COMMITTEE OF EXPERTS ON THE EVALUATION
OF ANTI-MONEY LAUNDERING MEASURES AND
THE FINANCING OF TERRORISM (MONEYVAL)

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE
MONEYVAL(2022)16

Anti-money laundering and counter-terrorist financing measures

Slovak Republic

1st Enhanced Follow-up Report & Technical Compliance Re-Rating

November 2022

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.

The 1st Enhanced Follow-up Report and Compliance Re-Rating on Slovak Republic was adopted by the MONEYVAL Committee through written procedure (19 September – 31 October 2022).

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Slovak Republic: First Enhanced Follow-up Report

1. INTRODUCTION

1. The mutual evaluation report (MER) of Slovakia was adopted in September 2020. The report analyses the progress of Slovakia in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. 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 Slovakia has made to improve its effectiveness.

2. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated Slovakia as follows for technical compliance:

Table 1. Technical compliance ratings, September 2020

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

Note: There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).
Source: Slovak Mutual Evaluation Report, September 2020, https://rm.coe.int/moneyval-2020-21-5th-round-mer-slovakia/1680a02853.

3. Given the results of the MER, Slovakia was placed in enhanced follow-up[1].

4. The assessment of Slovakia'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):

- Andorra
- Armenia
- Isle of Man
- Lithuania
- Croatia
- Bosnia and Herzegovina
- Bulgaria

[1] Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up. This is intended to be a targeted but more comprehensive report on the countries/territories' progress, with the main focus being on areas in which there have been changes, high risk areas identified in the MER or subsequently and on the priority areas for action.

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

3. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Slovakia to improve its technical compliance by:

- Addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (R.1, R.10, R.12, R.13, R.18, R.19, R.20, R.23, R.26, R.28, R.29, R.30, R.32 and R.33);
- Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (R.15).

7. For the rest of the Recommendations rated as PC (R.8 and R.35) the authorities did not request a re-rating.

8. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Slovakia submitted its country update report – at least six months before the FUR is due to be discussed by MONEYVAL[2].

III.1 Progress to address technical compliance deficiencies identified in the MER

9. Slovakia has made some progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Slovakia has been re-rated on Recommendation 1, 20, 30 and 33. The country asked for a re-rating for R.10, R.12, R.13, R.18, R.19, R.23, R.26, R.28, R.29 and R.32 which are also analysed but no re-rating has been provided.

Recommendation 1 (Originally rated PC – re-rated as LC)

10. In its 5th round MER, Slovakia was rated PC with R.1 based on the following deficiencies: there are no timelines for the NRA up-dates in the AML/CFT Act (c.1.3); there is no legal obligation to provide information about the results of the NRA (c.1.4); absence of the information on the RBA in allocation of resources and implementing measures to prevent and mitigate ML/TF (c.1.5); the AML/CFT Act provides for the possibility of applying simplified CDD measures in certain scenarios (limited financial services and low thresholds), which are not justified by the findings of the NRA (c.1.6); the deficiency identified under c.1.3 impact on the rating of c.1.8 (c.1.8); there are no defined mechanisms for providing risk assessment information to competent authorities and SRBs (c.1.10); there are no provisions to oblige the REs to take enhanced measures to manage and mitigate risks where higher risks are identified, beyond EDD measures (c.1.11); the shortcoming under c 1.10 and c.1.11 impact the rating of c.1.12 (c.1.12).

11. The Slovak Republic has taken steps to address the deficiencies identified in the 5th round MER. In particular, Slovakia has amended Article 26a(3) of the AML Act which now specifies that the updated NRA should be submitted for government approval no later than four years after the approval of the previous iteration; thus (c.1.3).

12. With regard to a lack of obligation to provide information about the results of the NRA, Slovakia amended Article 26a(4) of the AML Act, which requires the FIU to publish the final report of the national risk assessment on its website and keep obliged entities informed of the risks identified

[2] 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.

in the NRA and of the measures implemented to mitigate them. Moreover, the FIU has also informed all representatives of obliged entities, i.e., associations, federations and chambers(c.1.4).

13. The adoption of the Action Plan, which contains a broad list of tasks and recommendations to authorities linked to the threats and vulnerabilities identified in the course of the 2nd NRA. This plan exhibits the application of RBA by way of allocating resources for the purpose of implementing measures for preventing and mitigating ML/TF risks. However, the AP does not prioritise the foreseen measures to mitigate ML/TF risks (c.1.5).

14. Concerning justification of application of simplified measures, the analysis carried out in the 2nd NRA of 2021 sets out the basis for and justifies implication of simplified CDD in accordance with the provisions of Section 11 of the AML Act. Thus, the 2nd NRA addresses the concerns identified in the MER that application of simplified measures by electronic money and payment services were not justified by the findings of the 1st NRA. In addition, it should be highlighted that Slovakia has not exempted any application of the FATF Recommendations (c.1.6).

15. The amendments to Section 20a(2) of the AML Act provide a mechanism for obliged entities to provide risk assessment information to the FIU. Article 29 of the AML/CFT Act designates the FIU as the AML/CFT supervisory authority for all obliged entities, including FIs. However, apart from the FIU there are other supervisory authorities vested with powers to carry out AML/CFT supervision. For these supervisors there is no requirement to provide risk assessment information by obliged entities (c.1.10).

16. Slovakia has not taken any measures to address the deficiency concerning lack of provisions to oblige the REs to take enhanced measures to manage and mitigate risks where higher risks are identified, beyond EDD measures (c.1.11).

17. As the country has not demonstrated actions, which would oblige REs to take enhanced measures beyond EDD measures as required by c.1.11. In relation to c.1.10 Slovakia has taken steps to largely address the deficiency under this criterion (c.1.12).

18. Overall, While the Slovak Republic has not enacted provisions which would oblige the REs to take enhanced measures to manage and mitigate risks where higher risks are identified, beyond EDD measures; the country has largely addressed or addressed other deficiencies under R.1 identified in the 5th round MER. In particular, Slovakia has adopted a legal provision, which requires to update the NRA every four years since the previous iteration. The deficiency relating to the lack of legal obligation to provide information about the results of the NRA to all relevant competent authorities, self-regulatory bodies and RE, has been addressed. The deficiency regarding the requirement for REs to provide risk assessment information to supervisory authorities has been also largely addressed as the REs are only required to provide risk assessment information to the FIU, although there are other supervisory authorities vested with the powers to carry out AML/CFT supervision. Slovakia has adopted the AP, which foresees allocation of resources; however, measures that are listed in this AP are not prioritised. Moreover, Slovakia has also addressed the deficiencies in relation to simplified CDD. **Therefore, R.1 is re-rated as "LC".**

Recommendation 10 (Originally rated PC – no re-rating)

19. In its 5th round MER, Slovakia was rated PC with R.10 based on the following deficiencies: absence of full range of CDD measures when carrying out occasional wire transfers over EUR 1,000 (c.10.2(c)); no legal requirement to verify whether persons act on behalf of third person are authorized and verify the identity of that person and the customer (c.10.4); there is no requirement to verify BOs based on reliable source data (c.10.5); no clear information provided regarding FI's understanding the purpose and intended nature of the business relationship (c.10.6); absence of the specific requirement to examine, where necessary, whether transactions of the customer are

consistent with the source of funds (c.10.7); there is no obligation to understand the customer's business (c.10.8); identifying the natural person authorized to act on behalf of the legal entity also does not amount to obtaining the names of all relevant persons holding the senior management position (e.g. senior managing directors) (c.10.9(b)); FIs are not required to distinguish the address of the registered office of the legal entity from its principal place of business, and if different, obtain the relevant information (c.10.9(c)); the BO definition of trusts is not in line of the requirements of EC10.11 as it required identification based on a threshold and it does not cover the protector (where applicable) (c.10.11(a)); there are no specific requirements concerning beneficiaries designated by characteristics or class (c.10.11(a)); absence of the similar definition of BOs for other types of legal arrangements (c.10.11(b)); no specific requirement to gather the relevant information in relation to beneficiaries designated by characteristics or class to satisfy the FI that it will be able to establish the identity of the beneficiary at the time of the pay-out (c.10.12(b)); lack of information about other investment-related insurance policies and the applicable requirements (c.10.12); no requirement to include the beneficiary of a life insurance policy as a relevant risk factor when determining whether to apply enhanced CDD (c.10.13); absence of legal provisions that would require FIs to apply CDD to existing customers depending on the materiality (c.10.16); simplified CDD measures in low-risk scenarios which are not justified by the findings of the NRA (c.10.18); absence of the requirement to refuse establishing a business relationship or performing a transaction, and to terminate a business relationship where FIs cannot perform other required CDD measures such as conducting ongoing due diligence (c.10.19(a)); obligation to report unusual transactions does not broadly extent to the situation when a financial institution is unable to comply with the relevant CDD measures (c.10.19(b)); the legislation does not contain the permission for the FIs refrain from pursuing the CDD process in case of risk of tipping-off the customer followed by submission of a UTR (c.10.20).

20. To address these deficiencies Slovakia has taken some measures. In the 5th round MER, the assessment team had highlighted that FIs were not required in all instances to verify whether persons purporting to act on somebody else's behalf are so authorised and verify the identity of that person and the customer (in case the person is not acting based on the power of attorney). According to the information submitted by the assessed country, the AML Act sets out a provision which ensures that obliged entities are required in relation to costumers (legal persons) to verify the authorisation to act on behalf of the legal person and identify and verify the identity of that natural person (Article 8(1)(b) of the AML Act. In the case of a natural person, there is still no legal requirement to verify the authorisation of the person acting on behalf and identify and verify his identity (in all other instances apart from a power of attorney) (c.10.4).

21. Regarding the deficiency concerning a lack of requirement to verify BOs based on reliable source data, Slovakia has taken steps to remedy this deficiency. However, these new amendments oblige REs only to verify the information relating to the BO identification from an additional credible source when there is a higher risk of ML/TF (Article 10(1)(b) of the AML Act). This requirement does not apply to all customers (c.10.5).

22. The purpose and intended nature of the business relationship shall be obtained and evaluated by obliged entities (Article 10(1)(c) of the AML Act) (c.10.6).

23. The amendments of the AML Act stipulate that while performing ongoing monitoring an obliged entity shall determine whether the transactions executed are consistent with the obliged entity's knowledge of source of funds and assets (Article 10(1)(g) of the AML Act) (c.10.7).

24. Slovakia has established the provision that requires an obliged entity to obtain and evaluate information about the nature of the client's business (Article 10(1)(c) of the AML Act). However, it is unclear whether the purpose of evaluation is to understand the nature of the customer's business (c.10.8).

25. As per non-exhaustive list of factors of potentially higher customer risk factors with enhanced CDD, the customer of the beneficiary of a life insurance policy is included as a relevant risk factor. However, if the beneficiary of a life insurance policy is not a costumer (e.g., BO), this is not considered to be a relevant risk factor (c.10.13).

26. The amendments of the AML Act stipulate that an obliged entity shall verify the validity and completeness of the identification data and CDD information depending on the risk of ML/FT, also during the duration of the business relationship. As well as CDD shall be conducted in case of suspected UT, or in doubt of veracity or completeness of previously obtained information. Nevertheless, these requirements still do not address the deficiency regarding application of CDD to existing customers (c.10.16).

27. The application of simplified CDD measures in low-risk scenarios are based on the analysis of risks by the country within Slovakian' 2nd NRA. Please also see c.1.6 and c.1.8 (c.10.18).

28. Slovakia has established the provision that requires an obliged entity to refuse to enter into a business relationship, to terminate a business relationship or to refuse to execute a particular trade in case it cannot carry out all CDD requirements under Article 10(1) of the AML Act, which covers, amongst other, conducting ongoing monitoring (c.10.19(a)).

29. Slovakia has established the provision that requires an obliged entity to refuse to enter into a business relationship, to terminate a business relationship or to refuse to execute a particular trade in case it cannot carry out all CDD requirements under Article of the AML Act. As per Article 4(2)(c) of the AML Act, the UT report includes cases where the customer refuses to identify themselves or to provide the data necessary for the exercise of due diligence by the obliged person pursuant to Article 10, Article 11 and Article 12, i.e., it refers to customers' actions. However, it remains unclear whether obligation to report UT covers situations when a financial institution is unable to comply with the relevant CDD measures, e.g., cases where an obliged entity fails to execute CDD measures to their satisfactory knowledge about the customer, cannot perform verification of customer's identity, the BO, cannot understand the purpose and intended nature of the business relationship (c.10.19(b)).

30. Moreover, it should be highlighted that Slovakia has not taken necessary steps to remedy deficiencies under c.10.2(c), c.10.9(b-c), c.10.11(a-b), c.10.12 and c.10.20.

31. Overall, Slovakia has taken some steps to address the deficiencies identified in the 5th round MER under R.10. Namely, the deficiencies under c.10.4, 10.6, 10.7, 10.8, 10.16, 10.18, 10.19(a) have been addressed or largely addressed. Nevertheless, deficiencies under c.10.2(c), c.10.5, 10.9(b,c), 10.11(a,b), 10.12, 10.19(b), 10.20 have not been remedied. Regarding c.10.13, although, Slovakia has taken some steps to improve its preventative requirements, deficiencies under these criteria have only been partly addressed. **Therefore, R.10 remains "PC".**

Recommendation 12 (Originally rated PC – no re-rating)

32. In its 5th round MER, Slovakia was rated PC with R.12 based on the following deficiencies: there is no specific requirement to put in place risk management systems for identifying PEPs (c.12.1(a)); a manager, who has direct communication with the statutory and supervisory boards, and can access all required information and documents, does not seem to be equivalent to senior manager (c.12.1(b)); there is no specific requirement to take reasonable measures to establish the origin of the entire body of wealth of PEPs (c.12.1(c)); the definition of family members however does not include siblings of PEPs, which is part of the minimum standard provided by the FATF Guidance (c.12.3); persons considered as close associates of PEPs are limited to those who have joint beneficial ownership of the FI's customer, run business together with PEPs or have beneficial ownership of the FI's customer set up in favour of a PEP (c.12.3); there is no requirement for the FIs providing life insurance policies to take reasonable measures to determine whether the beneficiaries

or the BO are PEPs (c.12.4); other elements of c.12.4 are also not fulfilled, although the senior management must be informed whenever policy proceeds are paid out as part of the business relationship with PEPs (c.12.4).

33. Slovakia has taken some steps to address several deficiencies. In particular, AML Act sets up provisions regarding ongoing monitoring of business relationships. However, it is not clear how this requirement for updated information / documents can also be in place of and in compliance with the recommendation to have a specific requirement to put in place risk management systems for identifying PEPs. Concerning Sections 20(1) and 20(2) of AML Act, these provisions require an obliged entity to carry out a ML/TF risk assessment, but not a specific risk management system to determine if a customer or BO is a PEP (c.12.1(a)).

34. The inclusion of 'a customer being a beneficiary of a life insurance policy' as a risk factor implies application of EDD (Article 12 of the AML Act) for any beneficiary of a life policy (Annex 2 to the AML Act). Moreover, Article 12 provides additional measures to be taken by REs when applying EDD. In particular, when transactions or business relationship is carried out with PEPs, REs are obliged to inform senior management before the pay-out (Article 12(c)(4)). However, all these measures do not apply to situations when the beneficiary or BO is a PEP, i.e., no requirements in relation to conducting enhanced scrutiny of the whole business relationship with the policyholder and considering making an STR (c.12.4).

35. Moreover, it should be highlighted that Slovakia has not taken necessary steps to remedy deficiencies under c.12.1(b-c), c.12.3 and c.12.4(another deficiency).

36. Overall, Slovakia has not taken any steps or measures to address any deficiencies identified in the 5th round MER. **Therefore, R.12 remains "PC".**

Recommendation 13 (Originally rated PC – no re-rating)

37. In its 5th round MER, Slovakia was rated PC with R.13 based on the following deficiencies: the correspondent banking requirements apply only to EU/EEA countries (**Correct: The correspondent banking requirements** do not apply to **EU/EEA countries**.) (c.13.1); there is no requirement to determine if the respondent has been subject to a ML/FT investigation or regulatory action (c13.1(a)); FI's do not clearly understand the respective AML/CFT responsibilities of each institution (c.13.1(d)); with regard to payable-through accounts, this requirement applies to only non-EU/EEA countries (c.13.2).

38. Since the adoption of the 5th round MER, Slovakia has not taken any steps to remedy the identified deficiencies. **Therefore, R.13 remains "PC".**

Recommendation 18 (Originally rated PC – no re-rating)

39. In its 5th round MER, Slovakia was rated PC with R.18 based on the following deficiencies: absence of the obligation for the FIs to take into account the size of the business when designing AML/CFT programmes (c.18.1); there are no requirements that the compliance officer should be at management level (c.18.1(a)); legal provision requiring FIs to screen their employees to ensure high standards when hiring does not exist (c.18.1(b)); there is no specific requirement to put in place an independent audit function for the purpose of testing the AML/CFT system (c.18.1(d)); the requirement to implement group-wide AML/CFT programmes does not extend to branches and subsidiaries in EU member states (c.18.2); the requirement to include procedures for information sharing within the group-wide AML/CFT programme does not extend to branches and subsidiaries in EU member states (c.18.2(a)); There is no specific requirement that the group-wide AML/CFT programs provide for the collection of the relevant customer, account and transaction data at the group-level functions, or the dissemination of those data to members of the group for risk

management purposes (c.18.2(b)); limited requirement to include adequate safeguards on confidentiality and prevention of tipping-off in the group-wide AML/CFT programmes (c.18.2(c)); requirements to the FIs' branches and majority-owned subsidiaries in third countries to take AML/CFT measures in line with the domestic and EU legislation do not extend to those who are placed in the EU member states (c.18.3).

40. Slovakia has taken some steps to address several deficiencies. In particular, regarding the absence of the obligation for the FIs to take into account the size of the business when designing AML/CFT programmes, Slovakia amended Section 20(1) of the AML Act. The provision refers to the obligation to take into account the size of the obliged entity when designing own activity programmes (c.18.1).

41. The deficiency concerning that the compliance officer is not at management level, has not been addressed. The wording used under Section 20(2)(h) refers to "senior employee", which does not directly indicate that it is a management level. Moreover, there is no definition of "senior employee" nor additional explanation provided that would clarify this ambiguity (c.18.1(a)).

42. Slovakia has extended the requirement to implement group-wide AML/CFT programmes to branches and subsidiaries in EU member states (Section 20a(3) of the AML Act) (c.18.2).

43. Slovakia has extended the requirement to include procedures for information sharing within the group-wide AML/CFT programme to branches and subsidiaries in EU member states (Section 20a(3) of the AML Act) (c.18.2(a)).

44. The Slovak authorities have amended Section 20 a (3) of the AML/CFT Act. However, overall, the language in section 20 a (3) of the AML Act is general in terms of c.18.2(b) and the deficiency is addressed to some extent. Still, there is no specific requirement that the group-wide AML/CFT programmes provide for the collection of the relevant customer, account and transaction data at the group-level functions, or the dissemination of those data to members of the group for risk management purposes (c.18.2(b)).

45. Slovakia has amended Article 20a(3) of the AML Act to ensure that adequate safeguards on confidentiality of information exchanged. However, there is still no requirement to prevention of tipping-off in the group-wide AML/CFT programmes (c.18.2(c)).

46. Slovakia has amended Article 21(4) of the AML Act to extend the requirements to the FIs' branches and majority-owned subsidiaries in the EU member states. However, this amendment still does not address the deficiency as the requirement under c.18.3 is wider. In particular, Article 21(4) does not cover the following: "*where the minimum AML/CFT requirements of the host country are less strict than those of the home country, to the extent that host country laws and regulations permit. Moreover, if the host country does not permit the proper implementation of AML/CFT measures consistent with the home country requirements, financial groups should be required to apply appropriate additional measures to manage the ML/TF risks, and inform their home supervisors*" (c.18.3).

47. Slovakia has not taken any steps to address deficiencies under c.18.1(b-d).

48. Overall, the Slovak Republic has addressed several important deficiencies identified in the 5th round MER. In particular, Slovakia has extended the group-wide AML/CFT programmes to branches and subsidiaries in EU member states (c.18.2). Moreover, Slovakia has addressed the deficiency relating to the absence of the obligation for the FIs to take into account the size of the business when designing AML/CFT programmes (c.18.1) and partly addressed the deficiency regarding adequate safeguards on confidentiality of information exchanged (c.18.2(c)). However, some outstanding deficiencies still have not been addressed under c.18.2(b,c) and c.18.3. **Therefore, R.18 remains "PC".**

Recommendation 19 (Originally rated PC – no re-rating)

49. In its 5th round MER, Slovakia was rated PC with R.19 based on the following deficiencies: enhanced CDD measures can only be applied to high-risk countries that are not part of the EEA area (c.19.1); lack of clarity whether enhanced CDD measures must be applied to natural persons who reside or legal persons that primarily operate in the high-risk jurisdiction (c.19.1); the Slovak Republic is not able to apply countermeasures either independently or when called for by the FATF (c.19.2); FIU is only publishing the decisions taken by the EC that identify high-risk jurisdictions with strategic deficiencies (c.19.3).

50. Slovakia has taken some steps to address several deficiencies. In particular, the Slovak authorities have added the wording of Article 26(2)(o) of the AML Act and added countries which, according to reliable sources, do not have effective systems AML/CFT. The FIU publishes FATF lists (c.19.3).

51. Slovakia has not taken any steps to address deficiencies under c.19.1 and c.19.2.

52. Overall, Slovakia, has taken some steps to address deficiencies under R.19 that had been identified in the 5th round MER, however only minor measures have been taken. **Therefore, R.19 remains "PC".**

Recommendation 20 (Originally rated PC – re-rated as C)

53. In its 5th round MER, Slovakia was rated PC with R.20 based on the following deficiencies: the definition of the UTR is not in line with the FATF requirements (c.20.1); the definition of the UTR has a strict referral to a link to ML rather than "proceeds of criminal activity" (c.20.1); The legislation requires that the legal act "can be used" for ML purposes rather than having suspicious or reasonable grounds to suspect (c.20.1); the legislation refers to the possibility for the operations to "be used" for TF rather than being "related" to TF (c.20.1)

54. Slovakia has taken steps to address all deficiencies. In particular, Slovakia has introduced amendments to the AML Act in order to bring the requirement in line with the FATF Standards. Slovakia has introduced amendments to the AML Act in order to bring the requirement in line with the FATF Standards. Within the meaning of Section 4(2)(i) of the AML Act, it states a UT is where there is premise that the funds or assets…..'. (c.20.1).

55. Following the adoption of relevant amendments to the AML Act, Section 4(2)(i) provides for the UT definition, which refers to 'the proceeds of crime' and refers to "reasonable premise". Moreover, Section 4(2)(i) provides for the UT definition, which refers to 'are related to the FT'.

56. Overall, Slovakia has taken necessary steps to remedy all deficiencies identified in the 5th round MER. **Therefore, R.20 is re-rated as "C".**

Recommendation 23 (Originally rated PC – no re-rating)

57. In its 5th round MER, Slovakia was rated PC with R.23 based on the following deficiencies: TCSPs are not required to report suspicious transactions when performing the equivalent function of a trustee for other forms of legal arrangement (c.23.1(c)); shortcomings identified under R.18, 19 and 21 equally apply to DNFBPs (c.23.2, c.23.3, c.23.4).

58. Slovakia has taken some steps to address several deficiencies. In particular, Slovakia has addressed the deficiencies concerning absence of the obligation for the FIs to take into account the size of the business when designing AML/CFT programmes (c.18.1) and lack of the requirement to implement group-wide AML/CFT programmes to branches and subsidiaries in EU member states (see c.18.2). Moreover, Slovakia has established the requirement to include procedures for

information sharing within the group-wide AML/CFT programme does not extend to branches and subsidiaries in EU member states (see c.18.2(a)). The limited requirement to include adequate safeguards on confidentiality and prevention of tipping-off in the group-wide AML/CFT programmes has only been partly addressed (see c.18.2(c)).

59. The requirements to branches and majority-owned subsidiaries in third countries to take AML/CFT measures in line with the domestic and EU legislation have been extended to those who are placed in the EU member states. However, this amendment still does not address the deficiency as the requirement under c.18.3 is wider (see c.18.3).

60. The FIU is now also publishing the decisions taken by the FATF that identify high-risk jurisdictions with strategic deficiencies (see c.19.3).

61. Slovakia has not taken any other steps to address deficiencies regarding no requirement for TCSPs to report suspicious transactions when performing the equivalent function of a trustee for other forms of legal arrangement (c.23.1(c)) and the exemptions do not cover all civil and criminal liability for breaches of confidentiality clauses (c.23.4). Moreover, deficiencies under R.18 (no requirements that the compliance officer should be at management level (c.18.1(a)); no legal provision requiring screening their employees to ensure high standards when hiring (c.18.1(b)); no specific requirement to put in place an independent audit function for the purpose of testing the AML/CFT system (c.18.1(d)); no specific requirement that the group-wide AML/CFT programs provide for the collection of the relevant customer, account and transaction data at the group-level functions, or the dissemination of those data to members of the group for risk management purposes (c.18.2(b)); limited requirement to include adequate safeguards on confidentiality and prevention of tipping-off in the group-wide AML/CFT programmes (c.18.2(c)); requirements to branches and majority-owned subsidiaries in third countries to take AML/CFT measures in line with the domestic and EU legislation do not extend to those who are placed in the EU member states (c.18.3)) and R.19 (enhanced CDD measures can only be applied to high-risk countries that are not part of the EEA area (c.19.1); lack of clarity whether enhanced CDD measures must be applied to natural persons who reside or legal persons that primarily operate in the high-risk jurisdiction (c.19.1); the Slovak Republic is not able to apply countermeasures either independently or when called for by the FATF (c.19.2)) still remain.

62. Overall, Slovakia has taken some measures to address the identified deficiencies in the 5th round MER, however, there are still a significant number of deficiencies that has not been addressed. **Therefore, R.23 remains "PC".**

Recommendation 26 (Originally rated PC – no re-rating)

63. In its 5th round MER, Slovakia was rated PC with R.26 based on the following deficiencies: insufficient steps to guard the banking sector against the associates of criminals in relation to management (c.26.3); absence of the information on measures to prevent criminals or their associates from holding or being the BO of the significant interest in an insurance undertaking (c.26.3); there is no actually risk classification or risk mapping of the FIs supervised (c.26.5); the risk classifications/profile do not affect the intensity or scope of supervision applied to individual insurance undertakings (c.26.5); the FIU does not have any ML/TF risk/based procedures that drive frequency and intensity of on-site (c.26.5); there was no information provided about the revision of individual ML/FT risk profiles or those of financial groups when major events or developments take place in the management and operations therein (c.26.6); the FIU does not have any procedure reviewing the assessment of the ML/TF risk profile of a financial institution (c.26.6).

64. Slovakia has taken some steps to address several deficiencies. In particular, the NBS has issued Instruction No. 1/2021 in order to clarify the procedure for conducting ongoing monitoring of the

suitability of persons in the bank's management body and ultimate shareholders with qualifying holding in the bank. Instruction No. 1/2021 sets different sources of information to obtain new facts that could impact on suitability, which covers, among other: electronic mass media and public registers. However, these adopted measures still do not address the deficiency regarding associates (c.26.3).

65. The MER noted that in relation to FIs, other than core principles institutions, the authorities did not explain the systems for monitoring and ensuring compliance with national AML/CFT requirements and whether they are risk-based. According to the information provided by Slovakia, 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 approach to supervision. Please also see c.26.1 in the MER of Slovakia (c.26.4(b)).

66. The MER of Slovakia mentioned that the NBS checks the eligibility of owners of a significant holding, but pointed out that no information was provided about specific measures to prevent criminals or their associates from holding or being the BO of the significant interest in an insurance undertaking. Authorities' response refers to insurance companies and other companies from the pension savings sector, however the deficiency is on insurance undertaking (c.26.3).

67. *Banking sector:* Concerning the banking sector, the NBS has issued a new risk assessment procedure for banks. In other words, this procedure is a risk assessment module that establishes a comprehensive process to classify banks according to their risk scoring. Furthermore, 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). *Insurance sector and pension fund:* Likewise, the NBS has developed a tool for classifying insurance companies and pension funds, through a risk matrix (Section II of the Instruction of the Director of the insurance and pension fund supervision department). *Capital market, including financial intermediation sector:* Instruction of the Director of the Capital Market Supervision Department for AML/CFT Supervision establishes a process for risk classification of capital market participants (Section 3 of Part I). *Payment service sector:* Regarding payment services and electronic money entities, the adopted procedure classifies entities according to their risk in relation to the off-site inspections (Step 2 under the Off-site procedure risk categories). Similar risk classification also applies to the on-site inspections. In fact, the risk-based approach matrix (Annex 5) is a separate annex which applies for both on-site and off-site supervision. *Other FIs:* Concerning exchange office sector and non-bank lenders sector, amendments to legislation are under development and it is expected that the NBS will developed a risk-based approach supervision for those sectors by the end of 2022. Therefore, the deficiency remains for those sectors. Nevertheless, it should be highlighted that the materiality of these sectors is not that significant (see Chapter 1 and IO4 in the Slovak MER) (c.26.5).

68. The NBS has developed a tool for classifying insurance companies, through a risk matrix. The risk classification has a direct impact on the intensity of supervision. Regarding off-site inspection of low and medium risk entities, they should be carried out once every 2 to 4 years, for high-risk entities once a year. In relation to on-site inspections of low and medium risk entities, supervision of these entities should be conducted once every 4 to 5 years, for high-risk entities once every 2 years. However, risk classification has no impact on the scope of these inspections (c26.5).

69. The FIU issued a methodological guidance to apply a risk-based approach supervision. However, this approach still does not address the deficiency. The FIU is not considering all the relevant information foreseen under c.26.5 in relation to REs to determine the frequency and intensity of on-site and off-site inspections. Instead, as a first step the FIU determines the risk level of obliged entities based only on UT reports and afterwards considers other relevant factors. Only in

relation to obliged entities that have an increased risk level, the FIU considers information foreseen under c.26.5(a).

70. *Banking sector:* There is no requirement for the NBS to revise the ML/TF risk profile of a bank when there are changes in the management and operations. *Insurance sector and pension fund:* The NBS is required to revise the ML/TF risk profile of insurance companies and pension funds when there are changes in the management (Section IV of the Instruction of the Director of the Insurance and Pension Fund Supervision Department). However, no requirements to reassess these entities when changes occur in their operations. *Capital market:* The NBS is required to revise the ML/TF risk profile of participants of the capital market when there are changes in the management (item 5 of Part I of the Instruction of the Director of the Capital Market Supervision Department). However, no requirements to reassess these entities when changes occur in their operations. *Payment service sector:* The NBS is required to revise the ML/TF risk profile of payment service providers when there are changes in the management (Step 4 of the Off-site Procedure). However, no requirements to reassess these entities when changes occur in their operations. *Other FIs:* No measures have been taken in relation to the exchange office sector and non-bank lenders sector, for which new procedures are under development (c.26.6).

71. According to the information provided by Slovakia, Article 4 of the Methodological Guidance of the FIU describes very briefly the methodology to apply for the risk assessment, and Article 5 explains how to manage the risk. However, these articles do not contain explicit requirements for the FIU to review the assessment of the ML/TF risk profile of FIs (c.26.6).

72. Overall, Slovakia has taken some steps to address deficiencies under R.26. In particular, the country has addressed the deficiency concerning monitoring and ensuring compliance of other FIs (apart from core principles FIs) with national AML/CFT requirements and applying risk-based supervision. Moreover, Slovakia has mostly addressed the deficiency regarding the risk classification of the supervised FIs (c.26.5), some minor deficiencies remain in relation to other FIs (exchange office sector and non-bank lenders sector). Another deficiency under c.26.5 regarding the impact of the risk classifications/profile on the intensity or scope of supervision applied to individual insurance undertakings, has only been partly addressed. Moreover, Slovakia has also partly addressed the deficiency concerning the revision of individual ML/FT risk profiles or those of financial groups when major events or developments take place in the management and operations therein.

73. Other deficiencies have not been addressed, i.e., absence of the information on measures to prevent criminals or their associates from holding or being the BO of the significant interest in an insurance undertaking and insufficient steps to guard the banking sector against the associates of criminals in relation to management (c.26.3); the FIU does not have any ML/TF risk/based procedures that drive frequency and intensity of on-site (c26.5); the FIU does not have any procedure reviewing the assessment of the ML/TF risk profile of a financial institution (c.26.6). **Therefore, R.26 remains "PC".**

Recommendation 28 (Originally rated PC – no re-rating)

74. In its 5th round MER, Slovakia was rated PC with R.28 based on the following deficiencies: absence of the measures in place to prevent associates of criminals from holding management functions in DNFBPs (casinos, auditors, tax advisors, accountants, notaries, lawyers, bailiffs, real estate agents and dealers of precious metals and stones) (c.28.1(b), c.28.4(b)); 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)); frequency and intensity of supervision is not based on a risk-sensitive basis (c.28.5(a)).

75. Following the information provided by Slovakia, there is no progress achieved in addressing deficiencies identified under R.28. **Therefore, R.28 remains "PC".**

Recommendation 29 (Originally rated PC – no re-rating)

76. In its 5th round MER, Slovakia was rated PC with R.29 based on the following deficiencies: the legislation does not clearly determine the "regulation" setting up the FIU (c.29.1); lack of provision allowing the FIU to "use" the additional information received from the REs (c.29.3(a)); there is no clear legal obligation for the FIU to carry out strategic analyses (c.29.4(b)); wide ranging of dissemination of information creates deficiencies in its protection (c.29.6(a)); no specific legal provision on how the FIU files are handled and stored, and whether this shall be physically distinct from other police units (c.29.6(a)); the Head of the FIU is not able to conclude MOUs independently (c.29.7(b)); the FIU's position and its core-functions definitions are volatile due to repeated changes within the Police structure and the reference made to the FIU in various pieces of legislation is done in an inconsistent manner (c.29.7(c)).

77. Slovakia has taken measures to address several deficiencies identified in the 5th round MER.

78. Although, Slovakia has provided additional explanation, no legislative measures took place. Still no legislation that clearly determines the "regulation" setting up the FIU (c.29.1).

79. The lack of legal provision allowing the FIU to "use" the additional information received from the REs identified by the AT has been addressed through the amendments to the AML Act, in effect from the 1st of May 2022. This has been done by introducing new points (p) and (q) to Article9 of the AML Act, which define the terms "financial information" and "financial analysis" which are used when defining the tasks and mandate of the FIU. Thus, according to Article 26(2)(a) of the AML Act, the FIU is entitled to receive, analyse, evaluate and process not only reports of UTs, but also financial information related to ML/FT for the performance of tasks under this Act or under a special regulation and prepare financial analyses. Further, the definition of "financial information" in points (p) of Article 9 of the AML Act includes any information or data held by the FIU for the purpose of preventing and detecting ML/FT, such as data on financial assets, movements of funds or business relationships. The wording of this provision is general and there is no reference to such type of information contained in UTRs but rather refers to such type of information obtained through all possible means. Thus, it can be concluded that additional information requested and received from REs falls within the scope of this definition, and consequently the FIU is entitled to use it according to Article 26(2)(a) of the AML Act. Moreover, based on the analysis of the wording of the latter, this additional information is allowed to be used for the performance of the FIU's tasks and for preparing financial analysis. The latter, based on the definition in points(q) of Article 9 of the AML Act, includes not only operational but also strategic analysis (c.29.3(a)).

80. The lack of clear legal obligation for the FIU to carry out strategic analyses to identify money laundering and terrorist financing related trends and patterns identified by the AT has been addressed through the amendments to the AML Act, in effect from the 1st of May 2022. Thus, according to Article 26(2)(a) of the AML Act, the FIU is entitled to receive, analyse, evaluate and process reports of UTs and financial information related to ML/FT for the performance of tasks under this Act or under a special regulation and prepare financial analyses. Preparing financial analysis explicitly is included in the mandate of the FIU. Further, the inclusion of point (q) to Article9 of the AML Act, which define the term "financial analysis" which is used when defining the tasks and mandate of the FIU, provides explicit mention not only of operational analysis but also of strategic analysis (c.29.4(b)).

81. The concerns of the AT expressed in the 5th round MER with regard to the wide range of dissemination of information and deficiencies in its protection still remain (c.29.6(a)).

82. The lack of specific legal provision on how the FIU files are handled and stored, and whether this shall be physically distinct from other police units, has been identified in the MER as a deficiency. The authorities have targeted this deficiency through amendments to the Archives Act and the Regulation of the MoI SR No. 98/2016 on the registry regulations, ensuring that only files originating from the activities of the FIU are stored in the FIU's handy registry until the expiry of their storage periods (Article 17(6) of MoI No. 98/2016), and that only FIU employees have access to the stored files (Article 17(2), (3) of N MoI SR No. 98/2016) (c.29.6(a)).

83. The lack of powers of the head of the FIU to sign MOUs with foreign partners independently identified by the AT has been addressed to some extent through issuing Regulation of the MoI SR No. 137/2020 on international treaties. The Regulation is of a general nature for MoI departments which undoubtedly include the FIU. It provides for the rules and procedures for the preparation, national negotiation, arrangement, approval, conclusion and implementation of international treaties, in their amendment, supplementation, suspension and termination, as well as in the accession of the Slovak Republic to multilateral treaties within the competence of the Ministry. According to Article 3(2) of the Regulation, the Office of the Minister shall provide methodological guidance for the activities of the departments under the responsibility of the Ministry, which includes the FIU, in the field of contracts. The binding opinions that can be issued by the Office are explicitly listed in the Regulation and these do not include the decision on engaging into cooperation agreements. According to Article 9 of the Regulation, the Office of the Minister shall request the Ministry of Foreign Affairs to issue a written power of attorney for the signature of treaties prepared by the Ministry, no later than 10 days before the signature of the treaty. According to the explanation of the country, this means that the head of the FIU can be authorised to sign a MoU. Further, according to the country, this article is not relevant to MoUs and the Regulation is only being applied by analogy. The reasons, according to the explanations, are that the MoU is not an international treaty as defined in the Regulation. This statement is supported by the Rules for concluding Memoranda of Understanding, issued by the MoFEA and provided by SR for the purpose of the FUR. Yet, the correlation between the Regulation and the Rules to MoU is not completely clear and it can't be undoubtedly concluded that the head of the FIU is fully independent in signing MOUs. This mechanism has not been implemented in practice yet, but authorities advised that several MoU are in the process of being negotiated and signed (c.29.7(b)).

84. Slovakia has taken some steps to harmonise various pieces of legislation that the reference to the FIU is made in a consistent manner. The AML Act refers to the FIU while the Customs Act and the Act on Police Forces refer to "the special unit of the financial police service". To clarify what "the special unit of the financial police" is, a footnote with a reference to the AML Act is used. The authorities have explained that the designation of the FIU is not relevant in this case, because the references in the individual related laws are tied to the position and tasks of the FIU, defined in the AML Act and it isn´t tied to a designation. Thus, according to their explanations, a functional approach is used rather than a designation one. Yet, some additional steps shall be taken to fully address the deficiency (c.29.7(c)).

85. Overall, The amendments to the AML Act have led to explicit inclusion of strategic analysis in the tasks and mandate of the FIU and also to a clear definition of the types of information the FIU is empowered to use for the performance of its FIU tasks. This information currently includes not only UTRs but also all other types of financial information, including additional information received from REs. As a result of issuing of a special regulation by the MoI, the Head of the FIU can be empowered through a written power of attorney to sign a MoU with a foreign partner but it is still not completely clear if the head of the FIU is fully independent to sign a MoU. The lack of powers to conclude MOUs with domestic partners independently is still relevant.

86. The introduction of explicit requirements for the FIU to apply in its activities such organisational, personnel, technical and other measures as will ensure that information obtained in the course of its activities under this Act will not come into contact with an unauthorised person addresses deficiencies with regard to the protection of disseminated information stemming from the lack of legal requirement for the use of dedicated, secure and protected channels for disseminations. A formal requirement on the physical archive of the FIU files is introduced to ensure the files are accessible only by FIU employees and stored separately from other Police units' archives. Thus, it can be concluded that Slovakia addressed some of the deficiencies underlying the PC rating given in the MER for R.29, while some outstanding shortcomings were only partly addressed (see c.29.7b analysis) or not addressed at all. **Therefore, R.29 remains "PC".**

Recommendation 30 (Originally rated PC – re-rated as C)

87. In its 5th round MER, Slovakia was rated PC with R.30 based on the following deficiencies: no LEAs clearly designated to investigate ML offences with special responsibility (c.30.1); no LEA specifically designated to carry out identification, search and seizure of suspected criminal proceeds or property subject to confiscation (c.30.3).

88. Slovakia has taken significant measures to address deficiencies identified in the 5th round MER. In particular, Slovakia has established a separate Financial Investigation Department at the newly established National Centre of Special Crimes (NCOSC) of the Presidency of the Police Force, which is responsible for detection and investigation of criminal activities related to the laundering of the proceeds of crime. Moreover, it should be noted that the Counter-terrorism Unit – NAKA is responsible for TF investigations (c.30.1).

89. The newly established financial investigation department of the NCOSC is the competent authority to identify, trace and initiate freezing and seizing of property that is, or may become subject to confiscation (Article 58 of the Criminal Code) (c.30.3).

90. Overall, Slovakia has taken necessary steps to address all identified deficiencies. **Therefore, R.30 is upgraded to "C".**

Recommendation 32 (Originally rated PC – no re-rating)

91. In its 5th round MER, Slovakia was rated PC with R.32 based on the following deficiencies: absence of the EU-internal border declaration system for cash or BNIs (c.32.1); transportation of cash/BNIs by legal persons and/or cross-border transportation of cash/BNIs via mail and cargo are not covered by the legislation (c.32.1); sanctions for non-declaration or false declarations are not dissuasive enough (c.32.5); the completed declaration forms are submitted to the FIU only on a monthly basis (c.32.6); absence of co-ordination among customs, immigration and other related authorities on issues relevant for R32 (c.32.7); the legislation does not provide power to stop or restrain cash/BNIs for a reasonable period of time to check the existence of the evidence of ML/FT (c.32.8); limited scope of obligation to declare (c.32.1) and particularly the lack of Customs powers to stop or restrain currency (c.32.8) impact this criterion (c.32.11).

92. Some steps have been taken by Slovakia to address several deficiencies. In particular, The lack of legal provisions allowing the customs authorities to control cross-border transportation of cash/BNIs via mail and cargo identified by the AT has been addressed through Article 4 of Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005, applicable from 3 June 2021. Item 18 of Regulation (EU) 2018/1672 provides the notion of unaccompanied cash, which refers to postal packages, courier shipments, unaccompanied luggage or containerised cargo.. It needs to note that the EU Regulation is applicable where unaccompanied

cash is of a value of EUR 10 000 or more and is entering or leaving the Union. Thus, no similar requirement for EU internal borders is foreseen (c.32.1). Moreover, no measures have been taken by Slovakia in relation to the absence of the EU-internal border declaration system for cash/BNIs (c.32.1).

93. The sanctions applied for non-declaration or false declarations are not dissuasive enough in relation to natural persons. Slovakia has not taken any new steps to remedy this deficiency since the adoption of the 5th round MER (c.32.5).

94. The completed declaration forms are submitted to the FIU only on a monthly basis have been overcome with Regulation (EU) 2018/1672. Article 9 clearly determines the period within which the information must be transmitted. It obliges the competent authorities to transmit to FIU the cash controls information as soon as possible, and in any event no later than 15 working days after the date on which the information was obtained (c.32.6).

95. Slovakia has not taken any measures to establish co-ordination among customs, immigration and other related authorities on issues relevant for R.32 (c.32.7).

96. The EU regulation empowers the competent authorities to temporary detain both at the EU level, as well as the national level. This provision has a prerequisite that the procedure should be laid down in national law. Slovakia has established the national procedures to enforce Article 7 of Regulation 2018/1672 (Section 4 para (3) of Act No. 199/2004 Coll. on the Customs Act), which provides Slovakian competent authorities with the power to stop/restrain both where there is suspicion of ML/TF and where there is a false declaration of disclosure (c.32.8).

97. Slovakia has taken measures to address the deficiency regarding Transportation of cash/BNIs by legal persons and/or cross-border transportation of cash/BNIs via mail and cargo. Moreover, Slovakia has enforced Article 7 of Regulation 2018/1672 by introducing amendments to the Customs Act. However, other deficiencies under c.32.1 still remain (c.32.11).

98. Overall, Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005, applicable from 03 June 2021 provides the legal basis to address a deficiency regarding transportation of cash/BNIs by legal persons and/or cross-border transportation of cash/BNIs via mail and cargo. However, the declaration requirement only applies to EU external borders. Slovakia has enforced Article 7 of Regulation 2018/1672 by introducing amendments to the Customs Act. Sanctions for non-declaration or false declarations in relation to natural persons are still not dissuasive enough. The deficiency regarding the submission of declaration forms to the FIU has been addressed by Slovakia. Deficiencies under c.32.7 remain unaddressed. **Therefore, R.32 remains "PC".**

Recommendation 33 (Originally rated PC – re-rated as C)

99. In its 5th round MER, Slovakia was rated PC with R.33 based on the following deficiencies: at the LEA level, the statistics on ML investigations are incomplete or not kept (c.33.1(b)); there are no statistics on confiscation and assets recovered (c.33.1(c)); statistics kept on seizure are incomplete (no distinguish between proceeds, instrumentalities or property of equivalent value) (c.33.1(c)).

100. Slovakia has taken significant measures to address deficiencies identified in the 5th round MER. In particular, according to the statistical templates and information provided by Slovakia, it can be clearly seen that the country keeps and maintains statistics on ML investigations, including on different types of ML cases. (c.33.1(b)).

101. Moreover, the statistical templates provided by Slovakia, clearly indicate that the country keeps and maintains statistics on confiscation and assets recovered, including on seized proceeds, instrumentalities and property of equivalent value (c.33.1(c)).

102. Overall, Slovakia has taken necessary steps to address all identified deficiencies. **Therefore, R.33 is upgraded to "C".**

III.2. Progress on Recommendations which have changed since adoption of the MER

Recommendation 15 (Originally rated LC – re-rated as PC)

103. In its 5th round MER Slovakia was rated LC with R.15 based on the following deficiency: There is no explicit requirement for risk assessment and mitigation to take place before launch of a new technology, product or service (c.15.2(a,b)).

104. 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.

105. In relation to the deficiency under c.15.2, Slovakia has not taken any additional measures.

106. Concerning new requirements of R.15, the country has taken actions to cover amendments on identifying risks. However only some aspects were covered and no analysis is done on the risk of VASPs operating in the jurisdiction. The risk assessment is merely based on the information received from banks- considering VASPs as a customer. Slovakia has taken extensive steps in terms of identifying and assessing risks, but it should be noted that the information is mainly based on information received from banks (c.15.3(a)).

107. The actions taken by the country only address application of risk-based approach to entities, which have VA/VASPs clients in their portfolios. Further actions should be taken to address the requirements of C15.3 (b).

108. In relation to c.1.10 there is no requirement for FIs and DNFBPs to provide risk assessment information to other supervisory authorities apart from the FIU. Regarding c.1.11 Slovakia has not taken any actions to remedy the identified deficiency. These deficiencies equally apply to VASPs (c.15.3(c)).

109. Based on given information country has made legislative changes introducing licensing requirement for VASPs. However, the Trades Licensing Act does not regulate all activities provided under the FATF definition of VASPs. Activates such as exchange of one VA to another VA, as well as activities on participation in and provision of financial services related to an issuer's offer and/or sale of VA are not covered. Deficiencies under c.15.4(a)(i) and c.15.4(a)(ii) impact this criterion (c.15.4(a)).

110. According to the provided information by Slovakia legal and natural persons providing services in the field of virtual currencies are only obliged to obtain a trade licence accordance with § 5 par. 1 letter o) and p) of the Act, only if this activity is listed in the subject of business. As was previously noted, the Trades Licensing Act does not regulate all activities provided under the FATF definition of VASPs. Moreover, it is unclear whether the VASP, which is created in Slovakia but physically present in another, is required to be licenced. And whether the VASP created and physically present in Slovakia but operates in another country is required to be licenced (c.15.4(a)(i)).

111. Please refer to analysis under c.15.4(a)(i) as it equally applies to natural persons (c.15.4(a)(ii).

112. It is not clear from the text provided who is considered as a person "running a business". Therefore, it cannot be concluded if there are requirements to prevent criminals from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function in, a VASP. Moreover, the provided legal provisions relate only to criminals and not to their associates (c.15.4(b)).

113. Although the authorities provided a case example when they discovered the provision of VASP services without authorisation. No systemic measures are applied to identify natural or legal persons that carry out VASP activities without the requisite license or registration and apply appropriate sanctions to them (c.15.5).

114. Some activities of VASPs covered under the FATF recommendations are not covered under the Slovak legislation (please see criterion 15.4(a)). The other regulated types of activities of VASPs, are subject to the AML/CFT requirements (Section 5(1)(o) and (p)). The FIU is responsible for ensuring the compliance with the AML/CFT obligations (Section 26(2)(c)). There is no risk-based supervision of VASPs carried out by the FIU. Moreover, deficiencies in the VASP risk assessment negatively impact the risk-based supervision. Also, the jurisdiction has not provided any information on the steps taken for ensuring VASPs compliance with AML/CFT requirements (c.15.6(a)).

115. The FIU has the necessary powers to ensure compliance by VASPs with AML/CFT requirements (Section 29(1), Section 26(2)(c) and (e), Section 33a, Section 33(1) and (6) of the AML Act). The deficiency identified under R.27 equally applies to VASPs, i.e., absence of the information regarding the legal processes for withdrawing, restricting or suspending the license for AML/CFT violations (c.15.6(b)).

116. The FIU has published a guidance document for VASPs and a guideline on the fulfilment of obligations under Act No. 297/2008 Coll. for legal and natural entities providing virtual currency wallet services and virtual currency exchange offices. Apart from these documents no other feedback has been provided by the authorities (c.15.7).

117. The MER considered sanctions available for violations of terrorism & terrorism financing related TFS as not proportionate and dissuasive. Sanctions for failure to comply with other AML/CFT requirements, were not criticised. Hence, it should be noted that there is a range of proportionate and dissuasive sanctions for the failure to comply with AML/CFT requirements (c15.8(a)).

118. No measures have been taken by Slovakia to impose not only on VASPs, but also to their directors and senior management (c.15.8(b)).

119. VASPs are obliged to carry out CDD when a trade exceeds 1000 Euros. Identified deficiencies under R.10-21 equally apply to VASPs (c15.9(a)).

120. The described actions seem to cover requirements of R.10 rather than R.16. No specific information is provided on how the country ensures travel rule requirements for VA transfers (c.15.9(b)(i)).

121. Slovakia has not provided any relevant information that would meet the requirement of this criterion (c.15.9(b)(ii-iv).

122. Slovakia has not provided any relevant information that would meet the requirement of this criterion (c.15.10).

123. The information provided by the jurisdiction covers only international cooperation provided by the FIU, whereas c.15.11 refers to all forms of international cooperation (c.15.11).

124. Overall, the Slovak Republic has taken some steps to address and deficiencies under R.15 identified in the 5th round MER, however some outstanding gaps still remain. In particular, the Slovak legislation does not comply with the definition of VASP activities provided under the FATF in terms of activates such as exchange of one VA to another VA, as well as activities on participation in and provision of financial services related to an issuer's offer and/or sale of VA. The legislation does not provide a specific framework for the application of the Travel Rule. No information is provided on the communication mechanisms, reporting obligations and monitoring with respect to targeted financial sanctions are applied to VASPs. **Thus, R15 is downgraded to "PC".**

4. CONCLUSION

125. Overall, Slovakia has made some progress in addressing the TC deficiencies identified in its 5th Round MER has been re-rated on 5 Recommendation (4 upgrades and a downgrade). Recommendations 20, 30 and 33 initially rated as PC is re-rated as C. Recommendation 1 initially rated as PC is re-rated as LC. Recommendation 15 originally rated as LC is re-rated as PC.

126. Slovakia is encouraged to continue its efforts to address the remaining deficiencies.

127. Overall, in light of the progress made by Slovakia since its MER, its technical compliance with the FATF Recommendations has been re-rated as follows:

Table 2. Technical compliance with re-ratings, November 2022

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

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

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

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November 2022

Follow-up report

Anti-money laundering and counter-terrorist financing measures -

Slovak Republic

1st Enhanced Follow-up Report &
Technical Compliance Re-Rating

This report analyses Slovak Republic's progress in addressing the technical compliance deficiencies identified in the Mutual Evaluation Report of September 2020.