

Serbia

Fifth Round Mutual Evaluation Report

Executive Summary

This report provides a summary of the AML/CFT measures in place in Serbia as at the date of the on-site visit (28 September to 9 October 2015). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of Serbia's AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

- Serbia has made efforts to improve its AML/CFT legal and institutional framework since the previous evaluation. Deficiencies remain with respect to some important FATF Recommendations, particularly those dealing with financing of terrorism (FT) and proliferation financing (PF) targeted financial sanctions (TFS), non-profit organisations (NPOs), financial sanctions, supervision of certain designated non-financial businesses and professions (DNFBPs), politically exposed persons (PEPs), wire transfers and high-risk jurisdictions.
- Serbia faces a range of significant money laundering (ML) threats and vulnerabilities. Organised criminal groups involved in the smuggling and trafficking of narcotic drugs and trafficking of human beings pose a major ML threat in Serbia. Tax evasion and corruption offences are considered to generate substantial criminal proceeds. The purchase of real estate, valuable moveable property and investment in securities is a preferred laundering method. The misuse of domestic and foreign (offshore) legal persons together with multiple use of wire transfers are common money laundering typologies. The country's exposure to cross-border illicit flows is significant.
- There are various factors pointing to an elevated degree of FT risk in Serbia, particularly in relation to the non-profit sector and informal money remittances. Terrorism risks originate from separatist and/or extremist groups situated in the region and in certain parts of the southern regions of Serbia. Countries and territories in the region have recently experienced an increase in Islamic radicalisation and nationals joining the so-called Islamic State (ISIS) as foreign fighters in Syria and Iraq.
- Serbia understands some of its ML/FT risks. It was the first country in MONEYVAL to have conducted a full scope ML national risk assessment (NRA), for which it is to be commended. Following the completion of the ML NRA in 2013, and a separate FT NRA in 2014, the Serbian authorities' understanding of risks continued to evolve, taking into account new and developing threats and vulnerabilities. Nevertheless, further efforts should be made to ensure that all the risks, threats and vulnerabilities faced by the

country are properly understood.

- The Administration for the Prevention of ML (APML) plays a central role in generating financial intelligence. The analysis products generated by the APML are of good quality and have the potential of supporting the operational needs of law enforcement agencies (LEAs). However, some information which is necessary for analytical purposes is either not easily retrievable or not made available to the APML in a timely manner. The dissemination procedure, which involves discussion between the APML and the Prosecutor's Office, may impact negatively on the APML's ability to develop and disseminate cases independently from the operational priorities of law enforcement authorities. LEAs use financial intelligence in the pre-investigative phase of ML investigations, parallel financial investigations, investigations of associated predicate offences and FT. Although financial intelligence was used to generate ML investigations, it appears that this is rare due to difficulties by law enforcement authorities in undertaking and conducting investigations for money laundering in the absence of specific indication of the predicate crime.
- The Serbian authorities have not been effective in investigating ML offences and prosecuting and convicting offenders. The results do not reflect the risks faced by the country. The majority of ML convictions were for self-laundering connected to a domestic predicate offence. Very few persons were convicted for third party laundering, despite the existence of organised criminality. There have been no foreign predicate convictions. The limited number of outgoing money laundering-related mutual legal assistance (MLA) requests suggests that the Serbian authorities are not active in this area despite the threat from foreign predicate crime. No stand-alone ML convictions have been achieved. There is still reluctance to pursue ML cases until a conviction for the predicate crime has been achieved.
- Confiscation of proceeds of crime is a high policy objective in a number of strategic documents and legislation. In practice though, and notwithstanding some significant results achieved, the totality of the results do not necessarily reflect the risks and the number of predicate offence convictions. The structure for the management of seized and confiscated assets is effective and commendable. Whilst there is a system of control for cross border movement of cash/bearer negotiable instruments (BNIs) in place, it does not appear to sufficiently address the ML and in particular FT risks associated with such movement.
- There have been no convictions for FT and only one prosecution. More attention should be directed towards potential FT activity linked to insufficient financial transparency and inadequate control of funds raised by NPOs, as well as to cash movements across the border through alternative remittance systems and money remitters. FT investigations do not appear to be carried out systematically in the context of terrorism investigations and there are difficulties in securing sufficient evidence to bring the investigations forward. However, the authorities broadly understand the risk posed by FT and have taken some measures to address this risk.
- Serbia has a legal framework in place to apply targeted financial sanctions regarding FT. However, the mechanism in place does not enable the implementation of the lists "without delay". Despite the occurrence of terrorism-related activities in the region, no designations were made pursuant to United Nations Security Council Resolution (UNSCR) 1373.
- While the Serbian authorities appear to understand the FT risk pertaining to the NPO

sector, no formal review has been undertaken with regard to its size, relevance, activities and its vulnerability to misuse. This is a concern due to the FT risks that the country faces.

- There is no law or mechanism regulating targeted financial sanctions related to proliferation of weapons of mass destruction (WMD).
- Customer due diligence (CDD) measures and record-keeping requirements are applied effectively by all financial institutions (FIs) and most DNFBPs. However, there are serious concerns with respect to real estate agents, notaries and lawyers. This is very relevant in Serbia's context, given that the NRA identifies the real estate sector as particularly vulnerable to ML. The application of the reporting requirement has improved within the banking and money remittance sector, although further improvements are needed. Very few reports are submitted by other reporting entities.
- Overall, the licensing authorities of FIs implement measures to prevent criminals from controlling reporting entities effectively. However, as concerns DNFBPs, the efforts undertaken by the authorities vary significantly amongst sectors. Supervisory authorities are not yet focussing the frequency and intensity of their supervision of sectors and individual licensees based on ML/FT risk. The banking supervisory department of the National Bank of Serbia (NBS) has already taken significant steps in this respect, as has the APML. All supervisory authorities, except for the NBS, have a significant shortfall in staff resources which have a negative impact on the thoroughness of supervision. It was not demonstrated that the sanctioning regime has been used effectively.
- Basic information on legal persons is publicly available and, therefore, transparent. However, there is no process for verifying the information that is provided to the SBRA or the Central Securities Depository or for checking whether it requires updating. Beneficial ownership information is available in a timely manner. Legal persons are required to have a bank account and in addition there are limitations on the use of cash for trading in goods and services which make it impractical for any trading entity not to have a bank account.
- Serbia has made credible efforts to provide constructive mutual legal assistance and extradition in a constructive manner. Further efforts are required to ensure that assistance is provided in a timely manner. Serbia has actively sought assistance in one large case, demonstrating that there is a capability by the authorities when the need arises. However, the authorities should seek this type of assistance more regularly. Informal cooperation is largely effective.

Risks and General Situation

1. Serbia faces a range of significant ML and FT threats and vulnerabilities. Organised crime is a major ML threat in Serbia. Smuggling, trafficking and, to a lesser extent, the production of narcotic drugs is the most extensive form of criminal activity which organised criminal groups operating in Serbia engage in. Organised criminal groups are also active in the trafficking of human beings and, more recently, in the facilitation of migrant smuggling. Tax evasion is a major proceeds-generating offence within Serbia. Corruption-related offences, including embezzlement, accepting and giving of bribes and abuse of office, which are often directly linked to organised criminality, constitute a significant ML threat.

2. Transfer of property with the intent to conceal or misrepresent the lawful origin of the property, or conceal or misrepresent the facts about the property, and use of the property with knowledge that it originates from crime are the most frequent money laundering methods. An analysis of the proceeds seized by law enforcement authorities indicates that proceeds of crime, especially those generated by drug trafficking, are generally laundered through the purchase of real estate, valuable moveable property and investment in securities. The misuse of domestic and foreign (offshore) legal persons together with multiple use of wire transfers are common money laundering typologies in relation to all forms of proceeds-generating crime. The country's exposure to cross-border illicit flows is significant. This is largely related to the existence of organised criminal groups, which generally have links with foreign associates. Suspicious transactions reported to the FIU by reporting entities and related to foreign exchange payment operations and cross-border money transfers also indicate the importance of international links.

3. Serbia's geopolitical situation is highly relevant when considering the risks of terrorism and financing of terrorism that the country faces. The aftermath of past conflicts in the Balkan region is believed to have given rise to terrorism risks originating from separatist and/or extremist groups situated in the region and in certain parts of the southern regions of Serbia. Countries and territories in the region have recently experienced an increase in Islamic radicalisation and nationals joining the so-called Islamic State (ISIS) as foreign fighters in Syria and Iraq. Some members of the ethnic separatist and/or religious extremist groups in Serbia are also believed to have joined ISIS. There are various factors pointing to an elevated degree of FT risk in Serbia, particularly emanating from the non-profit sector and informal money remittances.

4. Serbian authorities view the region in or close to Kosovo* as being vulnerable to use by organised criminals involved in the trafficking of drugs, human beings and arms as a means of avoiding detection and prosecution. The porosity of the boundary line facilitates an active black market for smuggled consumer goods and pirated products. In addition, the region of Kosovo* and the neighbouring southern parts of Serbia alongside the boundary line were mentioned as areas vulnerable to the activity of religious extremist and/or ethnic separatist groups involved in terrorist acts.

5. In terms of materiality, the banking sector is the largest within the financial sector in Serbia. Banks account for 92.4% of assets held by the financial sector. Cross-border formal and informal money transfers are also a material component in Serbia. Statistics by the National Bank of Serbia indicate that formal and informal money transfers into Serbia constitute 9 to 10% of Serbian GDP, making them one of the largest sources of foreign income. Despite efforts made by the authorities, the shadow economy still constitutes a problem in Serbia. It is estimated that the size of the shadow economy is approximately 33.6% of GDP. The shadow economy is exacerbated by the widespread use of cash. According to the Tax Administration, cash transactions in significant amounts are conducted in businesses dealing with foreign trade, purchase of secondary raw materials and agricultural products, as well as in the entities engaged in the construction industry.

Overall Level of Effectiveness and Technical Compliance

6. Since the last evaluation, Serbia has improved its technical compliance with the FATF Recommendations. The ML and FT offences and the confiscation regime are largely in place. While

* All references to Kosovo, whether to the territory, institutions or populations, in this text shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo. This footnote shall apply to all other mentions of Kosovo.

* See footnote on page 9, paragraph 5.

most of the preventive measures are in line with the Standards, there are still significant shortcomings in relation to CDD, PEPs, wire transfers and high-risk countries. Notaries are still not subject to AML/CFT obligations. The institutional framework concerning the APML, LEAs and the financial supervisors is largely in place, except for the supervisory framework of notaries and casinos. Measures to ensure that NPOs are not misused for FT purposes are not adequate. Legislation has been enacted for the freezing of terrorist assets. However, the overall mechanism in Serbia does not implement the full set of requirements of the UN sanctions regime. In particular, it does not ensure the timeliness of the transposition of the UN Lists. There are no measures in place for the implementation of PF sanctions in Serbia.

7. In terms of effectiveness, Serbia achieves moderate ratings in IO 1, 2, 3, 4, 5, 6, 8, and 9 and low ratings in IO 7, 10 and 11.

Assessment of Risks, Coordination and Policy Setting (Chapter 2 - IO.1; R.1, R.2, R.33)

8. Serbia understands some of its ML/FT risks. It was the first country in MONEYVAL to have conducted a full scope ML NRA, for which it is to be commended. Following the completion of the ML NRA in 2013, and a separate FT NRA in 2014, the Serbian authorities' understanding of risks continued to evolve, taking into account new and developing threats and vulnerabilities. This was largely based on an on-going review of operational and other data (such as the results of strategic analysis by the APML) by the authorities within the Standing Coordination Group (SCG). Nevertheless, further efforts should be made to ensure that all the risks, threats and vulnerabilities faced by the country are properly understood. This applies, in particular, to cross-border ML/FT risks, especially those posed by wire transfers and cross-border cash movements, the ML threats emanating from certain predicate offences, the impact of the shadow economy on ML/FT, the risk posed by legal persons and NPOs, in the context of FT, and the vulnerability of the DNFBP sector to ML/FT. The next iteration of both NRAs, work on which is expected to begin in the near future, should present the perfect opportunity for updating Serbia's understanding of its ML/FT risks.

9. The SCG is the main mechanism for coordinating Serbia's responses to ML/FT risks at a national policy level. The latest strategy and action plan adopted by the SCG in December 2014 address the findings of the ML and FT NRAs, and provide a strong basis for building a comprehensive and co-ordinated approach to address ML, terrorism and FT. Some important recommendations identified in the ML NRA had still not been addressed at the time of on-site visit. For instance, an action point relating to the collection of AML/CFT-related statistics had still not been implemented. In addition, significant resource gaps, such as the staff and premises gap in the APML, mostly still exist.

10. Serbia has strongly endeavoured to enhance cooperation and coordination between all competent authorities. There is clearly a good working relationship between the APML and the NBS at operational level. A memorandum of understanding was signed between the APML and the Republic Public Prosecutor's Office (RPPO) in January 2014 in order to govern cooperation between the public prosecutors' offices, including the formation of a working group comprising senior prosecutors responsible for coordination of ML and FT cases and the APML. As tax crimes were identified as the main proceeds generating crimes in Serbia, the APML and the Tax Police have developed more coordination. The public prosecutors and investigative units of the police, as well as those from the security services, appeared to understand the importance of strong co-operation. However, there are also some shortcomings. For example, prosecutors do not routinely advise supervisory authorities (including the NBS) of progress and outcomes of the sanctions promoted by the supervisors through the courts. Despite the legal powers of the APML to obtain information from other state authorities within strictly specified deadlines, the effective implementation of these powers is limited in certain cases (law enforcement information, tax information and feedback).

Deficiencies are noted in regard to the access of the APML to data which would be required to coordinate the assessment and development of the system at the policy level. At the time of the evaluation there was no mechanism for the coordination of financing of proliferation of weapons of mass destruction.

Financial Intelligence, Money Laundering and Confiscation (Chapter 3 - IOs 6-8; R.3, R.4, R.29-32)

11. 10. The APML plays a central role in generating financial intelligence. The analysis products generated by the APML are of good quality and have the potential of supporting the operational needs of LEAs. However, there are a number of issues which impact on the effectiveness of the process. Information needed by the APML for its analysis is not always easily retrievable from other public authorities. Some databases to which the APML has access do not contain current and up-to-date information. Information requested by the APML from LEAs and tax authorities is not always provided in a timely manner. The Customs Administration has not been effective in identifying ML/FT suspicions at the borders and have not submitted any reports to the APML. The reporting regime by the private sector is not yet fully effective. Although LEAs have direct and indirect access to numerous databases, they tend to rely heavily on the APML channel to gather information on their behalf, mainly to circumvent the more cumbersome procedures set out in the Criminal Procedure Code (CPC). This has a negative impact on the resources of the APML. LEAs use financial intelligence in the pre-investigative phase of ML investigations, parallel financial investigations, investigations of associated predicate offences and FT. Although financial intelligence was used to generate ML investigations, it appears that this is rare due to difficulties by law enforcement authorities in undertaking and conducting investigations for money laundering in the absence of specific indication of the predicate crime. . This is mainly due to the reluctance of prosecutors to pursue cases which do not contain a direct link between the predicate offence and the ML and the prioritisation of predicate criminality by LEAs. This is not the case with respect to FT, where APML notifications have been used successfully by LEAs in investigations, resulting in indictments.

12. The cooperation arrangements in place between the APML and the Prosecutor's Office, which are intended to enhance the dissemination process, are positive. However, this procedure may impact negatively on the APML's ability to develop and disseminate cases independently from the operational priorities of law enforcement authorities. Additionally, the APML should consider increasing the number of cases disseminated to LEAs and assess, together with LEAs, arrangements to ensure that those cases are properly pursued including in ML investigations. Cooperation between the APML and the authorities responsible for investigating organised crime and terrorism financing is a positive aspect of the system. The prioritisation of work in this area is a welcome development and reflects the risks faced by the country. Existing similar arrangements with the tax authorities should be further enhanced.

13. There are several issues with the effective identification, investigation and prosecution of ML. These issues permeate the entire process and whilst Serbia has achieved some results, the overall results do not reflect a strong functioning system. The authorities do not regularly use financial investigations to identify ML cases. The results achieved by Serbia do not reflect the ML risks it faces. For instance, no ML convictions have been achieved in relation to proceeds generated by tax evasion and corruption and only one ML conviction was achieved in relation to organised crime, despite the fact that these are considered to pose the highest ML threat in Serbia. The majority of ML convictions were for self-laundering connected to a domestic predicate offence. Only four of the 35 persons convicted of ML were for third party laundering. There have been no foreign predicate convictions. The limited number (5) of outgoing money laundering-related MLA requests

in five years suggested that the Serbian authorities are not active in this area despite the threat from foreign predicate crime. No stand-alone ML convictions have been achieved. As stated earlier, there is still reluctance to pursue ML cases until a conviction for the predicate crime has been achieved. The sanctions for ML which have been ordered by the courts are not considered effective, proportionate and dissuasive. The statistics indicate that the highest custodial sentences handed down by the courts have been for one years' imprisonment.

14. The provisions on confiscation and provisional measures are largely in place, although there remain some shortcomings with regard to the requirements of Recommendation 4 (in particular with regard to confiscation of instrumentalities and assets of equivalent value). Confiscation of proceeds of crime is a high policy objective in a number of strategic documents and legislation. In practice though, and notwithstanding some significant results achieved, the totality of the results do not necessarily reflect the risks and the number of predicate offence convictions. The recent adoption of a Financial Investigations Strategy seeks to address several identified shortcomings but its implementation is ongoing and therefore its effect so far cannot be properly measured. Seizure of assets pursuant to foreign MLA requests has been undertaken successfully in practice, no requests have been received by Serbia in relation to confiscation. The structure for the management of seized and confiscated assets is effective and commendable.

15. Whilst there is a system of control for cross border movement of cash/BNIs in place, it does not appear to sufficiently address the ML and in particular FT risks associated with such movement. In particular, cross-border controls focus exclusively on compliance with the declaration obligation, rather than detection of potential ML/FT. This conclusion is further underlined by the low awareness of ML/FT risks and typologies by the competent authorities. The evaluation team also had serious concerns regarding the control of the boundary line with Kosovo*.

Terrorist Financing and Financing Proliferation (Chapter 4 - IOs 9-11; R.5-8)

16. The understanding of FT risks has evolved since the NRA and the evaluation team was satisfied that individual authorities have a good understanding of FT risks within their own roles. Moreover, the authorities established a Permanent Mixed Working Group to focus specifically on terrorism and FT risks. This demonstrates that the Serbian authorities are cognisant of FT risks and the need to keep them under review. The Permanent Mixed Working Group meets on a weekly basis and is an analytical forum. The group discusses FT suspicious transaction reports (STRs) and suspicious persons and NPOs, and it considers terrorism and FT risks in Serbia and in the region, terrorist activity from Islamic fundamentalists, and the potential risk from Serbia being used as a gateway for illegal migration. Despite these efforts, there have been no convictions for FT and one prosecution. More attention should be directed towards potential FT activity linked to insufficient financial transparency and inadequate control of funds raised by NPOs, as well as to cash movements across the border through alternative remittance systems and money remitters. FT investigations do not appear to be carried out systematically in the context of terrorism investigations and there are difficulties in securing sufficient evidence to bring the investigations forward. There is no concrete counter-terrorism strategy to deal with the identified FT risks. There are concerns over Serbia's lack of actively pursuing foreign financiers of FT.

17. Serbia has a legal framework in place to apply targeted financial sanctions regarding FT, however a number of deficiencies compromise the effectiveness of the system. Most importantly, the transposition of the designations made by the UN Sanctions Committees into Serbian legal system is done through a Governmental Decision on the basis of a proposal by the Ministry of Foreign Affairs. The same procedure is applicable in case of an amendment. This two-step process does not enable

* See footnote on page 9, paragraph 5.

the implementation of the lists “without delay”. In addition, the Government Decision establishing the list of designated persons does not transpose into the Serbian legal order the designations stemming from UNSCR 1988(2011) in relation to the Taliban. Whilst there is a system for domestic designations in line with UNSCR 1373, this does not extend to proposing designations to the relevant UN Committees or to requesting a foreign jurisdiction to apply freezing measures. There are concerns about adequacy of the mechanisms to inform reporting entities about the lists and their changes. Despite the occurrence of terrorism-related activities in the region, no designations were made pursuant to UNSCR 1373. While the Serbian authorities appear to broadly understand the FT risk pertaining to the NPO sector, the proper assessment of this risk is hindered by the fact that no formal review has been undertaken with regard to the size, relevance and activities of the sector, its vulnerability to misuse or that of the adequacy of the domestic legal framework in this field.. Even though NPOs and religious organizations have already been used as vehicle for FT in the region, outreach activities to increase awareness and understanding of FT risk have not been consequential. Shortcomings have also been identified in the monitoring of activities of NPOs.

18. There is no law regulating targeted financial sanctions related to proliferation of WMD and the obligations stemming from UNSCR 1718 (concerning the Democratic People’s Republic of Korea (DPRK)) and UNSCR 1737 (concerning the Islamic Republic of Iran). Although these lists are de facto forwarded through the Government and the NBS to some of the reporting entities the latter are left without instructions or guidance as to their obligations in case of a match. In any case, in the absence of a regulatory framework, no authority would have the power to implement these UN sanctions and freeze the related assets.

Preventive Measures (Chapter 5 - IO4; R.9-23)

19. Banks and money remitters in Serbia demonstrated a good understanding of ML and FT risks and apply AML/CFT mitigating measures accordingly. Whilst the understanding of ML risks was satisfactory amongst the majority of other FIs and some DNFBPs, FT risks were not considered or understood at all by the sectors other than banks and money remitters.

20. It appears that all financial institutions and, in most cases, DNFBPs apply basic CDD measures and record-keeping obligations effectively. The majority of banks in Serbia form part of international financial groups and therefore apply AML/CFT measures based on group policies. Financial institutions, as well as auditors and some accountants, demonstrated an understanding of beneficial ownership requirements and endeavour to comply with these requirements in practice, with varying levels of success. In addition, they also confirmed that they assess their clients based on risk, pursuant to which they apply different level of CDD measures. There were, however, doubts about the actual understanding and implementation of the risk based approach in practice outside the banking sector.

21. Notwithstanding the aforementioned, the evaluation team did not consider that the risks connected to the real estate sector are sufficiently mitigated by the DNFBP sectors involved in real estate transactions (real estate agents, lawyers and notaries). This is due to the fact that real estate agents do not recognise the high risk connected with their business, lawyers refuse to acknowledge their AML/CFT obligations and notaries public are not covered by the AML/CFT framework at all. This is particularly relevant, as real estate transactions were identified in the NRA as posing the highest risk outside the financial market.

22. The vast majority of SARs are made by the banking sector and money remittance service providers. The APML is of the view that the quality of the reports, in particular from banks, is improving. Reports are rarely submitted by other sectors. It was found that reports are sent only when a connection is made to a specific indicator from the list issued by the authorities and they

would rarely contain any further support for the suspicion. It appeared that a high level of proof for a suspicion would have to be met in order for a reporting entity to file an suspicious activity report (SAR).

23. The effectiveness of the system remains undermined by several legislative shortcomings, the most relevant being the fact that requirements connected to domestic PEPs are not included in the AML/CFT framework, obligations in connection to wire transfers are incomplete and the measures to mitigate risks connected with high-risk countries are limited. In particular the former requirements are highly relevant in the context of the risk identified in the country.

Supervision (Chapter 6 - IO3; R.26-28, R. 34-35)

24. With the exception of accountants, all FIs and DNFBPs are required to obtain a licence in order to undertake their business. As a whole, the licensing authorities of FIs are implementing the measures in legislation to prevent criminals from controlling reporting entities, however, as concerns DNFBPs, the efforts undertaken by the authorities vary significantly amongst sectors. Overall, the implementation in practice is negatively affected by shortcomings in the legislation.

25. The AML/CFT Law clearly designates the authorities responsible for AML/CFT supervision. The only exception is notaries, which are not subject to the AML/CFT Law, and casinos, in relation to which the discrepancy between the AML/CFT Law and sectoral legislation results in a lack of clarity on the actual supervisor. In practice, casinos, lawyers and notaries are not subject to AML/CFT supervision. Whilst the NBS maintains an understanding of the risks of the banking and insurance sectors as a whole and of individual institutions, the understanding of risks of the other supervisors varies.

26. The majority of financial sectors, accountants and auditors are subject to off-site supervision in the form of periodic questionnaires. On-site inspections are undertaken by the banking and insurance departments of the NBS, the Securities Commission, the Tax Administration in relation to currency exchange bureaux, the Ministry of Trade for real estate agents and the APML. Supervisory authorities are not yet focussing the frequency and intensity of their supervision of sectors and individual licensees based on ML/FT risk. The banking supervisory department of the NBS has taken significant steps in this respect, as has the APML.

27. Sanctions for AML/CFT breaches can be applied either directly by the supervisor based on sectoral legislation (applicable only to some sectors) or pursuant to the AML/CFT Law through court proceedings. In practice only the latter procedure is used and, as a result, remedial action for encountered violations does not lie with the discretion of the supervisor and the period before a sanction is imposed by the court is, on average, two years.

28. The NBS's banking supervisory department has recently dealt with its staff resource deficiency in a positive way by recruiting additional staff but the effectiveness of all of the new staff has yet to be proven. All other supervisory authorities have a significant shortfall in staff resources which have a negative impact on the thoroughness of supervision. With the exception of the supervisory department of the APML, the frequency of AML/CFT training by the supervisory authorities is not adequate. The APML has been particularly commended by industry representatives in relation to the training and awareness raising activities it provides to the private sector. A highly pro-active approach by the NBS in this respect has also been noted in respect of the banking sector.

Transparency of Legal Persons and Arrangements (Chapter 7 - IO5; R. 24-25)

29. Serbia's ML NRA contains some information on legal persons but this does not comprise an overall assessment of the vulnerabilities posed by legal persons (and arrangements), particularly in relation to specific sectors and forms of predicate offending, or the action that the authorities should take as a result. Although some key authorities have a more developed understanding of the risks of misuse of legal persons and the adequacy of current mitigating measures than is reflected in the NRA, overall the authorities do not have a fully documented comprehensive assessment to inform their responses to risk sufficiently. Work to address this is expected to take place in 2016.

30. Information about the creation and types of legal person and arrangement under the law of Serbia is publicly available. All legal persons are required to be registered. Bearer instruments are not issued in the jurisdiction. Basic information is publicly available and, therefore, transparent and, in addition, there is no process for verifying the information that is provided to the SBRA or the Central Securities Depository or for checking whether it requires updating. While there is a legal requirement for changes of basic information in respect of all legal persons to be reported to the SBRA within 15 days, and there is a strong incentive to provide up to date information because changes to legal persons do not have legal effect until they are made to the SBRA's register, failure to comply is not subject to any penalty. Consequently, it is not enforceable. In addition, there is no requirement to report changes to information held by the Central Securities Depository. Nevertheless, in practice, the adequacy, accuracy and currency of information at the registries appears to be satisfactory.

31. Beneficial ownership information is available in a timely manner. Legal persons are required to have a bank account and in addition there are limitations on the use of cash for trading in goods and services which make it impractical for any trading entity not to have a bank account.

32. Banks therefore occupy a key role in the ability of the authorities to obtain beneficial ownership information. For virtually all legal persons that have bank accounts the identity of beneficial owners is established and verified. Banks retain the information under the AML/CFT Law. This information is adequate, accurate and current and authorities have timely access to it. In general, the position in respect of legal arrangements is weaker than for legal persons as the obligations to do with beneficial ownership are less well understood. Although there is no statutory requirement for trustees to disclose their status to FIs and DNFBPs, such disclosure happens in practice. There are a few gaps in the CDD on legal persons carried out by some other FIs.

33. With regard to DNFBPs, notaries are not subject to CDD obligations and there are significant gaps in CDD by notaries and lawyers (which are involved to a large extent with the creation of legal persons and also involved to a large extent in real estate transactions).

34. Information held by the Serbian Business Register's Agency (SBRA), the Central Securities Depository and reporting entities is available to the authorities in a timely way.

35. Few sanctions appear to have been imposed for failure to comply with beneficial ownership requirements to date. As a generality, the available sanctions for breaches in relation to basic and beneficial ownership information are not effective, proportionate and dissuasive and there is a lack of clarity around responsibility for imposing sanctions on NPOs. In addition, concerns about the approach to sanctions taken by the authorities and the need for criminal rather than administrative procedures in relation to breaches of the AML/CFT Law are undermining the effective implementation of the sanctions that are applicable to reporting entities.

Cooperation with other jurisdictions (Chapter 8 - IO2; R. 36-40)

36. Serbia provides MLA pursuant to multilateral and bilateral international conventions and should there be no such convention in place, national legislation. The overall framework enables the authorities to provide and seek a wide possible range of MLA in relation to investigations, prosecutions and related proceedings for ML, FT and predicate offences. Whilst the authorities demonstrated that MLA has been provided effectively in practice, concerns remain over the timeliness of the execution of received requests. As concerns seeking MLA, the authorities presented a very large-scale case where cooperation successfully took place with a large number of foreign jurisdictions. It does not, however, appear that MLA would be sought regularly when the case so requires.

37. There is a sufficient legal basis for international cooperation of the FIU, law enforcement authorities and supervisors. The APML, the Police and the Customs Administration extensively exchange information with their foreign counterparts. Law enforcement authorities also reported a number of occasions when they participated on joint international operations. As concerns supervisory authorities, whilst the NBS is active in seeking and providing information internationally, no information was provided in this respect with regard to the other supervisors and from the on-site visit it appeared that no cooperation takes place.

38. Some measures have been put in place to ensure cooperation with the authorities of Kosovo*. The evaluation team did not consider, however, that it was demonstrated that these would be fully proportionate to the corresponding risks.

Priority Actions

- The Serbian authorities should update the ML and FT NRAs so that they take account of their more developed thinking since the NRAs were completed, contain greater information and analysis (for example, in relation to predicate criminality, organised crime and cross-border risks) and demonstrably tie in the threats and vulnerabilities so as to build a coordinated, comprehensive and substantiated understanding of risk.
- Serbia is strongly encouraged to pursue the prosecution of ML where the ingredients of that offence are present and the evaluation team strongly encourages an increased focus on third party and standalone ML cases and the absence of a predicate offence conviction should not prevent or delay the timely prosecution of ML. In order to assist prosecutors and the judiciary, Serbia may consider implementing Article 9(6) of CETS 198 in domestic legislation.
- The Serbian authorities should establish a clear criminal policy on ML investigations and prosecutions. This should at the least include a centralised database for all ML cases and also a co-ordinated strategy which applies to all the relevant law enforcement bodies setting out the circumstances in which ML investigations need to be initiated. The policy should reflect the ML risks that Serbia faces and consideration should be given to the introduction of a mechanism for centralised co-ordination of AML investigations and prosecutions.
- FT investigations should be carried out on a systematic basis when terrorism is being investigated.

* See footnote on page 9, paragraph 5.

- Serbia should fully implement its Financial Investigations Strategy. Measures should be put in place to ensure that financial investigations are undertaken systematically in all proceedings involving illicit assets derived from organised crime and other sorts of serious offences within the scope of the Law on Recovery. Furthermore, the evaluation team strongly encourages an increase in the practice of carrying out financial investigations in parallel with the investigations of all major proceeds-generating offences and not simply conducted subsequent to the investigations of predicate offences.
- Measures should be taken to ensure that control of cross-border transportation of currency also takes into consideration identifying ML/FT suspicions and customs authorities should include in their focus the identified risks.
- A formal review of the NPO sector should urgently be undertaken with regard to its activities, size and vulnerabilities to FT and adequate awareness-raising programmes should be carried out in the sector.
- The governmental procedure through which targeted financial sanctions provided under the relevant UNSCRs and their updates are implemented should urgently and radically be simplified and accelerated.
- The Serbian authorities should set up a mechanism to identify potential targets of financial sanctions for all relevant UNSCRs. The procedure for domestic listing should be simplified and proposals should be accepted from a wider range of state authorities.
- Serbian authorities should urgently adopt new legislation which will regulate targeted financial sanctions related to proliferation and carry out an adequate outreach programme for its fast and effective implementation.
- Supervisors should follow the lead being taken by the banking department of the NBS and the work being done by the APML in seeking to maintain an understanding of the risks of individual licensed entities and take steps so as to ensure that the frequency and intensity of supervision is based on risk; the authorities should link supervision of AML/CFT compliance to the particular risks identified in the NRA; in relation to the Tax Administration, in order to facilitate this process, the Administration should be provided with statutory ability to obtain offsite supervisory information.
- The sanctioning regime for all supervisors should be reviewed and enhanced in order to ensure that proportionate and dissuasive sanctions are applied. Such sanctions should be applied effectively, including in a timely manner.
- In line with their current plan, the Serbian authorities should introduce a registration system for beneficial owners of legal persons with appropriate penalties for non-compliance and the provision of false information. In addition, Serbia should introduce a framework enabling the registrars of basic and beneficial ownership information to be able to verify whether information provided to them is adequate, accurate and current; this framework should be actively implemented by the registrars.
- The authorities should review the MLA framework in order to identify the areas which are negatively impacting on the timeliness and overall effectiveness of provision of MLA and take steps to remedy these. In particular, sufficiency of the resources of the Ministry of Justice (MoJ)

should be assessed. Consideration should be given to expanding the areas where direct co-operation, for example between prosecutors, can be done.

- The authorities should harmonise the legislative framework with the FAFT Standards, in particular concerning the following issues:
 - remedy the shortcomings connected to CDD measures, domestic PEPs and identification of beneficiaries of wire transfers;
 - notaries should be introduced as reporting entities under the AML/CFT framework.

Effectiveness & Technical Compliance Ratings

Effectiveness Ratings

IO.1 Risk, policy and coordination	IO.2 International cooperation	IO.3 Supervision	IO.4 Preventive measures	IO.5 Legal persons and arrangements	IO.6 Financial intelligence
Moderate	Moderate	Moderate	Moderate	Moderate	Moderate
IO.7 ML investigation & prosecution	IO.8 Confiscation	IO.9 FT investigation & prosecution	IO.10 FT preventive measures & financial sanctions	IO.11 PF financial sanctions	
Low	Moderate	Moderate	Low	Low	

Technical Compliance Ratings

AML/CFT Policies and coordination

R.1	R.2
PC	LC

Money laundering and confiscation

R.3	R.4
LC	LC

Terrorist financing and financing of proliferation

R.5	R.6	R.7	R.8
LC	PC	NC	PC

Preventive measures

R.9	R.10	R.11	R.12	R.13	R.14
LC	PC	LC	PC	PC	LC
R.15	R.16	R.17	R.18	R.19	R.20
LC	PC	C	PC	PC	C
R.21	R.22	R.23			
C	PC	PC			

Transparency and beneficial ownership of legal persons and arrangements

R.24	R.25
LC	PC

Powers and responsibilities of competent authorities and other institutional measures

R.26	R.27	R.28	R.29	R.30	R.31
PC	LC	PC	LC	LC	LC
R.32	R.33	R.34	R.35		
LC	LC	LC	PC		

Cooperation with other jurisdictions

R.36	R.37	R.38	R.39	R.40
LC	LC	LC	LC	PC

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