



# Anti-money laundering and counter-terrorist financing measures

## Serbia

4<sup>th</sup> Enhanced Follow-up Report &  
Technical Compliance Re-Rating

Follow-up report

November 2021



**The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism - MONEYVAL** is a permanent monitoring body of the Council of Europe entrusted with the task of assessing compliance with the principal international standards to counter money laundering and the financing of terrorism and the effectiveness of their implementation, as well as with the task of making recommendations to national authorities in respect of necessary improvements to their systems. Through a dynamic process of mutual evaluations, peer review and regular follow-up of its reports, MONEYVAL aims to improve the capacities of national authorities to fight money laundering and the financing of terrorism more effectively.

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The 4th Enhanced Follow-up Report on Serbia was adopted by the MONEYVAL Committee at its 4th Intersessional Consultation (Strasbourg, 8 October – 15 November 2021).

## *Serbia: Fourth Enhanced Follow-up Report*

### 1. INTRODUCTION

1. The mutual evaluation report (MER) of Serbia was adopted in April 2016, its 2<sup>nd</sup> Enhanced Follow-up Report (FUR) was adopted in December 2018 and its 3<sup>rd</sup> Enhanced FUR was adopted in December 2019. The report analyses the progress of Serbia in addressing the technical compliance (TC) deficiencies identified in its MER and in the 2<sup>nd</sup> Enhanced FUR. Re-ratings are given where sufficient progress has been made. This report also analyses progress made in implementing new requirements relating to FATF Recommendations which have changed since the adoption of Serbia's 3<sup>rd</sup> Enhanced Follow-up Report: R.15. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

### 2. FINDINGS OF THE MUTUAL EVALUATION REPORT AND SUBSEQUENT FURS

2. The MER and applicable subsequent FURs rated Serbia as follows for technical compliance:

**Table 1. Technical compliance ratings, December 2019**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	LC	LC	LC	LC	LC	LC	LC
R 11	R 12	R 13	R 14	R 15	R 16	R 17	R 18	R 19	R 20
LC	C	LC	LC	LC	LC	C	C	LC	C
R 21	R 22	R 23	R 24	R 25	R 26	R 27	R 28	R 29	R 30
C	PC	PC	LC	LC	LC	LC	PC	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	R 40
LC	LC	LC	LC	LC	LC	LC	LC	LC	PC

*Note:* There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

*Source:* Serbia's MER, April 2016, <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-serbia-/1680715fdb>. Serbia's 2<sup>nd</sup> Enhanced FUR, December 2018, <https://rm.coe.int/committee-of-experts-on-the-evaluation-of-anti-money-laundering-measur/1680931ea5>. Serbia's 3<sup>rd</sup> Enhanced FUR, <https://rm.coe.int/anti-money-laundering-and-counter-terrorist-financing-measures-serbia-/1680998aa8>.

3. Given the results of the MER, Serbia was placed in enhanced follow-up<sup>1</sup>. The first Enhanced FUR submitted by Serbia was discussed at the 54<sup>th</sup> Plenary meeting in September 2017. Serbia did not seek any re-ratings, which was tabled for information only. The second Enhanced FUR submitted by Serbia was discussed at the 57<sup>th</sup> Plenary meeting in December 2018. The third Enhanced FUR of Serbia was discussed at the 59<sup>th</sup> MONEYVAL Plenary in December 2019. The Plenary invited Serbia to submit its 4<sup>th</sup> Enhanced FUR for the first Plenary meeting in 2021.

4. The assessment of Serbia' request for technical compliance re-ratings and the preparation of this report were undertaken by the following rapporteur teams (together with the MONEYVAL Secretariat):

- Azerbaijan
- Italy

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<sup>1</sup> Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.

5. Section III of this report summarises Serbia's progress made in improving technical compliance. Section IV sets out the conclusion and a table showing which FATF Recommendations have been re-rated.

### **3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE**

6. This section summarises the progress made by Serbia to improve its technical compliance by:
- a) Addressing the technical compliance deficiencies identified in the MER and in the 2<sup>nd</sup> Enhanced FUR for which the authorities have requested a rating (R.22, 23, 28 and 40); and
  - b) Implementing new requirements where the FATF Recommendations have changed since the adoption of the 3<sup>rd</sup> Enhanced FUR of Serbia (R.15).
7. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Serbia submitted its country update report – at least six months before the FUR is due to be discussed by MONEYVAL<sup>2</sup>.

#### **3.1. Progress to address technical compliance deficiencies identified in the MER and applicable subsequent FURs**

8. Serbia has made progress to address the technical compliance deficiencies identified in the MER and applicable subsequent FURs. As a result of this progress, Serbia has been re-rated on Recommendations R.22, 23, 28 and 40.

##### ***Recommendation 22 (Originally rated PC – re-rated to LC)***

9. In its MER, Serbia was rated PC with R.22. Following the adoption of the 2<sup>nd</sup> Enhanced FUR it was acknowledged that Serbia achieved some progress in relation to extending the scope of obliged entities to notaries and addressing some of the deficiencies under R.10. However, some deficiencies remained unaddressed and the exact nature of CDD measures to be taken by notaries and lawyers also remained unclear (C.22.1(d), C.22.1, C.22.2, C.22.3, C.22.4 and C.22.5).

10. To address these remaining deficiencies identified in the 2<sup>nd</sup> Enhanced FUR, Serbia in January 2020 adopted amendments to the AML/CFT Law, which ensure that the relevant CDD requirements apply to all DNFBPs, including lawyers and notaries.

11. According to Article 4, paras 2 and 3 of the AML/CFT Law, lawyers and notaries are obliged entities when performing specific services and transactions within their professional activities. A defined number of certifying services applicable to those transactions is foreseen by para 2 of Article 4). These amendments ensure that notaries are subject to relevant CDD requirements (c.22.1(d)).

12. Following the amendments to the AML/CFT Law, Serbia has extended the definition of BO in item 10 of para 1 of Article 3 to a natural person. Now, the obliged entities are required to establish and verify the identity of the beneficial owner when a customer is a natural person. Also, notaries are now required (paras 5 and 6 of Article 57 of the AML/CFT Law) to identify the beneficial owner of a customer and take reasonable measures to verify the identity of the beneficial owner, using relevant

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<sup>2</sup> This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable. In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

information. However, the BO definition under item 10 of para 1 of Article 3 of the AML/CFT Law does not cover a natural person when on his/her behalf a transaction is carried out (c.22.1).

13. In relation to a specific provision for casinos, this deficiency has been addressed by introducing amendments to Articles 3 and 24 of the AML/CFT Law. Article 24 of the AML/CFT Law obliges casinos upon entry of a customer to identify and verify its identity and obtain the data referred to Article 99, para 1, items 4 and 6. Moreover, according to this Article casinos are required to obtain a written statement of the client stating under material and criminal liability that he/she is taking part for or his/her on behalf. This requirement applies in any case once a customer enters a casino regardless of any threshold. In case a single transaction or more than one interrelated transaction exceeds 2000 EUR, casinos apply Article 8, para 3 of the AML/CFT Law. Para 3 of Article 8 of the AML/CFT Law obliges casinos to conduct CDD measures, including identification and verification of the beneficial owner for transactions exceeding 2000 EUR or more, irrespective of whether it is a single transaction or more than one interrelated transaction (c.22.1).

14. Under C.11.2, the MER noted that there was no explicit reference to “account files” or “business correspondence”, or an explicit requirement to keep records of any analysis undertaken. Record-keeping requirements set out in Articles 98 and 99 of the AML/CFT Law require all reporting entities to keep records of details of customers, business relationships and transactions. Moreover, Article 99 provides for a list of data that should be collected, nevertheless it does not include any reference to account files, business relationship or any analysis (c.22.2).

15. PEPs requirements set out in the AML/CFT Law equally apply to all reporting entities, including lawyers and notaries, as per Article 57a of the AML/CFT Law. In addition, it should be highlighted that Serbia has been re-rated as C with R.12 in the 2<sup>nd</sup> Enhanced FUR (22.3).

16. Serbia extended the requirements under c.22.4 in relation to c.15.1 and c.15.2 to all obliged entities. Deficiencies which were previously identified under c.15.1 and c.15.2 have been addressed by a combination of Articles 37 and 57a\* of the AML/CFT Law (c.22.4).

17. In relation to third party reliance, requirements in the AML/CFT Law equally apply to all obliged entities, except for lawyers and notaries. Due to confidential nature of legal and notary services, third party reliance is not applicable to lawyers and notaries (c.22.5).

18. Overall, Serbia has demonstrated progress on R.22, in particular by extending the scope of obliged entities to lawyers and notaries. Significant progress has been reported with regard to R.10-12 requirements that have been extended to lawyers and notaries. However, some minor deficiencies still remain, including the BO definition and record-keeping requirements fulfilled by lawyers and notaries. **R.22 therefore is upgraded to “LC”.**

### ***Recommendation 23 (Originally rated PC -re-rated to LC)***

19. In its MER, Serbia was rated PC with R.23, based on: requirements on internal controls set out in the AML/CFT Law apply equally to all reporting entities, except for lawyers and notaries. Serbia has made progress under R.18, but deficiencies remain in relation to groups, requirements on higher-risk countries set out in the AML/CFT Law apply equally to all reporting entities, except for lawyers and notaries, tipping-off and confidentiality requirements set out in the AML/CFT Law apply equally to all reporting entities, except for lawyers and notaries.

20. In the 5<sup>th</sup> round MER of Serbia criteria 18.1 and 18.3 were met, only deficiencies under c.18.2 were identified. In the 3<sup>rd</sup> Enhanced FUR R.18 was re-rated to C due to additional explanations provided by the National Bank of Serbia which are applicable to FIs.

21. With respect to application of c.18.2 to DNFBPs, Article 48 of the AML/CFT Law refers to financial groups. Pursuant to para 44 of Article 3, a financial group means a group of persons in the financial sector. Even though Article 48 of the AML/CFT Law refers to financial groups, the Serbian authorities provided additional explanation and indicated that para 14 of Article 48 specifies that the requirements of Article 48 also apply to non-financial groups in line with provisions set out in sectoral legislation (c.23.2).

22. The deficiency regarding high-risk countries has been largely addressed. Requirements on higher-risk countries (R.19) set out in the AML/CFT Law equally apply to all reporting entities, including lawyers and notaries. However, unclarity with application of countermeasures proportionate to the risk identified in the DNFBP sector remains (c.23.3).

23. Tipping-off and confidentiality deficiencies have been addressed by new requirements set out in the AML/CFT Law, which equally apply to all reporting entities, including lawyers and notaries, as per Article 60a of the AML/CFT Law (c.23.4).

24. Overall, it is established that there are substantial improvements in Serbia' AML/CFT framework in relation to R.23, some minor deficiencies still remain regarding c23.3. **R.23 is upgraded to "LC"**.

#### *Recommendation 28 (Originally rated PC – re-rated to LC)*

25. In its MER, Serbia was rated PC with R.28. Following the adoption of the 2<sup>nd</sup> Enhanced Follow-up Report, it has been admitted that deficiencies regarding c.28.1(a), c.28.1(c), c.28.2 and c.28.3 were addressed. However, the report also highlighted the remaining deficiencies: accountants are still not subject to licensing (C.28.4(b)), no measures in place to prevent criminals from controlling real estate agents and accountants, associates of criminals are also not covered (C.28.4(b)), the imposition of sanctions for AML/CFT breaches through misdemeanour proceedings, where full discretion is given to the prosecutor, limits the sanctioning powers of supervisors(C.28.4(c)), although the legislation introduces some elements of risk-based supervision, it is unclear to what extent the specific elements of c. 28.5(a) and (b) are covered.

26. To address the remaining deficiencies, Serbia has adopted amendments to relevant legal provisions.

27. All the natural and legal persons engaging in accounting activity must be licenced by the Chamber of Authorized Auditors in accordance with recent changes to legislation. Pursuant to paragraph 2 of Article 18 of the Law on Accounting the Chamber of Certified Auditors issues a licence to legal entities, i.e. entrepreneurs (sole traders) under specific requirements that need to be met by applicants, including a requirement to have a clean criminal record. Relevant provisions of the Law on Accounting ensure that criminals and their associates are being professionally accredited, or holding (or being the BO of) a significant or controlling interest, or holding a management function (Para 3 of Article 18, para 8 of Article 18, para 5 of Article 16 of the Law on Accounting and item 2 of para 1 of Article 3 of the Rulebook enacted by the Chamber of Authorised Auditors) (c.28.4(b)).

28. Similar requirements in relation to market entry and criminals/their associates apply to real estate agents under Article 5 of the Law on Real Estate Lease and Trade Agency (c.28.4(b)).

29. According to the information provided by the APML, as opposed to the National Bank of Serbia, Securities Commission, Serbian Bar Association and Serbian Chamber of Notaries, the APML, MTTT-Market Inspection and Games of Chance Administration, does not have powers to sanction an obliged entity directly. In this case, law only allows the possibility for the competent court to impose sanctions. However, the public prosecutor discretion is limited by legislation. The public prosecutor

must act according to the principle of legality, so if there is a grounded suspicion that an economic offence, or misdemeanour has been committed, the public prosecutor is required, by the force of law, to issue a bill of indictment to the relevant court. However, this approach was criticised in the 5<sup>th</sup> round MER and no concrete progress has been reported. This deficiency remains unaddressed (c.28.4(c)).

30. As for Article 104, para.4 and 5, risk-based supervision of DNFBPs applies to all supervisory authorities. This includes the obligation to get an adequate understanding of risks brought by obliged entities, which in parallel determines the frequency and intensity of AML/CFT supervisory measures (onsite and offsite examinations). Even though Serbia has established the necessary legal framework to apply a RBA in supervision, there are still some elements as foreseen by c.28.5(a,b) are not being considered by supervisors (c.28.5).

31. Overall, Serbia has made necessary steps to remedy the deficiencies under R.28 in relation to real estate agents and accountants (c.28.4(b)) to prevent criminals and their associates from being professionally accredited or holding (or being the BO of) a significant or controlling interest or holding a management function. On criterion 28.5 (a-b) Serbia has established the necessary framework for a risk-based supervision, nevertheless several issues are not being considered in the course of reforming the risk-based supervision, i.e. the characteristics of the DNFBPs, the adequacy of the AML/CFT internal controls, policies and procedures of DNFBPs. Moreover, no concrete progress has been achieved in relation to criterion 28.4(c). Even though there are still pending deficiencies under R.28, however they are of a minor nature, i.e. the risk-based approach has not considered only few factors. As for the application of misdemeanour proceedings by prosecutors, there are factors which mitigate this obstacle, e.g. supervisors are empowered to apply administrative sanctions (e.g. sending wording letters, giving recommendations, postponing the licence and revoking it). **Therefore, R.28 is upgraded to “LC”.**

#### ***Recommendation 40 (Originally rated PC – re-rated to LC)***

32. In its MER, Serbia was rated PC with R.40, based on: lack of clarity on the empowerment of other supervisors (apart from the NBS and the Securities Commission) to cooperate with foreign counterparts (C.40.2, C.40.12-16); lack of signed agreements which would enable the NBS to cooperate with its foreign counterparts with regard to supervision of pension funds and leasing companies (C.40.3 and C.40.12); lack of clarity with regard to safeguards and confidentiality requirements applicable to the information exchanged with regard to the authorities other than the APML, Police, Securities Commission and NBS (only with regard to supervision of banks) (C.40.6 and C.40.7). In the 2<sup>nd</sup> Enhanced FUR it has been acknowledged that the identified deficiencies in the 5<sup>th</sup> round MER were only partly addressed.

33. The deficiency regarding the lack of clarity on the empowerment of financial supervisors to cooperate with foreign counterparts is fully addressed. Article 112a clearly empowers all AML/CFT supervisors to cooperate with foreign counterparts: *“The competent supervisory authority referred to in Article 104 of this Law may, at its initiative or based on a written and justified request of the competent supervisory authority of a foreign country, exchange data, information and documentation”*. Para 1 of Article 112a addressed the deficiency noted in the analysis of the 2<sup>nd</sup> follow-up report. The scope of cooperation is now broadened and is in line with FATF standards. The deficiency under c.40.2(e) has been addressed by adopting new requirements foreseen in paras 3, 4, 6 and 7 of Article 112a of the AML/CFT Law. On the other hand, minor deficiencies mention in MER regarding criteria 40.2(c) and 40.2(d) remain. No information was provided in this regard (c.40.12-40-16).

34. New Article 112a of the AML/CFT Law, enables supervisory authorities (including NBS) to cooperate with their foreign counterparts without signed agreements (e.g. MoUs). Therefore, the

deficiency related to the lack of the information exchange with regard to supervision of pension funds and leasing companies has been addressed. The scope of cooperation mentioned in para 1 of Article 112a is broad enough to cover supervision of pension funds and leasing companies and there is no limitation on information exchange in these areas. So, the deficiencies noted in MER and 2<sup>nd</sup> follow-up report have been addressed (c.40.2 and c.40.12).

35. The deficiency related to the lack of safeguards and confidentiality requirements applicable to the information exchanged with regard to the supervisory authorities has been addressed by new Article 112a of the AML/CFT Law. Now, there is a clear general obligation imposed on supervisory authorities to put in place appropriate safeguards and observe confidentiality requirements, which is in line with FATF standards. However, no information has been provided with respect to LEAs other than Police (c.40.6 and c.40.7).

36. Overall, Serbia has taken the necessary steps to remedy all the major deficiencies. **Therefore, Serbia is re-rated as LC with R.40.**

### **3.2. Progress on Recommendations which have changed since the 3<sup>rd</sup> Enhanced follow-up**

37. Since the adoption of the Serbian 3<sup>rd</sup> Enhanced FUR, the FATF has amended R.15. This section considers Serbia compliance with the new requirements in relation to this Recommendation.

#### ***Recommendation 15 (originally rated LC – re-rated to PC)***

38. In its 5<sup>th</sup> round MER, Serbia was rated LC with R.15 based on the vague requirement of the AML/CFT Law in this respect is fully developed by secondary legislation only in respect of banks.

39. In October 2018, the FATF revised its Recommendation 15 to introduce new requirements for “virtual assets” (VAs) and “virtual asset service providers” (VASPs, including new definitions). In June 2019, the FATF adopted the Interpretative Note to Recommendation 15 that sets out the application of the Standards to VAs and VASPs. The FATF Methodology for assessing R.15 was amended in October 2019 to reflect amendments to the FATF Standards incorporating VA and VASP. Consequently, new criteria 15.3-15.11 were added.

40. To address the existing deficiencies and met the new requirement of R.15, Serbia has adopted the relevant amendments to the AML/CFT Law and established a new legal framework for VASPs. VASPs are obliged entities according to item 17 of Article 4 of the AML/CFT Law.

41. According to Article 37 of the AML/CFT Law, all reporting entities are obliged to assess risks that may arise in relation to new technologies. Moreover, similar requirements for FIs are foreseen in Section 9 of the Decision on Guidelines for the Application of the AML/CFT Law (c.15.1). In addition, Article 37 also obliges REs to assess and mitigate ML/TF risks prior to the launch of a new technology, product or service (c.15.2).

42. Serbia has slightly touched upon vulnerabilities of VAs in the context of the 2018 NRA, however no concrete results have been achieved that would demonstrate country’s progress on identifying and assessing the ML/TF risks emerging from VA and VASP activities (c.15.3(a)). As no risk assessment in relation to VA and VASPs has been undertaken by Serbia, no risk-based approach has been applied to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified (c.15.3(b)).

43. VASPs are required to identify, assess, manage and mitigate their money laundering and terrorist financing risks, as required by criteria 1.10 and 1.11 (c.15.3(c)).



44. The VASP definition provided by item 5 of Article 2 and further elaborated by Article 3 of the Law on Digital Assets is in line with the FATF Glossary (c.15.4).
45. According to para 1 of Article 4 of the Law on Digital Assets VASPs are required to obtain a license to provide VA services. In order to provide VA services by foreign VASPs on the territory of Serbia (Article 52 of the Law on Digital Assets), such companies are required to establish a Serbian legal person. In other words, VASP physically presented in Serbia shall be only a Serbian company, regardless of the legal form, so branches or other organizational parts of VASPs registered abroad may not provide VA services in Serbia (c.15.4(a)(i)).
46. There is no direct legal prohibition that would not allow natural persons provide VA. However, the Law on Digital Assets only empowers companies, i.e. legal persons to provide VA (Article 4, para 1 of the Law on Digital Assets) (c.15.4(a)(ii)).
47. Articles 60, 65 and 68 of Law on Digital assets establish the necessary requirements to prevent criminals and their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in a VASP (c.15.4(b)).
48. The control of meeting all the conditions for obtaining the licence for providing VA services is carried out continuously after obtaining the license (Article 137, paragraph 2, item 1 of the Law on Digital Assets). There are other preventative measures carried out by the authorities, including criminal sanctions. Apart from preventative measures and sanctions, the Serbian authorities on permanent basis carry out identification of potential illegal VASPs by collecting data from publicly available sources of information (by searching the Internet and the media), from reports of the competent authorities (e.g. law enforcement authorities), as well as from reports of VASP that are subject to supervision of the National Bank of Serbia. From the beginning of 2021, the National Bank of Serbia has identified ten (10) legal persons in respect of which there was doubt of providing virtual currency services without the license of the National Bank of Serbia and one (1) natural person (c.15.5).
49. VASPs that provide services related to VA are supervised by the National Bank of Serbia (point 4 of paragraph 1 of Article 2 of the Law on Digital Assets). VASPs that provide services related to digital tokens are supervised by the Securities Commission (point 4 of paragraph 1 of Article 2 of the Law on Digital Assets). Both supervisors carry out risk-based supervision of obliged entities in accordance with Article 104 para. 4 of the AML/CFT Law. Sub-items of para 4 of Article 104 of the AML/CFT Law provide a list of factors that should be considered by the supervisors. In addition, the NBS Methodology provides supplementary factors to be considered by the NBS, which are in line with requirements of c.26.5. Similar criteria are considered by the Securities Commission when conducting their risk-based supervision. However, lack of risk assessment of the VASP sector negatively impacts the supervisors' understanding of risk associated with VASPs (c.15.6(a)).
50. The supervisory authorities are vested with necessary powers to ensure compliance of VASPs with the AML/CFT requirements (Article 109, para 7 and Article 110, para 1 of the AML/CFT Law, Article 124, para 1 and Article 125, para 1 of the Law on Digital Assets) (c.15.6(b)).
51. According to Article 114 of the AML/CFT Law, the supervisory authorities can issue recommendations and/or guidelines for implementing the provisions of this Law, independently or in cooperation with other authorities. The authorities have already started providing this outreach to the VASP sector (c.15.7).
52. Serbian authorities are empowered to impose civil and administrative sanctions on VASPs for failure to comply with the AML/CFT Law and the Law on Digital Assets Articles 132 to 137 of the Law on Digital Assets and Article 109, para 7 and Article 110, para 1, Article 117-120 of the

AML/CFT Law. Sanctions for violations of the requirements under the UN sanctions regime are stipulated in Articles 18 and 19 of the LFA (c.15.8(a)).

53. The fines for the member of the managing body and director of the VASP can range up to 1,000,000 RSD (approximately 8500 EUROS) (Article 136, para 2 of the Law on Digital Assets). A natural person may be subject to the fine even if, at the time of pronouncing a fine, the person no longer acts in the capacity of a member of the managing body or director of the VASP. However, these sanctions cannot be considered proportionate and dissuasive (c.15.8(b)).

54. VASPs are obliged to comply with requirements related to R.10-21, albeit remaining deficiencies equally apply to VASPs (c.15.9). According to para 2 of Article 75 of the Law on Digital Assets, VASPs are required to establish business relationship irrespective of any threshold with each user of VA and establish and verify his identity in accordance with the AML/CFT Law (c.15.9(a)).

55. Article 15a of the AML/CFT Law requires originating VASPs to obtain all required information on all persons participating in the VA transfer (c.15.9(b)(i)). A beneficiary VASP is obliged to hold data in accordance with the AML/CFT Law and make it available without delay at the request of the supervisory authority, the Administration for the Prevention of Money Laundering or other competent authority. (Article 15b of the AML/CFT Law) (c.15.9(b)(ii)). VASPs are required to monitor the availability of information (Article 15c of the AML/CFT Law) and to take freezing actions and prohibit transactions with designated persons and entities as foreseen by the Law on the Freezing of Assets with the Aim of Preventing Terrorism and Financing of Proliferation (c.15.9(b)(iii)).

56. FIs are prohibited from providing VA activities apart from brokers (Article 13 of the Law on Digital Assets). If a broker is involved in sending or receiving virtual asset transfers on behalf of a customer, he is required to comply with requirements of Articles 15a-15c of the AML/CFT Law (c.15.9(b)(iv)).

57. The communication mechanisms, reporting obligations and monitoring referred to in criteria 6.5(d), 6.5(e), 6.6(g), 7.2(d), 7.2(e), 7.3 and 7.4(d) equally apply to VASPs (c.15.10).

58. Supervisors of VASPs are empowered to provide international cooperation according to Article 127 of the Law on Digital Assets and Article 112a of the AML/CFT Law. However, deficiencies under R.37-39 have a negative impact (c.15.11).

59. Serbia has taken significant steps to establish the necessary legal framework and meet the requirements of R.15. In particular, the country has met or mostly met almost all new requirements of R.15. However, several strategic deficiencies (c.15.3(a) and c.15.3(b)) have been identified, which have a significant impact on the rating, e.g. a lack of the risk assessment of the VASP sector (Serbia is currently conducting such risk assessments, however, has not finalised this exercise) and as a consequence no risk-based approach has been applied to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified. **Despite of tangible progress achieved by Serbia, R.15 is downgraded to PC.**

#### 4. CONCLUSION

60. Overall, Serbia has made progress in addressing the TC deficiencies identified in its MER and applicable subsequent FURs and has been re-rated on 5 FATF Recommendations (4 upgrades and 1 downgrade). Recommendations 22, 23, 28 and 40 initially rated as PC are re-rated as LC. Recommendation 15 initially rated as LC is downgraded to PC.

61. Serbia is encouraged to continue its efforts to address the remaining deficiencies.

62. Overall, in light of the progress made by Serbia since its MER and applicable subsequent FURs, its technical compliance with the FATF Recommendations has been re-rated as follows:

**Table 2. Technical compliance with re-ratings, post 4<sup>th</sup> Enhanced Follow-up**

R 1	R 2	R 3	R 4	R 5	R 6	R 7	R 8	R 9	R 10
LC	LC	LC	LC	LC	LC	LC	LC	LC	LC
R 11	R 12	R 13	R 14	<b>R 15</b>	R 16	R 17	R 18	R 19	R 20
LC	C	LC	LC	<b>PC</b>	LC	C	C	LC	C
R 21	<b>R 22</b>	<b>R 23</b>	R 24	R 25	R 26	R 27	<b>R 28</b>	R 29	R 30
C	<b>LC</b>	<b>LC</b>	LC	LC	LC	LC	<b>LC</b>	LC	LC
R 31	R 32	R 33	R 34	R 35	R 36	R 37	R 38	R 39	<b>R 40</b>
LC	LC	LC	LC	LC	LC	LC	LC	LC	<b>LC</b>

*Note:* There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

63. Serbia will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Serbia is expected to report back in two year's time.

64. At its 61<sup>st</sup> Plenary meeting MONEYVAL took note of the information from the Chair and Executive Secretary on correspondence with UN Special Rapporteurs concerning NPO related inquiries by the FIU of Serbia. The Plenary recalled the specific limitations contained in the FATF Recommendations and Methodology with regard to the powers of the FIU to seek information from reporting entities so as to avoid indiscriminate requests without a link to a suspicion of money laundering (ML) or terrorist financing (TF). The Plenary meeting called on all members to ensure that the FATF Recommendations are not intentionally or unintentionally used to suppress the legitimate activities of civil society. Henceforth, MONEYVAL shall pay particular attention to such situations arising among its membership.

65. On October 13<sup>th</sup>, 2021 the MONEYVAL Secretariat was once more approached by the Serbian NPO community highlighting the unintended consequences of application of the FATF Standards by the Serbian authorities against NPOs, individuals associated with them and media associations. In this regard, MONEYVAL reiterates its statement made at the 61<sup>st</sup> Plenary meeting that all members should ensure that the FATF Recommendations are not intentionally or unintentionally used to suppress the legitimate activities of civil society. MONEYVAL will continue monitoring the situation in Serbia.

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**November 2021**

## **Anti-money laundering and counter-terrorist financing measures - Serbia**

### **4<sup>th</sup> Enhanced Follow-up Report**

This report analyses Serbia's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of April 2016.

The report also looks at whether Serbia has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2016 assessment.