

# Anti-money laundering and counter-terrorist financing measures

# Slovak Republic

## 2<sup>nd</sup> Enhanced Follow-up Report & Technical Compliance Re-Rating

December 2023

Follow-up report



**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 2nd Enhanced Follow-up Report and Technical Compliance Re-Rating on Slovak Republic was adopted by the MONEYVAL Committee through written procedure (7 December 2023).

# *Slovak Republic: 2nd Enhanced Follow-up Report*

## **I. INTRODUCTION**

1. The mutual evaluation report (MER) of the Slovak Republic<sup>1</sup> was adopted in September 2020. Given the results of the MER, the Slovak Republic was placed in enhanced follow-up.<sup>2</sup> Its 1st enhanced follow-up report (FUR)<sup>3</sup> was adopted in November 2022. The report analyses the progress of the Slovak Republic in addressing the technical compliance (TC) deficiencies identified in its MER or subsequent FURs. 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. This report does not address what progress the Slovak Republic has made to improve its effectiveness.

2. The assessment of the Slovak Republic's request for technical compliance re-ratings and the preparation of this report were undertaken by the following Rapporteur teams (together with the MONEYVAL Secretariat):

- Moldova
- Liechtenstein

3. Section II of this report summarises the Slovak Republic's progress made in improving technical compliance. Section III sets out the conclusion and a table showing which Recommendations have been re-rated.

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

4. This section summarises the progress made by the Slovak Republic to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER and applicable subsequent FUR for which the authorities have requested a re-rating (Recommendations 8, 26 and 28).

5. For the rest of the Recommendations rated as partially compliant (PC) (R. 10, 12, 13, 15, 18, 19, 23, 29, 32, and 35) the authorities did not request a re-rating.

6. This report takes into consideration only relevant laws, regulations or other anti-money laundering and combating financing of terrorism (AML/CFT) measures that are in force and effect at the time that the Slovak Republic submitted its country reporting template – at least six months before the FUR is due to be considered by MONEYVAL.<sup>4</sup>

### **II.1 Progress to address technical compliance deficiencies identified in the MER and applicable subsequent FURs**

7. The Slovak Republic has made progress to address the technical compliance deficiencies identified in the MER and applicable subsequent FURs on Recommendation 26. As a result of this progress, the Slovak Republic has been re-rated on Recommendation 26. The country asked for re-ratings for Recommendations 8 and 28 as well, which are also analysed, however insufficient progress has been made to justify an upgrade of these Recommendations.

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1. Report available at <https://rm.coe.int/moneyval-2020-21-5th-round-mer-slovakia/1680a02853>.

2. Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.

3. First enhanced follow-up report, available at <https://rm.coe.int/moneyval-2022-16-fur-sk/1680a9211a>.

4. 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.

8. Annex A provides the description of country’s compliance with each Recommendation that is reassessed, set out by criterion, with all criteria covered. Annex B provides the consolidated list of remaining deficiencies of the re-assessed Recommendations.

### III. CONCLUSION

9. Overall, in light of the progress made by the Slovak Republic since its MER or 1st enhanced FUR was adopted, its technical compliance with the Financial Action Task Force (FATF) Recommendations has been re-rated as follows:

**Table 1. Technical compliance with re-ratings, December 2023**

R.1 LC (FUR 2022) PC	R.2 C	R.3 LC	R.4 LC	R.5 LC
R.6 LC	R.7 LC	R.8 PC (FUR2 2023) PC	R.9 LC	R.10 PC (FUR1 2022) PC
R.11 LC	R.12 PC (FUR1 2022) PC	R.13 PC (FUR 2022) PC	R.14 LC	R.15 PC (FUR1 2022) LC
R.16 LC	R.17 LC	R.18 PC (FUR 2022) PC	R.19 PC (FUR 2022) PC	R.20 C (FUR1 2022) PC
R.21 LC	R.22 LC	R.23 PC (FUR 2022) PC	R.24 LC	R.25 LC
R.26 LC (FUR2 2023) PC (FUR 2022) PC	R.27 LC	R.28 PC (FUR2 2023) PC (FUR1 2022) PC	R.29 PC (FUR 2022) PC	R.30 C (FUR1 2022) PC
R.31 LC	R.32 PC (FUR 2022) PC	R.33 C (FUR 2022) PC	R.34 LC	R.35 PC
R.36 LC	R.37 C	R.38 LC	R.39 LC	R.40 LC

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

10. The Slovak Republic will remain in enhanced follow-up and will report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures in December 2024.

## Annex A: Reassessed Recommendations

### Recommendation 8 - Non-profit organisations

	Year	Rating and subsequent re-rating
MER	[2020]	[PC]
FUR 2	[2023]	[PC] (upgrade requested, maintained at PC)

1. In the 4th round of evaluations Slovak Republic was rated non-compliant with former Special Recommendation VIII. No risk assessment of non-profit organisation (NPOs) has been undertaken, no review of the adequacy of legislation to prevent the abuse of NPOs for TF has been undertaken, authorities did not conducted outreach or provided guidance on TF. There was no supervision or monitoring of the NPO sector, there were no obligation for keeping detailed domestic and international transaction records, there were no measures or procedures in place to respond to international requests for information regarding particular NPOs that are suspected of TF or other forms of terrorist support. In the 5th round of evaluations NPO sector was assessed as part of the national risk assessment (NRA) but the subset of NPOs which would fall within FATF definition was not identified. No formal review of the adequacy of measures was undertaken, no systematic and specific outreach was conducted, no best practices were developed. There was no supervision over NPOs, no specific training was provided to relevant authorities.

#### 2. Criterion 8.1 –

- (a) Art. 9 (e) of the Act of 1 March 2018 on counteracting money laundering and financing of terrorism (AML/CFT Act), defines “a corporation” as a customer being a foundation (as regulated by Act 34/2001 Coll), a non-profit organisation providing services of general economic interest (as regulated by Act 213/1997 Coll.), a non-investment fund (as regulated by Act 147/1997 Coll.) and other special-purpose corporations irrespective of their legal personality which manage and distribute funds. The 2nd NRA provides general information on the overall level of risk to TF abuse the NPOs face in Slovak Republic, and give some examples of activities or characteristics, which are likely to carry a higher risk of TF abuse. The NRA identified the subset of NPOs which would fall within the FATF definition, without detailing the sub-categories which are at risk of TF abuse.
- (b) According to the 2nd NRA, in the period under review (2016-2019), there were no cases where NPOs were used or misused for money laundering (ML) or TF. However, this is a blunt finding of the report, not an analysis of the nature of (potential) threats posed by terrorist entities to the NPOs which are at risk. Nonetheless, it must be noted that ways of potential misuse of NPOs for the financing of terrorism are described in the Information for NGOs in the field of combating the financing of terrorism listed on the Financial Intelligence Unit (FIU)’s website.
- (c) Slovak Republic did not make a formal review of the adequacy of measures, including laws and regulations that relate to the subset of NPO sector that may be abused for terrorism financing support. Nevertheless, the Register of non-governmental non-profit organisations became operational from 1st of January 2021 and represents a reliable, up-to-date and unified source register of non-governmental NPOs, including data on the beneficial users of NPOs. However, there is no obvious link between the risks identified and the establishment of the registry. Moreover, its establishment was foreseen before the completion of the NRA.
- (d) A general provision was introduced as an amendment to the AML Act according to which the NRA shall be submitted to the government for approval at the latest four years after the previous approval.

### 3. **Criterion 8.2 –**

- (a) The Slovak Republic has clear legislative rules to promote accountability, integrity and public confidence in the administration and management of NPOs, in particular through specific laws regulating the various legal forms of NPOs, where all relevant data on bookkeeping (single-entry or double-entry accounting) are presented in annual reports, in the register of financial statements, in tax returns, in the register of BOs, while meeting the conditions for applying for a share tax. In the area of transparency of NPOs and their publicly available information, legislative changes were performed in the Slovak Republic. The efficiency of the use of public funds is closely related to the record of non-governmental non-profit organisations. The largest organisations in the NPOs sector in terms of financial volume are foundations, which are also the most controlled and regulated by legislation (Act no. 34/2002 Coll. on Foundations and on Amendments to the Civil Code). Obligations of foundations related to funding control include: the obligation to prepare financial statements and the annual report, the obligation to have the financial statements and the annual report audited by an auditor, the obligation to publish the annual report and deposit it in the register of financial statements, obligation to file a tax return if it has revenue subject to tax (Art. 34 and 35 of the Act no. 34/2002 Coll.).
- (b) Specific outreach to the NPO sector or the donor community on FT issues has been conducted. The authorities asserted that the NPOs are notified by the FSJ of possible misuse of terrorist financing in the context of AML/CFT controls that FIU performs in this sector with four such inspections reported in the period under review. In February 2023, the FIU issued the “Information for NGOs in the field of combating the financing of terrorism” to raise and deepen NPOs awareness on potential vulnerabilities of TF abuse and terrorist financing risks.
- (c) As mentioned above, the FIU’s document “Information for NGOs in the field of combating the financing of terrorism” contains best practices to address TF risk and vulnerabilities. It is not clear whether these best practices were developed in co-operation with NPO sector or not.
- (d) Foundations are obliged to deposit funds that are part of the foundation assets, to an account at a bank or a branch of foreign bank. Apart from that, “Information for NGO’s in the field of combating the financing of terrorism” is encouraging NPOs to conduct transactions via regulated financial channels, by providing the risk factors increasing the possibility of NGO abuse, inclusively on the increased use of cash transactions. Additionally, information is available on the National Bank of Slovakia (NBS)’s website with the recommendation not to enter into business relationships with “problematic” entities and check the authorisation of individual financial market entities on the NBS website.

4. **Criterion 8.3 –** Slovak Republic does not apply a risk-based approach in supervision but authorities report a number of measures applied to all main types of NPOs according to the AML/CFT Act or according to sectorial regulation (i.e. Act 34/2002 on Foundations, Act 213/1997 on Non-Profit Organisations Providing Public Benefit Services and Act 147/1997 on non-investment funds).

5. For the purposes of the AML/CFT Act, a foundation, a non-profit organisation providing services of general interest, and a non-investment fund are obliged to carry out the identification of the donor and the identification of the natural person or legal entity whose property association has provided funds under Art. 25 of the AML/CFT Act if the value of the donation or the amount of provided funds reaches at least €1,000.

6. The annual reports of the foundation, a non-profit organisation providing services of general interest and a non-investment fund shall be filed in the register of financial statements. All of those shall keep accounts and shall keep accounting records (including annual reports) for the ten years

following the year to which they relate (Art. 35(3) of Act 431/2002 on accounting). On the basis of that document retention, the competent authorities may, if necessary, subsequently verify transactions in order to establish whether the funds have been received and spent in a manner consistent with the purpose and objectives of foundations, non-profit organisations and non-investment funds.

7. The authorities report that in the context of its rights and obligations, the Ministry of Interior (MoI) may impose fines on foundations for failure to submit an annual report.

#### 8. **Criterion 8.4 –**

- (a) The authorities stated that the NPOs sector is monitored according to the annual controls plan used by the FIU when carrying out controls at entities that show the signs of risk. The FIU has implemented a risk-oriented approach to carrying out controls, as referred to in Article 2.1 of the Order of FIU Director no. 126/2018 and in the Methodological Guidelines on the Procedure for Controlling the Compliance of Obligations of Obligated Persons Pursuant to the AML Act by Police Officers of the Obligation of Controlled Persons of FIU no. 34/2018. After the establishment of the Register of non-governmental non-profit organisations, responsible authorities (MoI and district offices) before and after registering a legal person perform controls of the entities in compliance with the applicable generally binding legal regulation, inclusively by evaluating the Annual Reports. However, as stated under criterion 8.3. Slovak Republic does not apply a risk-based approach in supervision.
- (b) The FIU is entitled to conduct controls on NPOs for the purpose of identification of the Beneficial ownership (BO) and verification of the veracity and correctness of data about the BO, for the purpose of identifying persons (donors and recipients of donations worth more than € 1,000) or for the purpose of checking disposal of property (Art. 25 of the AML/CFT Act). For the non-performance of these obligations, the FIU may impose fines of up to € 200,000. (Art. 33 (3) AML/CFT Act). If a foundation fails to perform the obligation to deposit an annual report in the public part of the register of financial statements, the Ministry of the Interior may impose a fine of up to € 1,000 (§ 36 of Act 34/2002 Coll. on Foundations). NPOs are legal entities and are subject to Act No. 91/2016 Coll. on Criminal Liability of Legal Entities. As legal entities, NPOs may be criminally prosecuted for committing the offense of money laundering under § 233 and § 234 of the Criminal Code, and for the offense of terrorist financing under § 419c of the Criminal Code. It results that there is legal base to application of effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs.

#### 9. **Criterion 8.5 –**

- (a) Slovak Republic is effective in NPO related co-operation, co-ordination and information sharing. If necessary, FIU and law enforcement agency (LEA) are entitled to request information on NPOs from the Register of non-governmental non-profit organisations (including paper documents such as memorandum of association, statutes, annual reports, etc.). NPOs keep accounts according to Act no. 563/1991 on accounting and are subject to control by the tax authorities. Upon request, the tax authorities provide information to FIU/LEA. According to § 25 para. 2 of the AML Act, FIU is authorised to carry out inspections in NPOs also for the purpose of property management. In case of unauthorised disposal of assets in NPOs, the FIU withdraws the LEA information. The FIU shall disseminate the information from the unusual transaction reports regarding NPOs to the competent authorities, for example Financial Administration, LEA etc.
- (b) The National Counter-Terrorism Unit of the National Criminal Agency is a PF unit which has its own investigators and operational search activity specialists who are authorised to examine, detect and investigate suspected terrorist financing. The Slovak authorities provided a detailed list of training activities related to TF issues, inclusively with the

implication of NPOs, oriented for the National Counter-Terrorism Unit in order to gain sufficient investigative expertise and capability to examine NPOs suspected of TF abuse/ TF support.

- (c) Information on the sub-group of organisations that meet the FATF definition of NPOs (mainly non-profit organisations providing services of general interest and foundations) is provided in the Register of non-governmental non-profit organisations maintained by the MoI of the Slovak Republic. Hence, this information can be obtained in the course of an investigation.
- (d) The Slovak Information Service (SIS), FIU and Counter-Terrorism Unit NAKA are competent to receive and analyse information on any form of TF abuse of NPOs. In addition, on January 1, 2013, the National Security Analytical Center (NSAC) was established within the SIS organisational structure, with the aim to make co-operation among security forces more effective. The key tasks of NSAC are the preparation of comprehensive analytical assessments of security incidents based on reports and statements received from state authorities, monitoring security situation in open sources and the provision of analytical products on security threats to designated recipients. Although no statistics or examples of NPO abuse information sharing were presented to the AT, from the general scope of NSAC one can deduce that such would fall under the attributions of NSAC.

10. **Criterion 8.6** – The FIU uses the procedures and mechanisms for international co-operation that are provided under the AML/CFT Act, to handle information requests regarding to NPOs. The joint investigation teams (JITs) and the Joint Customs Operations (JCO) are mechanisms which can be used by the National Counter-Terrorism Unit in the area of the fight against TF under the applicable legislation, including in case a NPO would be involved. JITs and JCOs have not been used in practice, given that no direct activity by terrorist groups has been recorded so far, and no persons or groups have been localised that would prepare to commit a terrorist offense.

### **Weighting and Conclusion**

11. The NPOs sector was assessed as part of the 2nd NRA and the authorities identified the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse, although without detailing the sub-categories which are at risk of TF abuse. There was no review of the adequacy of measures, including the subset of NPO sector that may be abused for terrorism financing support. Specific outreach to the NPO sector or the donor community on FT issues has been conducted and best practices have been developed to protect NPOs from FT abuse. No risk-based approach in supervision of NPOs is applied. It seems that there is legal base to application of effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs. NPO information exchange is done in the usual manner by the FIU. **The Slovak Republic remains rated Partially Compliant with Recommendation 8.**



## Recommendation 26 - Regulation and supervision of financial institutions

	Year	Rating and subsequent re-rating
MER	[2020]	[PC] MER
FUR1	[2022]	[PC] (upgrade requested)
FUR 2	[2023]	[↑LC] (upgrade requested)

1. In the 4th round MER, Slovak Republic was rated as largely compliant (LC) with the previous Recommendation 23. The quality of supervision applied by the Ministry of Finance (MoF) was considered insufficient. In the 5th round of evaluations there were designated authorities for supervision of financial institutions, Core Principle financial institutions were required to be licensed, risk-based approach applied to supervision, however deficiencies remained in relation to market entry requirements for banks and insurance undertakings, the criteria for determining the frequency and intensity of AML/CFT supervision, as well as the requirements to review the assessments the money laundering/terrorist financing (ML/TF) risk profiles. Slovak Republic requested to upgrade Recommendation 26 in the context of the 1st FUR, however no sufficient progress had been achieved which would justify an upgrade at that time.

2. **Criterion 26.1** – There are two authorities responsible for supervising and monitoring FIs' compliance with the AML/CFT requirements. Article 29 of the AML/CFT Act designates the FIU as the AML/CFT supervisory authority for all obliged entities, including FIs. Moreover, NBS is also in charge of supervising banks, insurance companies, insurance agents, payment institutions, agents of foreign payment institution, e-money institutions, securities companies, asset management companies, currency exchange operators, pawnshops, lenders, credit intermediaries other than banks and saving banks (non-banking FI) and investment pension funds (Art. 29(3) of the AML Act and Article 1 (3) and 2 (6) of the FMS Act no 747/2004)).

### Market Entry

3. **Criterion 26.2** – The NBS is responsible for prudential supervision of the entire finance sector (Art. 2(3) of the Law on National Bank (No. 566/1992); Art. 1(3) of the Law on Financial Market Supervision (No. 747/2004)). Core Principles FIs must be licensed by the NBS. Other FIs, including payment institutions and money exchange providers, are also subject to either licensing or registration. The relevant requirements are set out in the sectoral legislation (Law on Banks (No. 483/2011), Law on Payment Services (No. 492/2009), Law on Foreign Exchange Services (No. 202/1995), Law on Insurance (No. 39/2015), Law on Securities (No. 566/2001), Law on Supplementary Pension Scheme (No. 650/2004)) and Law 129/2010 on consumer credits and loans for consumers (leasing companies).

4. There is no explicit prohibition on the establishment or continued operation of shell banks. However, the Law on Banks (Art. 7(2)(k)) requires that a bank's registered office, headquarters, and place of business must be on the territory of Slovak Republic. Although, physical presence of the meaningful mind and management is not specifically required.

5. **Criterion 26.3** – The NBS applies certain fit & proper criteria to shareholders and managers of FIs based on sectorial legislation (Art. 7(10) (14-15) (16-7) of the Law on Banks; Art. 2(27)(30-31) of the Law on Payment Services; Art. 6(3)(5) of the Law on Foreign Exchange Services; Art. 24 and Art. 181 of the Law on Insurance; Art. 8(b), Art. 56(12), Art. 58(2) and Art. 70(8) of the Law on Securities, Art. 23 (4), (12) of the Law 650/2004 on the supplementary pension scheme, Art. 48 (4), (12), Law 43/2004 on the old age pension scheme, Art. 28 (4), (5), (7), (11) of the Law 203/2011 on the collective investment, Art. 4 (4), (12) of the Law 439/2002 on Stock exchange, Art. 20a (3), (12), Art. 20b (5), Art. 24 (7) of the Law 129/2010 on consumer credits and loans for consumers).

6. The NBS has also issued various Decrees (NBS Decree no. 12/2008 Establishing the method of proving the fulfilment of conditions for granting a licence to provide investment services, Decree no 16/22 November 2011 on the elements of a banking licence application made by a bank or branch of a foreign bank and on how to prove compliance with the conditions for such licence and amended by

Decree no. 3/6 February 2018, Decree no. 6 December 2012 on how to demonstrate compliance with conditions for an authorisation to act as a management company, Decree no 139/14 may 2013 laying down detailed provisions on the elements of an application for a foreign exchange licence and on requirements for trade in foreign exchange assets, Decree 8/4 august 2015 establishing a method for proving compliance with the conditions for granting an authorisation to conduct insurance business and authorisation to conduct reinsurance business for entities which will not be subject to a special regime, Decree no 35/15 December 2015 concerning the method by which insurance undertakings subject to a special regime are to demonstrate compliance with conditions for the granting of an authorisation to conduct insurance business, Decree no 162/29 may 2012 on how to demonstrate compliance with conditions for an authorisation to establish and operate a pension fund management company, Decree no 1/25 September 2018 on the register of financial agents, financial advisers, financial intermediaries from other Member States operating in the insurance or reinsurance sector, and financial intermediaries from other Member States engaged in the provision of housing loans) on applications, approval of persons and the manner to substantiate fitness & properness of persons.

7. When licensing banks, NBS checks trustworthiness/criminal record (“a natural person who has not been convicted for a criminal offence against the right of property, for a criminal offence committed in relation to a managerial function performance or for a wilful criminal offence; these facts are proved by means of a criminal record transcript; where this concerns a foreign national, these facts are proved and documented by an equivalent document not older than three months issued by a competent authority in the country of which this person is a national or by a competent authority in the country in which this person’s permanently or habitually resides”) of members of the statutory body, administrative board and supervisory board, as well as other senior executives. Similar measures are applied in case there are new appointment for the abovementioned positions. The ongoing supervision over market entry requirements was introduced by relevant amendments to Instruction no 1/2021. Furthermore, the referred instruction now includes also “closely related persons (associates)”. However, this is still only applicable for the ongoing supervision but there are no relevant checks for associates during the licensing of a bank.

8. The NBS also checks whether holders of the significant interest (20%) in a bank are suitable persons i.e., are able to properly and safely conduct business activities in the interest of stability of the banking sector. This is being done both during the licensing and when granting the prior consent to the acquisition of the significant holding in a bank. The authorities did not explain what specific measures are undertaken to prevent criminals or their associates from holding or being the BO of the significant interest in a bank as part of the suitability checks. Nevertheless, criminal records of the applicants are verified by the NBS in practice.

9. In relation to insurance undertakings, the NBS examines the criminal record (conviction of criminal offences related to property or management) of persons holding key management functions or their associates both at the licensing stage and later, when changes occur (based on the notification of the entity or during the on-site supervision). The insurance sector takes into consideration also ongoing criminal prosecutions when assessing the fitness and properness of a natural person or its associate. The NBS also checks the eligibility of owners of the significant holding (20%, 30% or 50%) or their associates in an insurance undertaking. The eligibility checks are aimed at obtaining evidence that an undertaking will be run in a reliable and prudent way. No information was provided about specific measures to prevent criminals or their associates from being the BO of the significant interest in an insurance undertaking.

10. Investment firms must assess a set of elements (including a criminal record proving that the person was not convicted of a crime committed in connection with the performance of a managerial duties or a deliberate crime) in order to determine the good reputation of a natural person for a period of 10 years (Article 8 b) of Act on securities.

11. Payment institutions (MVTs), electronic money institutions, bureaux-de-change are obliged to inform the NBS about any criminal record concerning its management (management includes

members of statutory body, director or any other person managing the entity) as well as information on any changes regarding members of management including information that allows the NBS to verify if such newly nominated member of management has any criminal record by checking the Criminal Register. For a foreign national an extract from the criminal record (or any equivalent document) of his home country has to be provided to the NBS (Article 2 (31) and (54\_ of the Payment service act).

#### *Risk-based approach to supervision and monitoring*

#### 12. **Criterion 26.4** –

- (a) The Basel principles for effective banking supervision have been implemented through the EU Regulation 2013/575 on prudential requirements for credit institutions and investment firms, although Slovak Republic was not subject to any rated assessments therein. The authorities stated that the NBS is a member of International Association of Insurance Supervisors (IAIS) and International Organisation of Securities Commissions (IOSCO) and thus, applies about the implementation of IAIS principles or IOSCO principles and responsibilities.
- (b) Other FIs (apart from core principles FIs) are all reporting entities pursuant to Article 5(1)(b) of the AML Act. All these FIs, including those providing money or value transfer services and money or currency changing services, are subject to the NBS and FIU risk-based supervision. Please also refer to c.26.1.

13. **Criterion 26.5** – The NBS has in place risk assessment procedures for banking sector, which establishes a comprehensive process to classify banks according to their risk scoring. The results of the risk classification are then used by the Banking Supervision Department to perform on-site and off-site inspections (Instruction No 1/2021, Remote Supervision Procedure as of 10.12.21).

14. The NBS has in place a similar procedure for payment institutions, electronic money institutions, insurance, capital markets, exchange offices and non-bank lenders.

15. The NBS has legal powers to supervise (on site and off site supervision) financial institutions from an AML perspective so it should take in mind the AML risk factors (client, product and distribution channel, jurisdiction) and organise it's supervision, staff, monitoring having in mind an AML risk framework, a classification of the financial entities according to the risks identified and assessed (risk map), a risk matrix, implement a monitoring process for each category of entities and AML sanctions.

16. The frequency of supervision is determined based on the assigned risk level. The risk classifications/profile has a direct impact on the intensity and scope of supervisions.

17. The Slovak FIU is always informed by the NBS before conducting on-site inspection according to the AML Act. Furthermore, the supervisory team (NBS staff) during the on-site inspection focuses on the AML/CFT internal procedures for the application of customer due diligence measures (customer risk profile taking into consideration the AML/CFT risk factors), reporting of the suspicious activities, record keeping and ongoing monitoring.

18. The FIU does not have any ML/TF risk/based procedures that drive frequency and intensity of on-site. As for the off-site AML/CFT supervision, the FIU does not conduct off-site supervision.

19. **Criterion 26.6** – The individual ML/FT risk profile or those of financial groups have to be revised when major events or developments take place in the management and operations therein. The FIU does not have any procedure reviewing the assessment of the ML/TF risk profile of a financial institution.

#### **Weighting and Conclusion**

20. There remain shortcomings related to the requirements for the NBS to perform checks with respect to the associates of criminals when licensing banks. Financial institutions are classified by risk and the frequency and intensity of on-site or off-site AML/CFT supervision of financial

institutions/groups are based on ML/TF risks. **The Slovak Republic is re-rated Largely Compliant in respect of Recommendation 26.**

*Recommendation 28 - Regulation and supervision of Designated non-financial businesses and professions (DNFBPs)*

	Year	Rating and subsequent re-rating
<b>MER</b>	[2020]	[PC] MER
<b>FUR1</b>	[2022]	[PC] (upgrade requested)
<b>FUR 2</b>	[2023]	[PC] [upgrade requested, maintained at PC]

1. In the 4th round MER, Slovak Republic was rated as partially compliant (PC) with the previous Recommendation 24. There was no clear strategy concerning the DNFBP supervision and the outreach to the sector was also insufficient. The FATF standards were revised since then and the new analysis has been undertaken on 29 January 2019, the Slovak parliament adopted a new Gambling Act (Law 30/2019 effective from 1st of March 2019. The new Gambling Act opens Slovakia's online gambling market and allows private companies, as well as online operators based in other EU markets, to apply for licences to run online casino games. In the 5th round of evaluations, casinos were subject to licensing however the measures did not cover the associates of criminals. The FIU was designated as the AML/CFT supervisor for all the categories of DNFBPs, however there were shortcomings in the sanctioning regime, as well as risk-based supervision. The Slovak Republic had requested to upgrade Recommendation 28 in the context of the 1st FUR, however there was no sufficient progress to justify the upgraded rating.

**2. Criterion 28.1 –**

- (a) and (b) Casinos and online casinos are subject to licensing by the Gambling Supervisory Authority Pursuant to Art. 48 (4) of the new law, for obtaining an individual license the applicant must, inter alia, possess integrity ((a) the person who was not sentenced for an economic crime, crime against order public matters or a crime against property; (b) other wilful criminal act.). Integrity must be proved also by legal persons registered in Slovak Republic or in other EU member (using an extract from the Criminal Record or an equivalent document). The measures of the new gambling law, however, do not cover the associates of criminals.
- (c) The AML/CFT Act designates the FIU as the AML/CFT supervisor for casinos (Art. 29). The FIU has the power to conduct on-site visits and obtain access to any document or electronic systems of the supervised entity (Art. 30). According to Article 11 of the Law on Gambling Games, the casinos are also supervised by a number of other supervisory bodies such as the Financial Directorate, and the tax and customs services (until 2016 the MoF performed AML/CFT inspections and since 2016 the Tax authorities were in charge of AML/CFT inspections). Pursuant to the new Gambling law all the off-site and on-site supervision prerogatives were transferred to the new Gambling Regulatory Authority.

3. **Criteria 28.2-28.3 –** The FIU is the designated competent authority responsible for monitoring the compliance of all categories of DNFBPs with AML/CFT obligations. As described above, the FIU has adequate powers to conduct on-site inspections and obtain required data (according to the new gambling law, the on-site inspections can be performed also by the new gambling authority).

**4. Criterion 28.4 –**

- (a) The FIU has adequate powers to monitor compliance of DNFBPs with AML/CFT requirements by conducting on-site inspections and obtaining any required data or documents.
- (b) Professional licenses granted by self-regulating bodies (SRBs) to auditors, tax advisors, accountants, notaries, lawyers, bailiffs, real estate agents and dealers of precious metals

and stones require the absence of criminal record. This however would not prevent the criminals' associates from entering the professions.

- (c) The AML/CFT Act provides the FIU with sanctioning powers. Available sanctions include imposing fines up to €1,000,000 (Art. 33), requiring the publication of the legal valid decision/applied sanction (Art.33a) and requesting the relevant authority to withdraw authorisation/license for serious or consecutive violations (Art. 34). The range of these sanctions appears adequate; however, they concern only the entities and do not apply to persons performing managerial functions therein. In addition, the SRBs can withdraw the professional licenses granted to auditors, tax advisors, accountants, notaries, lawyers and real estate agents for violating the licensing conditions related to the absence of criminal record (the new gambling law provides sanctioning prerogatives to the new gambling authority).

5. **Criterion 28.5** – The relevant regulation and inspection guidance of the FIU do not provide for determining the frequency and intensity of supervision on a risk-sensitive basis. The Methodological Guideline issued by the Office for Gambling Regulation stipulates fixed timelines for the supervision of gambling sector depending on the duration of the license, however it seems that the primary driver for this regulation is not the underlying risk of the business. The FIU inspectors are required to understand certain characteristics (size, distribution channels, ownership structure, etc.) and risk factors related to DNFBPs before conducting an inspection (FIU Order No. 297/2008). This however does not equal to the risk-based assessment of the adequacy of internal controls, policies and procedures of DNFBPs.

#### ***Weighting and Conclusion***

6. Slovak Republic meets criteria 28.2 and 28.3 and partly meets criteria 28.1, 28.4 and 28.5. Since there remain a number of deficiencies (no measures in place to prevent associates of criminals from holding management functions in DNFBPs, no checks applied in relation to holders or BOs of significant or controlling interest in DNFBPs, sanctions for violations of AML/CFT requirements do not apply to persons performing management functions in DNFBPs, the frequency and intensity of supervision over DNFBPs is not determined on a risk-sensitive basis) **Recommendation 28 remains rated as Partially Compliant.**

## Annex B: Summary of Technical Compliance – Deficiencies underlying the ratings

Recommendations	Rating	Factor(s) underlying the rating <sup>5</sup>
8. Non-profit organisations	PC (MER) PC (FUR 2023)	<ul style="list-style-type: none"> <li>• The authorities have not identified the sub-categories which are at risk of TF abuse (c. 8.1(a) (b)).</li> <li>• The NRA does not substantiate the conclusion on the absence of cases when NPOs were used or misused for ML or TF (c.8.1(b)).</li> <li>• The adequacy of measures, including laws and regulations that relate to the subset of the NPO sector that may be used for TF support has not been reviewed (c.8.1(c)).</li> <li>• There is no specific requirement to periodically re-assess the NPO sector (c. 8.1(d)).</li> <li>• It is not clear whether the best practices were developed in co-operation with NPO sector or not (c.8.2(c)).</li> <li>• Absence of risk-based approach in supervision of NPOs (c.8.3).</li> </ul>
26. Regulation and supervision of financial institutions	PC (MER) PC (FUR 2022) LC (FUR 2023)	<ul style="list-style-type: none"> <li>• Fit and proper checks preventing the associates of criminals from holding or being a BO of a significant interest or holding a managerial position in a bank is limited to ongoing supervision (c.26.3).</li> <li>• The FIU does not have any ML/TF risk-based procedures that drive frequency and intensity of on-site (c.26.5).</li> <li>• The FIU does not have any procedure reviewing the assessment of the ML/TF risk profile of a financial institution (c.26.6).</li> </ul>
28. Regulation and supervision of DNFBPs	PC (MER) PC (FUR 2022) PC (FUR 2023)	<ul style="list-style-type: none"> <li>• Absence of the measures in place to prevent associates of criminals from holding management functions in casinos (c.28.1 (b)).</li> <li>• Absence of the measures in place to prevent associates of criminals from holding management functions in other DNFBPs (c.28.4 (b)).</li> <li>• The sanctions for violations of AML/CFT requirements concern only the entities and do not apply to persons performing management functions in DNFBPs (c.28.4 (c)).</li> <li>• Frequency and intensity of supervision is not based on a risk-sensitive basis (c.28.5 (a)).</li> </ul>

5. Deficiencies listed are those identified in the MER unless marked as having been identified in a subsequent FUR.

## GLOSSARY OF ACRONYMS

AML	Anti-money laundering
AML/CFT	Anti-money laundering and combating financing of terrorism
AML/CFT Act	Act of 1 March 2018 on counteracting money laundering and financing of terrorism
BO/BOs	Beneficial ownership/Beneficial owners
C	Compliant
DNFBPs	Designated non-financial businesses and professions
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FUR	Follow-up report
IAIS	International Association of Insurance Supervisors
IOSCO	International Organisation of Securities Commissions
JIT	Joint investigation team
JCO	Joint customs operations
LC	Largely compliant
LEA	Law enforcement agency
MER	Mutual evaluation report
ML/TF	Money laundering/terrorist financing
MoF	Ministry of Finance
MoI	Ministry of Interior
NAKA	National Criminal Agency Slovakia
NBS	National Bank of Slovakia
NC	Non-compliant
NPO	Non-profit organisation
NRA	National risk assessment
NSAC	National Security Analytical Center
PC	Partially compliant
SIS	Slovak Information Service
SRB	Self-regulating body
TC	Technical compliance
TF/FT	Terrorism financing

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**December 2023**

Anti-money laundering and counter-terrorist financing measures -

**Slovak Republic**

**2nd Enhanced Follow-up Report &**

**Technical Compliance Re-Rating**

This report analyses Slovak Republic's progress in addressing the technical compliance deficiencies identified in the September 2020 assessment of their measures to combat money laundering and terrorist financing and in subsequent follow-up reports.

Follow-up report