

A group of business professionals in a meeting, with a world map on the wall. The image is overlaid with a semi-transparent dark grey filter. A yellow triangle is in the top-left corner, and a purple triangle is in the bottom-right corner.

Corporate obligations
for **2024**

**Foreign Non-for-profit
Organizations**

Gómez-Pinzón
SINCE 1992

This guide is aimed to all foreign non-for-profit organizations ("NFPO") with permanent business operations in Colombia. The objective is to remind our clients of the main obligations that the foreign NFPO must annually comply with in tax, corporate, and risk and compliance matters.

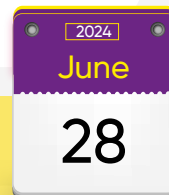
TAX

✔ Web registration update - Special tax regime.

Under the current provisions, the foreign NFPO that belongs to the Special Tax Regime ("RTE", as its Spanish acronym) must carry out the annual updating process with the National Tax and Customs Office ("DIAN", as its Spanish acronym) to maintain their qualification in the said regime.

According to article 364-5 of the Tax Statute amended by Law 2277 of 2022, entities of the Special Tax Regime must annually update, within the first 6 months of each year, the information referred to in the registry.

The term for carrying out the updating process will expire on



For these purposes, the entity must comply with the completion and signature by the legal representative and statutory auditor of the formats and documents provided by the DIAN; submit the request and comply with all annexes and documentation required for the updating process referred to in article 1.2.1.5.1.3 and subsequent of Decree 1625 of 2016 and give an answer to the comments made by civil society.

Within 4 months following the expiration of the term for the taxpayer to respond to comments from civil society or the expiration of the term for receiving comments from civil society when there are no comments, the requesting entity will receive, through an administrative act issued by the DIAN, a resolution authorizing or denying the submitted qualification request.

In case of not receiving the mentioned act, it will be understood that the entity remains qualified within the RTE. Against the administrative act that denies the qualification, the recourse of reconsideration is applicable, under the terms indicated in the Administrative Code (Código de Procedimiento Administrativo y de lo Contencioso Administrativo).

✓ Single Registry of Ultimate Beneficial Owners - NFPO.

The following are obliged to provide information in the Single Registry of Ultimate Beneficial Owners ("RUB", as its Spanish acronym): national companies and entities, whether for profit or not, including societies registered or listed on a stock exchange; permanent establishments; unincorporated structures or similar entities created or managed from Colombia; and foreign legal entities or unincorporated entities when their entire investment in Colombia is not made in national societies and/or unincorporated structures obligated to provide information in the RUB.

The ultimate beneficial owner is understood to be the natural person who directly or indirectly owns or controls a legal entity or other unincorporated structure, as well as the clients and/or natural persons on whose behalf a transaction is conducted (cf., article 631-5 of the Tax Statute).

In this regard, concerning legal persons, the ultimate beneficial owner shall be the natural person who meets any of the following criteria:



Holds 5% or more of the capital or voting rights.



Benefits from 5% or more of the assets, income, or profits.



Exercise control through means other than those mentioned above.

If it is not possible to identify a real beneficiary, as is the case of the NFPO (which does not have partners, shareholders, or owners), the ultimate beneficial owner shall be reported as the natural person holding the position of the legal representative or the person with the highest authority to the management and direction functions as provided in the entity's bylaws.

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For its part, the DIAN issued Resolution No. 164 of 2021 (hereinafter the "Resolution"), as amended by Resolution 037 of 2020, which established the conditions and requirements for providing information on effective beneficiaries, final beneficiaries, or real beneficiaries of entities using the RUB. This is solely an information reporting obligation, so there is no impact on the structure or management of the NFPO; it simply involves reporting the real beneficiary who meets the requirements to be reported.

However, if it is not possible to identify the natural person who meets the criteria established in article 631-5 of the Tax Statute, the ultimate beneficiary shall be reported as the natural person holding the position of the legal representative or the position of highest authority in the NFPO. In this case, it is mandatory to indicate in the RUB the reasons why the ultimate beneficiary could not be identified.

Legal entities, unincorporated structures, or similar entities, established or created as of June 1, 2023, must provide the initial supply of information in the RUB electronically, no later than 2 months after registration in the Single Tax Registry - RUT or registration in the Unincorporated Structure Identification System.

Additionally, if there are modifications to the beneficiaries reported on the first day of January, April, July, and October of each year, the information provided in the RUB must be updated within the month following the first day of each cutoff.

Those obliged to provide information in the RUB that do not provide it, provide it incorrectly or incompletely, and/or do not update it, will be subject to the sanctions provided for in article 658-3 of the Tax Statute, that is, those relating to the closure of the establishment, headquarters, business and office, for a period of 1 day for each month or fraction of a month of delay providing the information, or a penalty equivalent to 1 Tax Value Unit ("UVT", as its Spanish acronym) for each day of delay providing the information for those who do not have an establishment, headquarters, business or office.

RISK & COMPLIANCE

Implementation of the Self-control and comprehensive risk management system for money laundering, terrorist financing and financing of the proliferation of weapons of mass destruction ("SAGRILAFT", as its Spanish acronym) and the Transparency and Business Ethics Program ("PTEE", as its Spanish acronym).

Through Decree 326 of 2023, the President of the Republic of Colombia delegated to the Superintendence of Companies the exercise of inspection, surveillance and control functions over foreign NFPO with permanent business operations in Colombia.

On October 4, 2023, the Superintendence of Companies issued the External Circular No. 100-000004, through which it modified Chapters X and XIII of its Basic Legal Circular. By means of this amendment, it included the Chambers of Commerce of the country and foreign NFPO with permanent business operations in Colombia as obligated subjects to implement SAGRILAFT and PTEE (hereinafter referred to as the "Systems").

Given the above, these entities must implement measures to prevent money laundering, terrorist financing, financing of the proliferation of weapons of mass destruction, transnational bribery, and corruption – ML/TF/PWMD/TB/C – within their organization.





✔ **What are the main requirements of the Systems?**

- Elaborate manuals and general compliance policies.
- Develop specific policies of the Transparency and Business Ethics Program (PTEE) regulating the delivery and offering of gifts or benefits to third parties, remuneration and payment of commissions to Associates and Contractors, specific duties of Employees exposed to Corruption / Transnational Bribery (C/TB) risk, sanctioning procedures, complaint channels, among other aspects.
- Appoint a Compliance Officer.
- Adopt procedures for due diligence and enhanced due diligence (SAGRILAF).
- Identify counterparties (suppliers, allies, users, clients, employees).
- Identify the ownership structure, shareholders, and Ultimate Beneficiary Owners (UBO) of their counterparties.
- Obtain information about the purpose and nature of their relationships with counterparties.
- Segment counterparties (suppliers, allies, users, clients, employees).

- Develop a risk matrix.
- Conduct annual training on the Systems.
- Disclose the policies of the Systems.
- Register the NFPO and the Compliance Officer with the SIREL of the UIAF (SAGRILAFI).
- Make reports of suspicious operations ("ROS", as its Spanish acronym) for the occurrence or absence of suspicious operations ("AROS", as its Spanish acronym) quarterly to the UIAF (SAGRILAFI).

☑ **Until when do I have a deadline?**



Foreign NFPO with permanent business in Colombia must implement the Systems no later than **August 31, 2024**. Meanwhile, those that fall under the supervision of the Superintendencia of Companies after that date must implement the Systems no later than May 31 of the next year.

☑ **What are the penalties for not implementing the Systems?**

Successive and simultaneous fines of up to 200 Monthly Legal Minimum Wages (SMLMV, as its Spanish acronym).



☑ **What is the Report 77¹?**



It is the information report to the Superintendencia of Companies for foreign NFPO.


¹ <https://gomezpinzon.com/reporte-de-informacion-ante-la-superintendencia-de-sociedades-para-las-esal-extranjeras/>

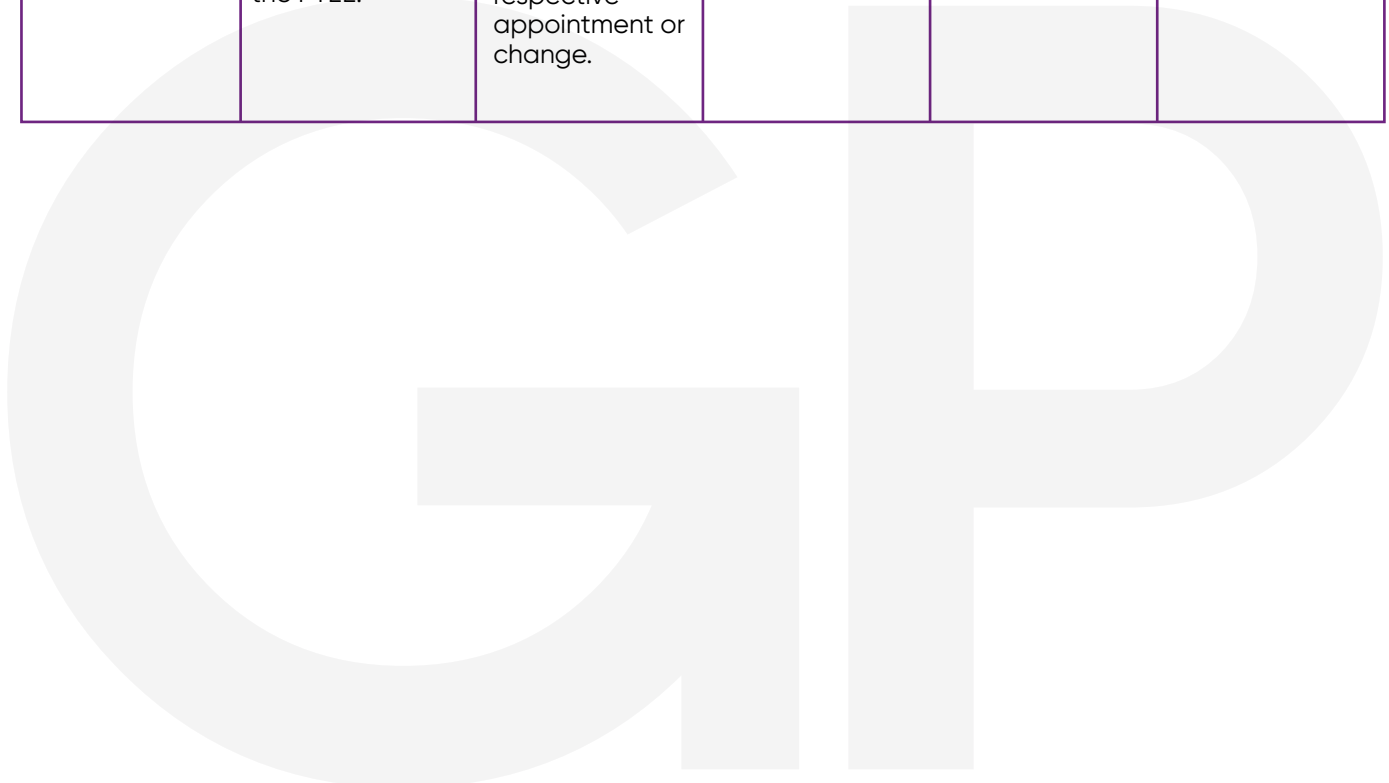


Foreign NFPO were required to submit annual information reports to the Superintendencia of Companies, with a cut-off date of **December 31** of the previous year.

These are the reports that the foreign NFPO supervised by the Superintendencia of Companies are obliged to submit:

Report	Obligated subjects	Terms	Regulation	Surveillance body	Reporting medium												
Report No. 77 "Foreign NFPO"	Foreign NFPO with permanent business in Colombia.	<table border="1"> <thead> <tr> <th>NIT</th> <th>DIA</th> </tr> </thead> <tbody> <tr> <td>01 - 20</td> <td>May 29 to April 03 of 2024</td> </tr> <tr> <td>21 - 40</td> <td>May 06 to 10 of 2024</td> </tr> <tr> <td>41 - 60</td> <td>May 14 to 17 of 2024</td> </tr> <tr> <td>61 - 80</td> <td>May 20 to 24 of 2024</td> </tr> <tr> <td>81 - 00</td> <td>May 27 to 31 of 2024</td> </tr> </tbody> </table>	NIT	DIA	01 - 20	May 29 to April 03 of 2024	21 - 40	May 06 to 10 of 2024	41 - 60	May 14 to 17 of 2024	61 - 80	May 20 to 24 of 2024	81 - 00	May 27 to 31 of 2024	<ul style="list-style-type: none"> •External Circular 100-000004 of October 4, 2023. •External Circular 100-000001 of January 19, 2024. 	 SUPERINTENDENCIA DE SOCIEDADES	STORM application provided by the Superintendencia of Companies on its web page (www.supersociedad.gov.co)
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Report No. 75 "SAGRILAFT"	Foreign NFPO subject to the surveillance or control of the Superintendencia of Companies.	<ul style="list-style-type: none"> •This report should be submitted in the year 2025, since the Systems will be implemented in August 2024. •The submission dates are foreseen in External Circular 100-000003 of September 11, 2023. 	External Circular 100-000003 of September 11, 2023.	 SUPERINTENDENCIA DE SOCIEDADES	STORM application provided by the Superintendencia of Companies on its web page (www.supersociedad.gov.co)												

Report	Obligated subjects	Terms	Regulation	Surveillance body	Reporting medium
Report No. 58 "Compliance Officers"	Foreign NFPO subject to the surveillance of the Superintendencia of Companies are obliged to apply the SAGRILAFT and the PTEE.	<ul style="list-style-type: none"> •Each time the compliance officer is appointed by the competent body. •Within 15 working days following the respective appointment or change. 	<ul style="list-style-type: none"> •External Circular 100-000003 of September 11, 2023. •Chapter X of the Basic Legal Circular. 	 <p>SUPERINTENDENCIA DE SOCIEDADES</p>	<p>STORM application provided by the Superintendencia of Companies on its web page (www.supersociedades.gov.co)</p>



CORPORATE

Below, we explain the main obligations that Foreign NFPO must comply with in corporate matters:

✓ **Renewal of registration in the Unified Business Registry.**

The foreign NFPO must renew their registration in the Unified Business and Social Registry annually before March 31.

✓ **Hold the annual meeting of the highest governing body.**

No later than March 31, the highest governing body of the foreign NFPO must hold its annual meeting with the purpose of:

- Review and approve the management report of the legal representative and the board of directors (if applicable).
- Review and approve the accounts and Financial Statements for the year 2023.
- Review the report from the statutory auditor (if applicable).
- Appoint and/or ratify administrators.
- Adopt all actions tending to ensure compliance with the purpose.
- Determine the allocation of surpluses for the 2023 fiscal year. It should be noted that they cannot be distributed among associates.
- Segment counterparties (suppliers, allies, users, clients, employees).

For those that wish to qualify in the RTE or update their registration, additionally, in the ordinary meeting they must authorize the legal representative to carry out the qualification or update process before the DIAN; and mention that the NFPO do not distribute surpluses either during its operation or liquidation.

Further information



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