaction, including the beneficial owner, is the subject of an international financial sanction. The notary identifies it via an e-notary, which has an interface with the EU and UN sanctions list. If a notary has established that a person is included in the list of international financial sanctions or if a person with a similar name has been found in the list of international financial sanctions, he or she shall not enter into the transaction and shall send an international sanction notice to the FIU.

As there are sufficient technical solutions for identifying existing sanctions and they are used by notaries in the preparation of transactions, the vulnerability of the sector in the quality of the identification of international sanctions is **low**.

11.3.4.2.4. Sector-specific risk assessment with the quality of Sector-specific controls

By analogy with the part of Money Laundering discussed in paragraph 11.3.4.1.4.

Vulnerability in assessing sector-specific risks with the quality of sector-specific controls can be considered **low**.

11.3.4.2.5. Quality of response to risks identified in previous evaluations

By analogy with the part of Money Laundering discussed in paragraph 11.3.4.1.4.

11.3.4.2.6. Conclusion

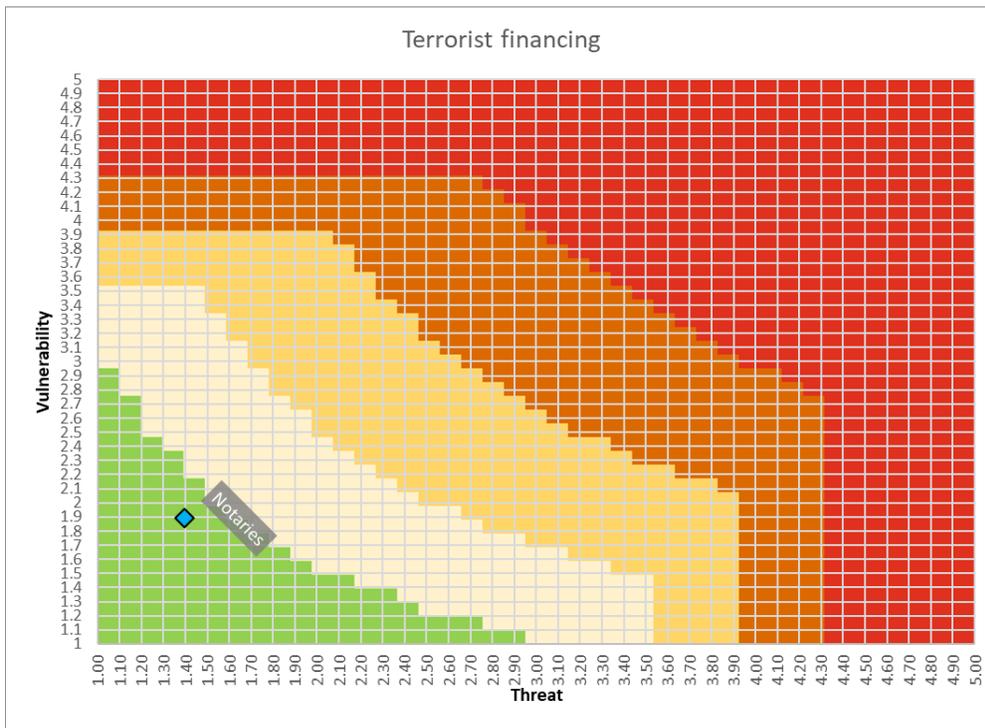
Table 81. Level of vulnerability to terrorist financing in the notaries sector

Sector	Level of vulnerability to terrorist financing at sectoral level	
Notaries	1.89	Low

On a scale of 1-5, the notaries sector's vulnerability level in terms of money laundering is 1.89, i.e., **low**.

As the threats associated with terrorist financing are rather minimal in the case of notaries, the vulnerability can also be considered low, as due diligence measures are applied according to the same principles for the prevention of money laundering.

Figure 25. Heat map of the terrorist financing risk level of the notary's sector



Summary

The level of risk in the sector in terms of terrorist financing is **low**, which means that the risk and its consequences must be accepted, and no specific action is considered necessary. Simplified due diligence measures may be applied in the sector.

11.3.4.2.6. Risk management strategy

11.3.4.2.6.1. Mitigation measures at the national level

The risk of terrorist financing is low, so in theory, in order to strengthen potential vulnerabilities, it is necessary to take measures listed in 11.3.4.1.7.1.

11.3.4.2.6.2. Mitigation measures at the level of obliged entities

The risk of terrorist financing is low, so in theory, in order to strengthen potential vulnerabilities, it is necessary to take measures listed in 11.3.4.1.7.1.