



Czech Republic

Fifth Round Mutual Evaluation Report

Executive Summary

1. This report provides a summary of the anti-money laundering (AML) and countering the financing of terrorism (CFT) measures in place in the Czech Republic as at the date of the on-site visit (between 5 and 16 March 2018). It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of the Czech Republic AML/CFT system, and provides recommendations on how the system could be strengthened.

Key Findings

The National Risk Assessment (NRA) appears to be the result of a transparent and realistic analysis of the money laundering (ML) and Financing of terrorism (FT) risks faced by the country. However, certain aspects of risks identified in the NRA, such as laundering of foreign proceeds, the use of instruments of fictitious entrepreneurs, real estate business or risk posed by organised crime require further analysis. The private sector contributed, to a certain extent, in identifying key ML/FT risk and the Financial Analytical Unit (FAU) provided sector-specific versions of the NRA to the reporting entities, and prepared the general structure of the risk assessment which should be used by the private sector when performing their own evaluation of risks.

The Ministry of Interior developed the National Security Audit (NSA), which examines, inter alia, the risk related to terrorism, terrorism financing and organised crime. Since the NSA looks at several relevant areas, it remains unclear why the analysis therein was not fully integrated with the NRA. The specific levels and prioritisation of different categories of risks could have been expressed in a clearer manner such that the conclusions should have led the reader to easily establish the priorities as between different risk areas.

Competent authorities use financial intelligence produced by the FAU to a certain extent. Law enforcement agencies (LEAs) use other information (e.g. their own intelligence, complaints from the public and information gained in the course of investigating predicate offences) to initiate ML and FT investigations regularly. Whilst the statistics do not provide a clear breakdown on use of financial intelligence, interviews held with LEAs and case examples presented suggest that the financial intelligence is mostly used to pursue predicate offences and associated ML. Limited feedback is provided to the FAU on use of financial intelligence by LEAs. This practice does not enable the FAU to adequately assess the quality of its analysis and prioritise its own course of actions.

Although the legislative reforms and increased efforts in pursuing ML investigations represent a clear step forward, more investigative opportunities should proactively be undertaken and pursued by Czech law enforcement. The authorities succeeded to reach considerable number of ML

convictions, including in some large scale ML cases, though the number of these was modest. Serious large scale third party and stand-alone ML investigations, prosecutions and convictions continue to be the exception. Focus of ML investigations and prosecutions is not fully in line with the central ML risks for the country in terms of underlying criminal activity. Dissuasive and proportionate sentences were obtained for ML.

Seizure and confiscation represent policy priorities for the Czech authorities. Recent improvements in the legislative and institutional framework (e.g. access to relevant databases and introduction of the 'extended confiscation'¹) have already produced concrete results in relation to freezing and seizure of assets. The amounts the Czech authorities confiscated and recovered during the period under review are significant. Nevertheless, these amounts are still far inferior to the sums seized and frozen. LEAs regularly carry out financial investigations in relation to proceeds-generating offences. There is an increasing specialisation in the area of financial investigation (at LEA and judicial levels) and external expertise is available upon request. However, little information was provided to demonstrate effective results with respect to undeclared cross border transportation of cash and bearer negotiable instruments. Data presented to the assessment team confirm that seizures and confiscation are largely related to the primary offences constituting ML risks.

During the final stages of the preparation of the NRA and since that time, a certain number of FT cases have been brought to light that confirm the realistic possibility of such activities taking place in the Czech Republic. The authorities have instituted programmes intended to mitigate these threats. Several investigations were launched in relation to the foreign terrorist fighters and other terrorism and FT related occurrences. One of these cases has reached the prosecution stage. Financial investigations are carried out in all terrorism related investigations, including at the pre-trial stage. One prosecution which was not technically for FT because the investigation originated from foreign intelligence rather than admissible evidence in court proceedings resulted in a number of convictions and significant sentences, demonstrating effective disruption of organised terrorism-FT activity and leading to the assessors' conviction that a "true" FT case would be dealt with in an effective and dissuasive manner.

The measures in place for application of UN targeted financial sanctions (TFS) related to both FT and proliferation financing (PF) are identical. As a member of the European Union (EU), the Czech Republic is negatively affected by the shortcomings identified in the EU legislation. This resulted in delays of implementation of targeted financial sanctions pursuant to relevant United Nations Security Council Resolutions (UNSCRs). To remedy this deficiency, the country introduced a national mechanism. This mechanism, although not requiring immediate freezing of assets but submission of a suspicious transactions report (STR) by a reporting entity, still ensures some elements of an effective system. The Czech Republic has no domestic mechanisms (apart from these developed under the EU framework) for implementation of the UNSCR 1373. Although the understanding among obliged entities on their obligations with respect to TFS varies considerably, there have been some false-positive matches identified with respect to FT and PF related designated persons and entities. In one case, the authorities succeeded to identify the assets of the entity which had links

¹ Extended confiscation is a term used to reflect the ability to confiscate assets (in criminal proceedings) that go beyond the direct proceeds of a concrete criminal offence for which the defendant is prosecuted. The scope of the extended confiscation then goes to all the assets that are suspected to be proceeds of crime unless the defendant can prove their legal origin. The 'extended confiscation' notion is also included in the FATF Best Practices Paper on Confiscation (page 6, paragraph 17) whilst it became a part of the EU Directive 2014/42.

with the designated entity pursuant to UNSC Resolution 1718. Consequently, the authorities initiated a procedure for designation of that entity, which resulted in inclusion of the entity in the sanctions list.

The banks have an appropriate understanding of the ML/FT risks and obligations, but awareness is lower with the other financial institutions. The perception of the FT risks is based on the NRA, experience and/or group guidance, and guidance from the supervisors. Generally, all reporting entities demonstrated a good knowledge of the AML/CFT requirements, but the risk-based approach is applied mostly by banks, securities intermediaries and insurance industry. The quality of STRs increased significantly in the last couple of years. The banks are the main contributors in the overall volume of reports, while the number of STRs submitted by the designated non-financial businesses and professions (DNFBPs) is commensurate with their limited knowledge in the ML/FT area.

The Czech National Bank (CNB) has a robust financial institutions (FIs) licensing mechanism, including a sound process to make sure that criminals are not owners or managers of financial institution. On AML/CFT supervision, the FAU and CNB are the two main regulators that simultaneously oversee the biggest part of the financial sector. The efficiency of the existing model (duplication of duties for on-site AML/CFT supervision) might be an issue in a view of limited resources. The fines applied by the FAU and CNB are not playing their dissuasive and deterrent role and they are not applied in a proportionate manner.

The Public Register in the Czech Republic, include several registers: the Commercial Register, the Register of Associations, the Register of Foundations, the Register of Associations of Unit Owners and the Register of Benevolent Associations. Every public register can be accessed directly (on-line) and free of charge. Upon request, the authorities can require non-public information. LEA and Prosecution consider the Commercial Register as a good tool, which significantly improved since 2017. Trust and Beneficial Ownership Registers have been recently introduced but are still not fully populated with the respective data and information.

The Czech authorities have been active in relation to foreign requests, including those related to seizing and freezing assets. The feedback received from other jurisdictions was largely positive in terms of quality of mutual legal assistance (MLA) and did not highlight the timeliness as an issue of concern. The authorities also demonstrated significant activity with respect to the outgoing MLA requests across all predicate offences. The number of outgoing requests regarding ML offence also demonstrates that the authorities are proactive in seeking assistance from abroad. The relevant authorities (the FAU, LEAs, judiciary) proactively and constructively cooperates with their foreign counterparts by exchanging information on ML, associated predicate offences and FT, both spontaneously and upon request. Police and intelligence agencies are engaged in cooperative information sharing via different multi-agency platforms as well as in cooperation at the operational level (e.g. actively taking part in joint investigative teams).

Risks and General Situation

2. The Czech Republic is not a major international financial centre. The level of various forms of economic crime remains a key ML vulnerability of the country. The ML/FT National Risk Assessment recognised this fact and listed the following proceeds-generating offences, with subsequent money laundering and terrorist financing risks, as the most severe: various forms of tax crimes; corruption; public procurement (machinations); and subvention (or subsidies) fraud. Consequently, the most

significant ML techniques include the abuse of services in the financial sector, in particular credit institutions and money remittance; misuse of advisory and legal professions and investment in real estate; abuse of betting accounts and services related to virtual currencies; and trade based money laundering. Terrorist financing, contrary to the other crimes listed, occurred to an extremely limited extent in the Czech Republic, and overall FT risk level may be summed up, at its highest, as “moderate”.

3. The banking sector is comprised of 45 banks. Out of the 45 banks, 23 are foreign bank branches. At the end of 2016, foreign owners controlled 93.1% of the assets of the Czech banking sectors (i.e. foreign bank subsidiaries or foreign bank branches), with 92.7% of the assets owned by foreign entities from EU Member States. In 2016, Czech banks directly managed CZK 5,960.9 billion (EUR 235.54 billion). With a 56.1% share, foreign currency loans and other receivables are the largest item of the foreign currency assets of the sector as a whole. A new fiscal responsibility framework was adopted in January 2017 which established, *inter alia*, an independent fiscal council to assess compliance with the fiscal rules and evaluate the long-term sustainability of the public finances. Financial institutions and, in particular, banks and credit unions are exposed to an increased ML/FT risks in terms of customer numbers, quantity and volume of processed transactions. On the other hand, these financial institutions are the most active in taking their own risk mitigation measures and reporting suspicious transactions.

Overall Level of Effectiveness and Technical Compliance

4. Since the last evaluation, the Czech Republic has taken steps to improve the AML/CFT framework. AML/CFT Law was amended and these amendments entered into force as of 1 January 2017. The amendments require the authorities to, *inter alia*, conduct national risk assessment with a view of identifying ML/FT risks as well as to undertake measures to mitigate these risks. In relation to FT, amendments were introduced in the Criminal Code in February 2017. One of the most significant changes brought about by these amendments was introduction of a stand-alone provision on financing of terrorism, introduction of a terrorist group definition, explicit criminalisation of preparatory and ancillary conduct, support and promotion of terrorism, travelling for the purpose of terrorism, recruitment, training for terrorism, receiving training for terrorism and threatening with terrorism. Furthermore, criminal liability of legal entities has also been a subject of reforms. The relevant legislation now includes a ‘negative list’ enumerating criminal offences for which legal persons cannot be held criminally liable. Every other offence defined by the Criminal Code, may be therefore committed by a legal person, including money laundering and financing of terrorism.

5. To address the risks posed by complex corporate structures, starting 1 January 2018, the Register on Beneficial Owners and the Central Register of Bank Accounts were established to improve transparency of beneficial owners and to provide quicker access to bank account information.

6. The Czech authorities have achieved a substantial level of effectiveness in international cooperation; confiscation of proceeds and instrumentalities of crime; and FT investigations and prosecutions. Czech Republic has achieved moderate results in the other areas covered by the FATF standards.

Assessment of Risks, coordination and policy setting (Chapter 2 - IO.1; R.1, R.2, R.33)

7. The NRA was approved by the Government of Czech Republic in January 2017. The document addresses both ML and FT risks and includes assessment of threats, vulnerabilities and consequences. It also sets specific mitigating measures to address the risks identified. However, the majority of these measures have already been implemented or their implementation is underway, whilst future actions have rarely been introduced. The NRA also notes that, with respect to prevention and mitigation of ML/FT risks, the aim is to formulate a national AML/CFT strategy. At the time of the onsite visit, a unified national AML/CFT strategy had not yet been put in place.

8. The NRA process was driven by the in-house methodology based on FATF Guidance on National ML/FT Risk Assessment and was coordinated by the FAU. The process also involved other relevant authorities, self-regulatory bodies and the private sector. The NRA is reasonably comprehensive and it has clearly aided the understanding and knowledge of the competent authorities and the private sector on the ML/FT threats and vulnerabilities they face. Nonetheless, the classification of risks as per their importance appears not to be comprehensive enough - the heat map provided does include the ratings associated to different risks. The NRA identified tax crimes, fraud, corruption, phishing, and subvention frauds (otherwise be known as "Subsidies Fraud", i.e. the abuse of government subsidies programs) as the most common predicate offences which trigger subsequent laundering of proceeds. FT, for example, was also under scrutiny due to its seriousness, whilst, on the other hand, it was concluded that the probability of its occurrence was low.

9. Following the approval of the NRA, the FAU prepared and disseminated to the reporting entities twelve non-public tailor made analyses of risks which correspond to specific segments of the private sector. The knowledge and understanding of AML/CFT risks by different reporting entities varies - whilst the financial institution demonstrated a relatively high level of understanding and awareness of ML/FT risks, the same cannot necessarily be stated for other reporting entities.

10. The lower risk scenarios for the application of simplified customer due diligence (CDD) measures are provided in the AML/CFT Law. The inherent risks corresponding to these exemptions do not stem from the NRA or other risk assessment. Authorities consider that the legal requirements for simplified CDD measures should be revised in order to correctly reflect the results of the NRA, and of the risk assessments carried-out by each obliged entity. Unlike the simplified CDD, the exemptions do result from the NRA, which revealed no or very limited exposure to ML/FT risks for the e-money and mobile payment services. With regard to enhanced measures, the AML/CFT Act does not explicitly require obliged entities to perform enhanced CDD (ECDD) where the ML/FT risks are higher. Thus, the NRA results do not directly support the application of enhanced measures for higher risk scenarios. It appears that the AML/CFT risk mitigation measures are taken based on clients' risk profile, including the application of ECDD in cases of "negative" information acquired from paid databases (e.g. WorldCheck) or from open sources.

11. Cooperation at operational level and information exchange between authorities is generally good, however certain improvements are needed with regard to monitoring of the implementation of the NRA Action Plan.

12. Following the NRA findings, the Czech National Bank assigned the supervisory activity to two of its departments - one which applies a comprehensive risk-based supervision system, and has a team dedicated solely to AML/CFT matters, and the other which includes AML/CFT issues as a part

of its general supervisory activities. To address the risks posed by complex corporate structures, the Register on Beneficial Owners and the Central Register of Bank Accounts were also established.

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

13. The FAU has access (direct or indirect) to a broad range of databases containing financial, administrative and law enforcement information. It produces good quality financial intelligence, which is used to certain extent by the competent authorities to investigate ML and associated predicate offences. The results of FAU analysis are disseminated to the LEAs either in the form of a criminal complaint² or as information that they could use for the purposes of their pre-existing investigative activities. The FAU proactively seeks intelligence from the foreign counterparts to further support its financial intelligence analyses and investigations initiated by LEAs. The analytical capacities of the FAU allow them to carry out the analysis of complex cases and detect different sophisticated methods criminals use to conceal or disguise the origin of illegally obtained assets. In general, the intelligence gathered and criminal complaints submitted by the FAU correspond to the NRA findings on most common ML predicates indicated thereof. The coordination and cooperation between the competent authorities is smooth and prompt. However, limited feedback is provided to the FAU on the use of financial intelligence by LEAs. This practice does not enable the FAU to adequately assess the quality of its analysis and prioritise its own course of actions. LEAs also initiate ML investigations based on their own intelligence, complaints from the public and information gained in the course of investigating predicate offences. Cases of autonomous ML resulting from investigations initiated by LEAs are rather rare. The FAU is satisfied with the quality of STRs submitted by the obliged entities. As opposed to DNFBPs, the financial institutions submit the vast majority of STRs. While the NRA identified the real estate sector and legal professionals as vulnerable to ML abuse, only few STRs were submitted by these obliged entities. Close communication between the FAU and the obliged entities positively affects the suspicious transaction reporting. Some DNFBPs submit STRs to FAU through their respective self-regulatory bodies (SRBs). With this regard there are serious doubts with the function of these SRBs, since in practice, they, rather than the DNFBP concerned, make a decision whether the STR should be submitted. Deficiencies identified with respect to the definition of suspicious transactions, as well as the timeframe for submitting an STR may further hamper the proper compliance with the reporting obligations. The FAU has adequate human, financial and technical resources to conduct operational analysis. However no written guidelines on STRs prioritisation are in place. With regard to strategic analysis, apart from the typologies prepared for the purposes of the NRA, there is little evidence of the FAU's efforts hereof.

14. Most of the ML investigations and prosecutions stem from information gathered by law enforcement agencies and the FAU criminal complaints. The system and structure of the Czech criminal investigation and law enforcement arrangements gives the police the central and most active role in the pre-investigative and investigative stages. Police have at their disposal an extensive array of powers that are used fairly regularly for proceeds-generating offences. While it does appear that a considerable number of reports, suspicions or occurrences of ML result in the opening of a criminal proceeding, it does not necessarily follow that LEAs fully exploit the opportunities that are available to actively seek to identify evidence of ML in connection with the investigation of proceeds-

² Criminal complaint is a document/report (S. 159 of the CPC) that sets forth the basis upon which a criminal proceeding may be initiated. The standard is reasonable suspicion: person is to be charged with an offense.

generating predicates. Whilst the great majority of convictions relate to less sophisticated and less complex ML schemes, it was noted that Czech authorities do investigate on a regular basis ML cases where the predicate offence was committed abroad. The average time spent in pre-trial proceedings was 3.5 years, with the fastest time at 475 days and the slowest at 3189 days which seems too long. Prosecution authorities met on-site did express a certain amount of frustration at the length of proceedings under the current criminal procedure code. The data available for the vast majority of cases where convictions were obtained does not make it possible to establish a clear relationship with the higher risk areas. Consequently, it cannot be concluded that the ML investigations and prosecutions carried out fully correspond to the high-risk predicate profile of the Czech Republic. However, discussions with Czech authorities and examples provided do tend to confirm that this is the case, generally. The prevalent practice within the Czech justice system of sanctioning multiple offences simultaneously makes it difficult to measure the precise impact of the sentence in relation to ML. Nevertheless, in certain cases where ML was prosecuted in the absence of the predicate, dissuasive and proportionate sentences were obtained.

15. Strategic documents, the latest legislative changes together with the newly available tools and instruments confirm that the confiscation of the proceeds and instrumentalities of crime are given priority in the Czech Republic. The Czech Republic applies confiscation in criminal proceedings and also a specific form of administrative confiscation based on tax related legislation. "Extended" confiscation and non-conviction based confiscation in criminal proceedings are in place as of 2017, but both have been applied only in some on-going cases. Since 2011, a total value of approximately CZK 8,68 billion (EUR 334 million) has been recovered. This amount is expected to increase significantly once the on-going complex investigations and proceedings, which included significant seizure of assets, are completed. Whilst the value of the confiscated assets is substantial, it is still far inferior to the sums seized and frozen. This appears to be a consequence of a lengthy pre-trial and trial proceedings and the fact that final convictions are yet to be achieved in numerous cases with significant confiscation requests. Although statistical breakdown on different types of confiscation of proceeds and instrumentalities including the property of equivalent value, confiscation from a third party, confiscation of fruits and revenues and confiscation of proceeds which have been moved abroad is not available, the cases presented to the assessment team confirm that all these elements are in place and regularly pursued by LEAs. As the Czech Republic has no external borders with non-EU countries, cash controls are applied only at 5 international airports. For the transportation of cash and bearer negotiable instruments the Czech Republic has introduced a declaration system in line with the EU control system. All imports and exports of cash or BNIs over EUR 10,000 on entry of the Czech territory from non-EU country must be declared in writing. Whenever a false declaration is made/undeclared cash is found, customs inform the FAU. If there are indications that cash is related to crime, including ML/FT, customs inform LEAs as well. However no statistical data were available on suspicious border incidents or on assets restrained due to the illegal transportation of currency and BNI. Although the NRA does not address the issue of confiscation in a comprehensive way, the statistics provided on types of offences where confiscation was applied confirm that the seizure/confiscation generally reflects the assessment of higher ML/FT risks.

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

16. The NRA found, when considering FT risks, that the seriousness and consequences of this crime were quite "severe" and therefore the threat-level "high", but that their occurrence was infrequent and from this angle, the threat-level "low". Based on these findings, interviews held on-

site and the foregoing considerations, the current FT risk level may be summed up, at its highest, as “moderate”.

17. Regarding the prosecution of FT activities, at the time of the on-site visit one case was in the prosecution phase while ten investigations were still underway. Taking into account the terrorist-FT cases investigated and one being prosecuted (that touches upon the FT risk related to Islamic radicalism and to foreign terrorist fighters), there is evidence that the country’s efforts are in line with the country’s FT profile.

18. From 2015 the Police dealt with about 40 suspicions of FT yearly and these are investigated at least in a preliminary manner until a point is reached where the suspicions are found to have no real basis or, on the other hand, a decision is made to pursue the matter further. Both police and the FAU have the means to exchange information with the intelligence services and are equipped with knowledge and means to identify potential FT activity. Most cases never reached the prosecution stage but were closed once the investigation failed to discover sufficient evidence to demonstrate that the relevant criminal offence was in fact committed. The supervision of terrorist criminal offences and corresponding FT is performed by the High Public Prosecutor’s Office in Prague. Terrorism financing is always a mandatory part of the investigation of each criminal case associated with terrorist criminal acts. In practice, investigation of a terrorism related offence includes a detailed analysis of bank accounts and transfers to or from the suspects (their financial ‘activity’) and creation of a financial profile of the suspects. While summaries of several terrorism-related cases were shown to and discussed with the assessment team, the Czech authorities advised that they had not identified any facts clearly demonstrating occasions of conventional terrorist financing that can be proven based on admissible evidence. FT investigation is integrated, to some extent, with national counter terrorism strategies – in spite of the fragmentation of FT related elements into various strategic documents and lack of unified approach in targeting this matter.

19. Since there have not yet been any convictions for FT, there are no examples as yet of the application of sentences. There are examples, however, of dissuasive sentencing in relation to offences charged and prosecuted amidst allegations of FT, but where admissible evidence of FT could not be produced to a court.

20. The measures in place for application of UN TFS related to both FT and PF are identical. The Czech Republic applies the EU framework in relation to implementation of the UN TFS and thus is negatively affected by the shortcomings identified in the EU legislation. Consequently this results in delays of implementation of TFS pursuant to respective UNSCRs on FT and PF. With the aim to rectify these deficiencies, Czech Republic introduced a national mechanism. This mechanism, although not requiring immediate freezing of assets but submission of a STR by a reporting entity, still ensures some elements of an effective system. Shortcomings are identified in relation to communication of designations at a national level. Apart from larger financial institutions, there is no clear understanding among other obliged entities on their freezing obligations. These obliged entities consider that where there is a match with a designated person or an entity, their only obligation is to contact the FAU for further instructions. The Czech Republic has no domestic mechanisms (apart from these developed under the EU framework) for implementation of the UNSCR 1373. The risk of NPOs’ exposure to FT was assessed based only on some hypothetical examples of FT abuse. Hence, the subset of NPOs actually falling under the definition as stipulated under FATF Recommendations has not been identified. The outcomes of the NRA have not been sufficiently discussed with the NPOs, and their representatives interviewed on-site were unaware of

the potential typologies of NPO's abuse. Measures taken by the authorities with respect to prevention of terrorism related persons and entities from raising, moving and using funds and abusing the NPO sector, are consistent with the Czech Republic FT risk profile only to some extent. The Czech Republic has yet to put in place a risk-based system for targeted monitoring of its NPO sector.

21. Little is being done to detect funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities. Nevertheless there have been some false-positive matches identified both on FT and PF, which demonstrates some effectiveness of the system in place. However, technical deficiencies related to the freezing of funds and other assets of terrorist-related persons without delay, definition of funds to be frozen, as well as deficiencies identified with regard to the timeliness of suspicious transactions reporting (STR) and the role of self-regulatory bodies in the STR process have further negative impact on the effectiveness. Whilst the country did not initiate listing/de-listing with regard to terrorism financing TFS during the period under review, in one case, the authorities demonstrated effective co-operation and co-ordination leading to identification of assets of an entity which had links with the designated entity for proliferation financing. The Czech authorities also initiated the procedure for designation of that entity, which was subsequently approved by the UNSC Committee established pursuant to Resolution 1718.

22. Supervision on implementation of TFS forms a part of each inspection conducted in financial institutions. However, sanctions applied do not seem proportionate and dissuasive. Limited training on PF has been provided to the reporting entities. Although the CNB developed a guidance on procedures for implementation of the UNSCRs by the financial institutions, the representatives of these institutions interviewed on-site were not aware of it. No guidance was developed for other obliged entities.

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

23. The financial institutions appear to have a good knowledge of their AML/CFT obligations and have a constructive relationship with both the FAU and other supervisors. The banking sector demonstrated a proactive approach to risks and good understanding of their AML/CFT obligations. Banks do not use the Czech NRA as the unique source for their risk analysis, but also consider the EU Supra-National Risk Assessment, public sources, their own experience, and group-wide assessments. The understanding of AML/CFT risks, and the acceptance of the NRA findings amongst the DNFBPs varies, but they rarely apply a risk-based approach to their AML/CFT measures.

24. The private sector is aware that enhanced measures must be taken in the areas of increased risks. The on-going monitoring regime is employed based on the customer's risk profile. In most of the cases, the banks perform automatic screening of their existing customers to adjust their classification. Risk-based decisions are taken by a number of financial intermediaries to restrict or exclude some business lines according to the risk appetite set in the AML/CFT internal rules. Less attention appears to be paid by some non-banking financial institutions to the identification of politically exposed persons (PEPs).

25. Financial institutions are generally familiar with their CDD and record keeping responsibilities. In the verification process, the banks have access to several public and restricted databases. However, the access to the databases held by the Czech authorities is an area for improvement. The issue of verification of beneficial owners persists to a large extent.

26. The STR regime is largely in place with the banks being the main contributors in terms of STR submission. While the evaluators admit that contextually the highest volume of financial assets and financial transactions are held/performed by the banks, there are sectors where the ML/FT risks remain present, without this being reflected in the reporting behavior.

27. AML/CFT systems in all credit institutions, life insurance companies and pension companies are subject of independent internal audits without any specification regarding the periodicity. The financial institutions include the AML/CFT issues into their internal audit plans on the basis of their own risk assessments.

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

28. The CNB has a robust FIs licensing mechanism, including a sound process to make sure that criminals are not owners or managers of financial institution. Some deficiencies have been identified in relation to the ability to recognize PEPs and associates of criminals in the authorisation process. The AML/CFT Chief Compliance Officers of credit institutions are not subject to any mandatory qualification requirements or “fit and proper” tests. For gambling business, the basic license is issued by the Ministry of Finance, which verifies the provided data using publicly available sources. The real estate agents, accountants, trust and company service providers, dealers in precious metals and stones and traders in items of cultural heritage or items of cultural value are not subject to licensing.

29. The FAU and the CNB have a good understanding of ML/FT risks. The two main supervisors demonstrated significant efforts in promoting the results of the risk assessment amongst the entities under their remit. On a less positive side, both the FAU and the CNB have very limited human resources responsible for AML/CFT supervision. The representatives of the professional Chambers demonstrated a satisfactory level of understanding of AML/CFT risks.

30. CNB’s Financial Market Supervision Department applies a comprehensive AML/CFT risk-based supervision system (RAS/RAS II) which is to a lesser extent implemented by the CNB Financial Market Supervision Department II. The model used by the FAU to determine the frequency and depth of on-site audits does not consider individual institution risk or risks assigned for groups of institutions within particular sectors. The criteria used by professional Chambers for inspections planning do not contain specific ML/FT components.

31. Pecuniary sanctions applied by the FAU and the CNB are not playing their deterrent role and they are not applied in a proportionate manner. Although the remedial measures have a positive impact, in the absence of dissuasive fines, sustainable and effective self-compliance efforts by the FIs are not ensured. Supervision by Professional Chambers is not at the stage where it can prove an impact on AML/CFT compliance by legal professions.

32. The FAU and CNB continuously perform significant efforts in promoting a clear understanding of AML/CTF obligations and ML/FT risks amongst reporting entities (Res).

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

33. The existing Public Registrar and yet not fully populated Registrars of Beneficial Ownerships (BOs) and Trusts constitute a positive move towards a transparent and open culture in respect of legal persons and arrangements. Whilst, at the moment, information on legal persons is publicly

available and can be obtained from the Public Registrar, the Registry of Trusts and of the BOs will only be entirely operational by the end of 2018 (trusts) and by the end of 2021 (BOs).

34. The NRA reviews the risks associated with a few types of legal entities, and provides some typologies of abuse of the entities. However, the vulnerabilities related to different ownership structure of legal persons are not comprehensively reviewed, and the risk associated with foreign entities is not considered.

35. All types of legal persons established under private law are obliged to register in the Public Register in the Czech Republic. The law enforcement authorities maintained that the quality and accuracy of the registry data have improved significantly in the last years. The Court does not have an authority or obligation to verify the correctness of the information provided, but the assessment team positively notes that the City of Prague Registry Court appointed three judges to dissolve inactive companies. This measure already bore fruits and significantly contributed to an increased accuracy and reliability of the database.

36. All existing public registers can be accessed directly and free of charge through the internet and, upon request, the public authorities can require non-public information (such as copies of the documents) which is provided in a timely fashion.

International Cooperation (Chapter 8 - IO2; R. 36-40)

37. The Czech Republic has comprehensive legal framework for the MLA and extradition, which enables the authorities to provide the widest possible range of assistance in relation to investigations, prosecutions and related proceedings concerning ML, associated predicate offences and FT. Over the last few years Czech authorities have maintained a high level of activity in relation to incoming requests for MLA based on all offences that have been received in increasing numbers. Feedback received from other jurisdictions about the promptness and general quality of the assistance provided by Czech authorities is quite positive in general. Partial statistics are available in relation to outgoing MLA requests related to ML and certain predicates, therefore it is difficult to conclude that these requests properly respond to the need to seek assistance in accordance with the Czech Republic's risk profile. Still there is an adequate number of requests pertaining to ML. Regarding extradition several examples presented to the assessment team touched upon drugs and embezzlement, which are high-risk offences for the Czech Republic. The supervisory authorities can exchange information with their foreign counterparts from EU and non-EU countries, including the information held by the financial institutions. CNB cooperates intensively with its foreign counterparts and this cooperation also includes on-site inspections at the requests of the foreign counterparts. The FAU and LEAs proactively and constructively cooperate with their foreign counterparts by exchanging information on ML, associated predicate offences and FT, both spontaneously and upon request. Police and intelligence agencies are engaged in continual cooperation with their foreign counterparts. This includes cooperative information sharing via different multi-agency platforms as well as cooperation at the operational level (e.g. actively taking part in joint investigative teams). Czech authorities provided cooperation, via MLA, regarding beneficial ownership of legal persons and arrangements within a reasonable time period. Such cooperation will presumably be more and more prompt as the newly created Czech Beneficial Ownership Register is adequately populated.

Priority Actions

- Update the NRA so that it clearly indicates the ML and FT risk levels associated to different risk areas. Update the Chapter 4.1 of the NRA, revise the measures included therein, focus more on the actions which resulted from the analysis of risks and specify their intended outcomes in order to allow for proper monitoring of their implementation.
- LEAs should use the financial intelligence provided by the FAU more proactively to investigate ML cases independently and not only when targeting the underlying criminal activity. LEAs should regularly provide detailed and adequate feedback to the FAU on the quality of their dissemination and their further use, indicating the type of criminal activity information is used for.
- Czech authorities should focus more efforts and, as required devote greater resources to large scale and complex ML prosecutions that more closely align with the identified risk predicates; the authorities should find ways, including as required through legislative amendment, to streamline the pre-trial process in order to shorten the average length of prosecutions in serious ML cases.
- The authorities should carry out periodically a stock taking exercise on effectiveness and impact of the recently introduced non-conviction based confiscation (NBC) and extended confiscation mechanisms. Based on the results of these periodic exercises the appropriate measures should be included in the updated NRA and Strategy to Combat Organised Crime; the capacities of the relevant authorities in the area of cross-border control of cash and BNI should be strengthened whilst LEAs should be given a mechanism to freeze the cash whose origin is unknown.
- Czech Republic intelligence services, the FAU and police authorities should ensure that they stay in step with the changing landscape in relation to FT by maintaining close contacts with foreign counterparts; the authorities should clearly establish, and, as appropriate continually re-evaluate, the risk level for FT and inform reporting entities accordingly.
- The authorities should ensure that the implementation of UN TFS on FT and PF is without delay enabling a prompt application of freezing measures for the duration of the validity of an action initiated by the UNSCRs.
- The authorities should revise or conduct a new in-depth risk assessment of the NPO sector to identify those that are at risk for FT abuse. In addition, targeted and coordinated risk based approach in monitoring higher risk NPOs, should be implemented.
- The authorities should intensify and enrich the trainings provided to non-banking financial institutions (especially payment service providers and currency exchangers) and DNFBPs on ML/FT risks and respective mitigating measures to further clarify that the DNFBPs should assess their entity wide risks, risks arising from their products and customers. When assessing the risk the NRA, relevant guidance, typologies and feedback from the FAU should be taken into account.
- The authorities should improve the licensing procedures for financial institutions and DNFBPs so that includes: (a) processes of verification of legitimate source of funds; (b) take measures to prevent criminals and their associates from being professionally accredited or holding a significant or controlling interest, or a management function in all DNFBPs; (c) take

measures to ensure that their managers, UBOs or controllers are not the associates of criminals.

- The sanctioning regime should be enhanced by: applying dissuasive and proportional pecuniary sanctions to financial institutions and DNFBPs, and by clearly identify the management positions that can be sanctioned for AML/CFT breaches.
- The authorities should carry out a comprehensive analysis of risks associated with all types of legal entities. Measures should be in place to enable 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.
- Authorities responsible for MLA and Extradition should establish more complete systems for tracking the number and nature and delay in relation to their cases, particularly in respect of ML matters and their predicates.

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	Substantial	Moderate	Moderate	Moderate	Moderate
IO.7 – ML investigation & prosecution	IO.8 – Confiscation	IO.9 – TF investigation & prosecution	IO.10 – TF preventive measures & financial sanctions	IO.11 – PF financial sanctions	
Moderate	Substantial	Substantial	Moderate	Moderate	

Technical Compliance Ratings (C – compliant, LC – largely compliant, PC – partially compliant, NC – non compliant, N/A – not applicable)

R.1 – assessing risk & applying risk-based approach	R.2 – national cooperation and coordination	R.3 – money laundering offence	R.4 – confiscation & provisional measures	R.5 – terrorist financing offence	R.6 – targeted financial sanctions – terrorism & terrorist financing
LC	PC	LC	C	LC	PC
R.7 – targeted financial sanctions – proliferation	R.8 – non-profit organisations	R.9 – financial institution secrecy laws	R.10 – Customer due diligence	R.11 – Record keeping	R.12 – Politically exposed persons
PC	PC	C	LC	LC	LC
R.13 – Correspondent banking	R.14 – Money or value transfer services	R.15 – New technologies	R.16 – Wire transfers	R.17 – Reliance on third parties	R.18 – Internal controls and foreign branches and subsidiaries
PC	C	LC	LC	LC	LC
R.19 – Higher-risk countries	R.20 – Reporting of suspicious transactions	R.21 – Tipping-off and confidentiality	R.22 – DNFBPs: Customer due diligence	R.23 – DNFBPs: Other measures	R.24 – Transparency & BO of legal persons
PC	PC	PC	PC	PC	LC
R.25 – Transparency & BO of legal arrangements	R.26 – Regulation and supervision of financial institutions	R.27 – Powers of supervision	R.28 – Regulation and supervision of DNFBPs	R.29 – Financial intelligence units	R.30 – Responsibilities of law enforcement and investigative authorities
LC	LC	LC	LC	LC	LC
R.31 – Powers of law enforcement and investigative authorities	R.32 – Cash couriers	R.33 – Statistics	R.34 – Guidance and feedback	R.35 – Sanctions	R.36 – International instruments
C	PC	PC	LC	PC	LC
R.37 – Mutual legal assistance	R.38 – Mutual legal assistance: freezing and confiscation	R.39 – Extradition	R.40 – Other forms of international cooperation		
LC	LC	LC	LC		

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