

Anti-money laundering and counter-terrorist financing measures

Slovenia

4th Enhanced Follow-up Report

May 2022

Follow-up report



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

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The 4th Enhanced Follow-up Report on Slovenia was adopted by the MONEYVAL Committee at its 63rd Plenary Session (Strasbourg, 16-20 May 2022).

Slovenia: 4th Enhanced Follow-up Report

I. INTRODUCTION

1. The mutual evaluation report (MER) of Slovenia was adopted in June 2017 and its 1st Enhanced Follow-up Report (FUR) in December 2018, 2nd FUR in December 2019 and 3rd in April 2021. The report analyses the progress of Slovenia in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT SUBSEQUENT FURS

2. The MER and subsequent enhanced follow-up reports rated Slovenia as follows for technical compliance:

Table 1. Technical compliance ratings, April 2021

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

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

Source: Slovenia [Mutual Evaluation Report](#), June 2017 [1st Enhanced Follow-up Report](#), December 2018, Slovenia [2nd Enhanced Follow-up Report](#), December 2019, Slovenia [3rd Enhanced Follow-up Report](#), April 2021.

3. Given the results of the MER, Slovenia was placed in enhanced follow-up¹. The first enhanced follow-up report submitted by Slovenia was discussed at the 57th Plenary meeting in December 2018. Slovenia has submitted its 2nd enhanced FUR in December 2019 and its 3rd enhanced FUR in April 2021. The Plenary invited Slovenia to submit a 4th enhanced follow-up report for the 63rd MONEYVAL Plenary in May 2022. Slovenia has made progress in addressing the TC deficiencies identified in its 5th Round MER and has been re-rated as C on Recommendation 12 (initially rated as PC) and as LC on Recommendations 6, 7, 8, 13, 26 and 28 (initially rated as PC). Revised Recommendation 15 originally rated C was re-rated PC in the 3rd FUR.

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

- Georgia
- Russian Federation

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

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

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

6. This section summarises the progress made by Slovenia to improve its technical compliance by:
 - a) Addressing the technical compliance deficiencies identified in the MER and applicable subsequent FUR for which the authorities have requested a re-rating (R.1, 5, 15 and 32).
7. This report takes into consideration only relevant laws, regulations or other AML/CFT measures that are in force and effect at the time that Slovenia submitted its country update report – at least six months before the FUR is due to be considered by MONEYVAL².

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

8. Slovenia has made progress to address the technical compliance deficiencies identified in the MER and subsequent Enhanced FURs. As a result of this progress, Slovenia has been re-rated on Recommendation 1. The country asked for a re-rating for R.5, 15 and 32 which are also analysed but no re-rating has been provided.

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

9. In its 5th round MER, Slovenia was rated PC with Recommendation 1, based on the following deficiencies: the Slovenian National Risk Assessments (NRA) did not include a comprehensive assessment of TF risks and did not explore certain relevant factors in order to properly understand the ML/FT risks; with the exception of the banking and securities sector, no outreach activities were conducted to inform the private sector of the results of the NRAs; the Action Plan appeared to be rather general, did not include CFT measures and some of its prescribed mitigation activities could have been interpreted ambiguously; Slovenia did not apply a risk-based approach to allocate resources and implement measures to prevent or mitigate ML/TF based on understanding of risks; exemptions from the application of the FATF Standards and the application of simplified and enhanced CDD requirements were not based on the results of the NRA; there was no requirement for approval of internal control mechanisms of obliged entities by senior management.

10. To address the deficiencies identified in the MER Slovenia has conducted and finalised new NRA in 2020. The updated NRA 2020 includes sectors and authorities that have not been properly considered in the first NRA. The NRA also includes a comprehensive TF risk assessment. To assess the TF risks Slovenian authorities mostly relied on information provided by the LEAs and OMLP. Slovenian authorities also identified and assessed exposure of certain sectors (NPOs, virtual assets) to TF risks (c. 1.1).

11. Article 8 of the APMLETF provides for the establishment of the permanent interdepartmental group responsible for ML/TF NRA. As was highlighted in the 5th round MER, in 2014 Government of Slovenia adopted a Decision on establishment of the Interdepartmental working group for conducting ML/FT NRAs. The working group is composed of competent authorities including supervisors and with the coordinating role of the OMLP. Slovenian authorities provided the text of the Decision to the rapporteur team. The Decision does not provide for the temporary nature of the

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

IWG. This Group has been functioning since its establishment in 2014. The rapporteurs team came to the conclusion that this was a translation issue (c. 1.2).

12. According to Article 9 of the AMLFT the OMLP carries out outreach activities to competent authorities and obliged entities on the results of the NRA 2020. The results of the NRA have also been disseminated to the Slovenian supervisory authorities. The supervisory authorities also provided outreach to the obliged entities on the results of the NRA. Moreover, OMLP published the summary of the NRA on its official website. Moreover, Slovenian authorities also provided training activities, seminars to different sectors (e.g., financial institutions and DNFBPs) to inform all stakeholders on the outcomes of the NRA 2020 (c. 1.4).

13. Based on the findings of the NRA 2020 Slovenian authorities adopted the Action Plan which contains more precise measures, also including TF issues, to mitigate identified risks. However, measures provided in the new Action Plan are still general. The new Action Plan includes updated measures and priorities for competent authorities on the basis of the identified risks. Following the adoption of the NRA, Slovenia has elaborated the Action Plan, which prioritises measures to mitigate the identified ML/TF risks. Moreover, in relation to the allocation of resources, the OMLP has increased its staff number to fulfil measures envisaged in the Action Plan. Increase of the number of employees of the OMLP which might be allocated to the high-risk areas is a positive change in the national AML/CFT framework. However, such measure would have limited impact, since the allocation of resources only takes place in supervisory activities. Slovenia has not adopted the Government Regulation to determine the sectors or activities of lower or greater risk as provided for by Art. 9(4) of the AMLFT (c.1.5).

14. The “Decree on the exemption of organisers of classic games of chance from the implementation of measures for detecting and preventing money laundering and terrorist financing” was based on the specific risk assessment conducted by the authorities. According to the information provided risk assessment covered a wide range of factors influencing the overall risk rating that is low. This meets the requirement of the c.1.6(a). Regarding c.1.6(b) Slovenia states that classic gambling can only be organised occasionally to a very limited extent, while any permanent gambling can only be organised based on a concession granted by the Government via the MoF. Also, the Government appoints one member to the supervisory board. It correlates with the requirements of c.1.6(b). The updated NRA has more comprehensive and detailed analysis. To conduct the analysis of the sector, Slovenian authorities used various information and sources to justify low risk. Moreover, the Slovenian authorities also assessed size and materiality of the relevant sectors (c.1.6).

15. Slovenia has not taken additional measures to address the deficiencies identified with regard c.1.7, c.1.8 and c.1.11.

16. Overall, Following the adoption of the 5th round MER and due to progress achieved, Slovenia has requested for the first time an upgrade for R.1 in the context of the 4th Enhanced FUR. In particular, to address the deficiency under c.1.1 Slovenia has conducted and published its NRA 2020, which also assesses the TF risks and other certain factors, which previously were missing. Regarding c.1.2 the authorities provided additional explanation that the established interdepartmental group is a permanent group responsible for the NRA. Deficiencies under c.1.4 have been addressed by Article 9 of the AMLFT and different outreach activities provided by the OMLP.

17. In relation to c.1.5, the MER has identified a number of deficiencies. Some of these deficiencies have been addressed by Slovenia. In particular, based on the findings and analysis of the NRA, Slovenia has introduced an Action Plan to mitigate identified risks. Despite the fact that this Action Plan prioritises mitigating measures, including TF issues, it is still general. Moreover, in relation to the allocation of resources, the OMLP has increased its staff number to fulfil measures envisaged in the Action Plan. However, such measure would have limited impact, since the allocation of resources

only takes place in supervisory activities. The deficiency under c.1.5 concerning the Governmental Regulation has not been addressed.

18. The issue of exceptions, including activities with low risk, has been addressed and is now based on proven ML/TF risk (c.1.6). Deficiencies under c.1.7 and c.1.8, which were rated “partly met”, have not been addressed. The deficiency under c.1.11 (rated “mostly met”) has also not been addressed. **Due to progress achieved by Slovenia R.1 is re-rated as LC.**

Recommendation 5 (Originally rated PC – no re-rating)

19. R.5 was rated PC in Slovenia’s 4th MER due to several shortcomings, including: the terrorist activities of Art. 108 Criminal Code (CC) to which the TF offence applies do not include all of the elements of the offences in the treaties listed in the Annex to the FT Convention and offences under Art. 108 CC carry an additional purposive terrorist element which is not in line with Art. 2(1)(a) TF Convention; the TF offence does not cover the financing of a terrorist group or an individual terrorist for a purpose other than the committing of terrorist offences; wording ‘in order to’ in Art. 109 means that intention for use of funds for terrorist acts must be proven, and only knowledge is not enough; the TF offence does not cover all instances of travel for terrorist purposes.

20. In November 2021 Slovenian authorities adopted amendments to the Criminal Code regarding Article 109 which came into force in December 2021. The amendment to Article 109 is a positive development to address the issue of not including all of the elements of the offences in the treaties listed in the Annex to the FT Convention. All offences listed in the Annex to the FT Convention are covered by the following articles of the CC (Articles 307, 329, 330, 352-355, 371 and 373. Even though Slovenia has adopted amendments to Para 1 of Article 109 of the CC, the offences under Article 108 still carry an additional purposive terrorist element which is not in line with Art. 2(1)(a) TF Convention (c.5.1).

21. Para 7 states that association or group should have the intention to commit the criminal offence. The paragraphs presented by the country, have already been discussed in MER. Presented answer doesn’t provide different basis other than the purpose of committing terrorist offence, which is underlying factor for the rating (c.5.2).

22. Para 1 of Article 109 of the CC provides for awareness of perpetrator that collected money or assets will be used partly or wholly used for financing of the offences specified in Article 109 will be enough evidence for conviction for the TF offence (c.5.2).

23. Article 108.a criminalises the travel for the purposes of perpetration and participation (Art.108), as well as providing or receiving terrorist training (Art. 111). The financing of these acts is criminalised by Article 109. However, other two elements of criterion 5.2^{bis}, i.e., planning and preparation of terrorist acts, are not covered (c.5.2^{bis}).

24. Slovenia has not taken relevant measures to address the deficiencies under c.5.4.

25. Overall, In November 2021 Slovenian authorities adopted amendments to the Criminal Code regarding Article 109 which came into force in December 2021. However, recent developments of the national criminal legislation do not cover certain aspects and shortcomings with regard to c.5.1, c.5.2 and 5.4. Moreover, in relation to c.5.2^{bis} still two elements of criterion 5.2^{bis}, i.e., planning and preparation of terrorist acts, are not covered. **Therefore, R.5 remains PC.**

Recommendation 15 (Originally rated LC – re-rated as PC in 3rd FUR)

26. In its 5th round MER, Slovenia was rated C with Recommendation 15. In October 2018, the FATF adopted new requirements for “virtual assets” (VAs) and “virtual asset service providers”

(VASPs), including new definitions. In June 2019, the FATF adopted the Interpretative Note to Recommendation 15 to address obligations related to VAs and VASPs. The FATF Methodology for assessing R.15 was amended in October 2019 to reflect amendments to the FATF standards. Slovenia was re-assessed against revised requirements of R.15 in course of its 3rd FUR in April 2021 and R.15 was re-rated as PC due to deficiencies in the definition of VASPs.

27. To address the deficiencies identified in the 2021 FUR related to the definition of VASPs Slovenia drafted a law, which at the time of submission of the information for that FUR was under the consideration by the national authorities.

28. Slovenia also took measures to address other minor deficiencies identified in the 2021 FUR. Slovenian authorities assessed the risks posed by VAs and VASP sector were considered in course of the NRA 2020. Moreover, in 2021 OMLP also carried out SRA in VASP sector. However, due to the limitations of the definition of the VASPs used in the national legislation assessors considered that risks emerging from the activities or operations of VASPs are not exhaustively considered by the authorities.

29. Regarding the identification of entities which are conducting business activities associated with VASP's activities the BoS conducted a survey using all available sources of information (e.g. publicly available data, information acquired from credit institutions on clients that might be VASPs, exchange of information with other supervisory authorities). Based on the analysis, the BoS also conducted thematic supervisory activities in relation to the identified entities. In course of the supervisory activities, the BoS has identified a VASP carrying out activities without registration. Consequently, OMLP launched an administrative procedure in accordance with Art. 170a of the APMLTF. Practical measures undertaken by BoS and OMLP appear to be adequate and effective to address the deficiency under c. 15.5.

30. Despite of positive developments under other criteria (15.3, 15.4, 15.6, 15.8, 15.10 and 15.11) legal extension of the VASP definition in national legislation is required to re-assesses these criteria. It also shall be noted that no progress has been made to address the deficiencies regarding c.15.9.

31. Overall, the concerns with regards to the deficiencies in the definition of VASPs still remain. The amendments to the APLMFT are subject to a draft new proposal, which is currently in governmental procedure. Despite positive developments in Slovenian AML/CFT framework (e.g., consideration of VAs and VASPs in course of the updated NRA 2020 and sectorial risk assessment of VASP sector), the deficiency related to the legislative extension of the VASP definition is considered as an overarching deficiency that has impact on the overall rating of the R.15. **Therefore, R.15 remains PC.**

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

32. In its 5th round MER, Slovenia was rated PC with Recommendation 1, based on the following deficiencies: the declaration system applies only to movements (both inward and outward) of cash and BNI from and to the EU - movements of cash and BNI within the EU are not considered to be cross-border movements under the Foreign Exchange Act (c. 32.1) and the legislation does not explicitly provide the Customs administration with the abilities to freeze or restrain currency or BNIs for a reasonable time in order to ascertain whether evidence of ML/TF exist (c.32.8).

33. The Regulation (EU) 2018/1672 on the control of cash entering or leaving the Union is binding in its entirety and directly applicable in all Member States since 3 June 2021. The regulation, however, provides states with the power to introduce measures at internal borders, but it cannot be considered as an action taken by the country as the measures at Slovenian border has not been introduced. The deficiency described under c. 32.1 has not been addressed.

34. In the Regulation (EU) 2018/1672 on the control of cash entering or leaving the Union, indent (a) of Article 7 (1) provides for the customs authorities may, in accordance with the conditions laid down in national law, confiscate cash by administrative decision if there are indications that the cash, regardless of the amount, is related to criminal activity. At the same time Regulation provides for administrative decision which shall be taken in accordance with the conditions laid down in national law, same concerns the period for temporary detention, which should also be strictly limited under national legislation. Slovenian authorities did not introduce any domestic legislation which would allow Customs authorities through an administrative procedure to freeze or restrain currency or BNIs for a reasonable time in order to ascertain whether evidence of ML/TF exist. The deficiency described under c.32.8 has not been addressed.

35. Overall, Slovenia did not take sufficient measures to address the deficiencies identified in the MER. Although, the power to introduce measures exist, currently no new requirements are set in place at Slovenian border to control movement of cash and BNI. Concerns remain whether the detention of the cash at the border is enforceable. **R.32 remains PC.**

IV. CONCLUSION

36. Overall, Slovenia has made progress in addressing the TC deficiencies identified in its 5th Round MER and applicable subsequent FURs and has been re-rated on one Recommendation (1 upgrade). Recommendation 1 initially rated as PC is re-rated as LC.

37. Slovenia is encouraged to continue its efforts to address the remaining deficiencies.

38. Overall, in light of the progress made by Slovenia since its MER and the 3rd enhanced FUR was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

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

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

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

39. According to item 8 of Rule 21 of the MONEYVAL's Rules of Procedure for the 5th round Mutual Evaluations the general expectation is for countries to address most if not all of the technical compliance deficiencies by the end of the 3rd year after the adoption of the MER.

40. Slovenia's 5th round MER was adopted in June 2017. In line with item 8 of Rule 21 it was expected that Slovenia addresses most if not all of its technical compliance deficiencies by April 2021. Nevertheless, despite of significant progress achieved by the country in addressing the technical compliance deficiencies, still R.5, 15, and 32 are rated PC.

41. Considering the above-stated and in line with Footnote 27 to item 8 of Rule 21, which states that *"It is up to the Plenary to determine the extent to which its members are subject to this general expectation, depending on the member's context"*, the Plenary held a discuss on further monitoring steps that shall be taken in relation to Slovenia.

42. The Plenary concluded that Slovenia has not reached the general expectation to address most of the technical compliance deficiencies within 3 years after the adoption of its MER and agreed to apply step 1 of Compliance Enhancing Procedures, which foresees inviting the Secretary General of the Council of Europe to send a letter to the relevant Minister, drawing his attention to non-compliance with the reference documents and the necessary corrective measures to be taken.

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

GLOSSARY OF ACRONYMS

AML	Anti-money laundering
BO	Beneficial ownership
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
FI	Financial institutions
FT	Financing of terrorism
LC	Largely compliant
ML	Money laundering
NGOs	Non-governmental organisations
NPOs	Non-profit organisations
NRA	National risk assessment
OMLP	Office for Money Laundering Prevention
PC	Partially compliant
PF	Proliferation financing
R	Recommendation
STR	Suspicious transaction report
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

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May 2022

Anti-money laundering and counter-terrorist financing measures -
Slovenia

4th Enhanced Follow-up Report

This report analyses Slovenia's progress in addressing the technical compliance deficiencies identified in the FSRB assessment of their measures to combat money laundering and terrorist financing of June 2017.

The report also looks at whether Slovenia has implemented new measures to meet the requirements of FATF Recommendations that changed since the 2017 assessment.