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THE FINANCING OF TERRORISM (MONEYVAL)

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# Anti-money laundering and counter-terrorist financing measures North Macedonia

## Fifth Round Mutual Evaluation Report

May 2023



**The Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism -**

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

The fifth round mutual evaluation report on North Macedonia was adopted by the MONEYVAL Committee at its 65th Plenary Meeting (Strasbourg, 24 – 26 May 2023).

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## EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering and combating financing of terrorism (AML/CFT) measures in place in North Macedonia as at the date of the onsite visit (21 September to 6 October 2022). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of North Macedonia's AML/CFT system and provides recommendations on how the system could be strengthened.

### Key Findings

- a) North Macedonia's authorities have generally a good understanding of the country's ML/TF risks. Two National Risk Assessments (NRA) have been produced, the latter being adopted in 2020. The Financial Intelligence Unit (FIU), law enforcement authorities (LEAs), and financial supervisors have a better understanding of the ML/TF risks than the prosecutorial and judicial authorities. No exemptions or simplified measures have been introduced as a result of the 2020 NRA. The interagency Council for Combating ML and TF is responsible for policy coordination and implementation of the 2020 NRA and relevant action plans. The Council is also in charge of PF related matters. Conclusions of the NRA were widely distributed by the FIU and supervisory agencies to the obliged entities (OEs).
- b) A range of financial, administrative and law enforcement information is accessed by the authorities. LEAs and PPOs only to a limited extent use financial intelligence provided by the FIU to develop evidence and launch investigations in relation to ML/TF and underlying predicate offences. Whilst reasons for this are manifold, lack of adequate resources has been outlined by all authorities (in particular MoI, FP and PPOs) that are competent to detect, investigate and prosecute ML/TF and related predicate offences. LEAs and PPOs view financial intelligence produced by the FIU to be of a good quality and helpful to carry out ML/TF of predicate offences investigations, although almost all STRs (with additional information and analysis) are disseminated to LEAs with only limited filtering and prioritization. Lack of feedback from LEAs and PPOs affect the way how the FIU is tailoring its work to operational needs of these authorities. The quality of STRs is considered good by the FIU.
- c) North Macedonia has established an appropriate institutional framework to investigate and prosecute ML. Although LEAs are aware of the need to carry out parallel financial investigations, these investigations do not seem to be systematically pursued. They rarely follow the money of unidentified origin to detect their potential criminal source and are mostly conducted in relation to predicate offences. Whereas ML investigations and prosecutions reflect the findings of the NRA and typologies therein, modest number of ML conviction has been achieved. One of the key reasons for this is the evidentiary standard regarding predicate offences in third-party and stand-alone ML cases which appear too high (i.e., usually a conviction for predicate offence is needed).
- d) Confiscation of the proceeds of crime, instrumentalities and property of equivalent value has been considered a policy objective in the AML/CFT Strategies and other strategic documents. Some technical deficiencies, such as some restrictions in respect of confiscation of instrumentalities as well as the limitation in application of temporary freezing measure during the pre-investigative stage of criminal proceedings are in

place. Available statistics and cases presented confirm that the amounts confiscated during the period under review, taking into account contextual factors of the jurisdiction, are notable. The application of cross-border cash controls resulted in large amounts of cash restrained although these actions were rarely followed by investigations into potential ML.

- e) Authorities have generally a good understanding of TF-related risks. However, numerous cases of foreign terrorist fighters (FTFs) and some recent developments where returnees from Syria attempted to commit terrorist attacks in North Macedonia, call for reconsideration of the TF risk level. So far there has been one case (against two individuals) where TF was subject to prosecution and conviction. The exact article of the Criminal Code based on which the conviction was achieved refers to 'funding of participation in a foreign army or paramilitary forces'. One prosecution/conviction against two individuals is considered to not fully correspond to the country's risk profile and its threats environment. Financial investigations are a part of investigations targeting terrorism related offences. TF component is integrated in the National Counterterrorism Strategy (2018-2022). Sanctions for TF are proportionate and dissuasive.
- f) Targeted Financial Sanctions (TFS) listing obligations have been given immediate legal effect without delay although there are wider implementation shortcomings. An automatic notification tool quickly informs OEs of changes to UN sanctions lists. No TFS related assets have been identified and frozen to date. National efforts resulted in the listing of 15 individuals (2 on TF suspicion) under UNSCR 1373, although several OEs were notified of this with delays. Authorities have taken action to identify TF threats and vulnerabilities of Non-Profit organisations (NPOs) and undertaken initiatives since 2021 to provide guidance and conduct outreach. This has informed parts of the sector of potential TF risks. There is no risk-based supervision or monitoring of NPOs for TF with authorities at the beginning stages of establishing this following a risk assessment.
- g) North Macedonia implements proliferation financing (PF) though the same legal framework as for TF TFS. TFS obligations relating to changes to relevant UN sanctions lists have been given immediate legal effect without delay. Across sectors the understanding of TFS obligation is uneven, although most FIs (of which banks in particular) would likely be able to identify and freeze assets if a match is confirmed. Supervisors do not generally distinguish between TF and PF TFS in their checks and financial supervisors have more robust approaches than others. No suspected breaches of TFS have been identified across all sectors.
- h) Understanding of AML/CFT obligations and ML/TF risks by the most material OEs (banking sector) is generally adequate, but more formalistic for the rest of OEs (smaller FIs and the majority of DNFBNs), while provision of services to trusts and companies is neither well understood by the OEs nor by the supervisors. Implementation of CDD and EDD measures is generally in line with the legal requirements, while there is a limited understanding and implementation of specific controls in relation to wire transfer requirements and the understanding of TFS obligations is uneven. The overall number of STRs is incommensurate to the risk, context, and size of the country, some isolated cases of tipping-off have been detected and some DNFBNs expressed concerns about the safeguards to protect STR reporters. Internal controls and procedures tend to be mostly in line with the size and complexity of each entity. OEs belonging to

international groups benefit from usually stricter or additional internal controls and procedures introduced on the group level. There was a general absence of risk understanding, mitigation, implementation of preventive measures (besides basic CDD) and internal controls across the VASP sector at the time of the onsite, although this sector has low materiality in the country.

- i) The overall supervisory system applied in North Macedonia presents some positive aspects, and the financial supervisors and the FIU have undertaken efforts to adopt as much as possible a risk-based approach, although it is still unclear up to what extent these have led to positive results, considering the low number of findings resulting from most of the supervisory actions undertaken by all authorities. In addition, there are considerable issues relative to the application of market entry requirements, in particular the lack of harmonisation of the checks carried out by the financial supervisors, the lack of consideration of beneficial ownership when it comes to casinos and the lack of controls to ensure that criminals or their associates do not hold, are beneficial owners of a significant or controlling interest or hold a management function in entities from certain sectors such as real estate agents or VASPs. With respect to sanctioning, despite the number of corrective and coercive actions available to supervisors, the number and amount of pecuniary sanctions is, overall, low, and there are concerns about the proportionality, dissuasiveness and effectiveness of the misdemeanour penalties provided under the AML/CFT Law.
- j) North Macedonia has taken some steps to identify the ML/TF risks associated with legal persons that can be established under its laws and prevent their misuse, although these efforts have proven to be insufficient, due to an uneven consideration of the use of strawmen, the lack of consideration of the presence of shelf companies and providers of services to companies in the country or the significant number of companies being struck-off the register on an annual basis. It is expected for a more in-depth analysis, which was being worked on at the time of the onsite, to address such shortcomings. Some positive steps have also been taken to increase the transparency of legal persons and arrangements, such as the centralisation of public registers, the implementation of a tool for data processing or the establishment of a BO Register, although there are still major shortcomings to ensure that the information is adequate, accurate and up-to-date, since, operationally, it has been shown that there are issues with the quality of the data with which the BO Register is populated. No sanctions are being imposed for failures related to basic or BO information. The presence and risks of trusts and other similar legal arrangements is almost completely disregarded by the authorities.
- k) MLA is provided across a range of requests for ML/TF and predicate offences, including those on extradition. The feedback received from foreign partners is mostly positive with shortcomings related to timelines and quality of responses provided by North Macedonia's authorities. Absence of a specific and integrated case management system for all the relevant authorities and prioritisation mechanisms to some extent have effect on timely execution of international cooperation. In relation to extradition, the authorities are active in requesting and executing extradition requests and main ground for refusal are cases related to unsatisfactory prison conditions. LEAs and the FIU provide and request other form of international cooperation to an adequate extent, however, supervisors should enhance their international cooperation. Issue with

availability of BO information (see IO.5) affects the international cooperation in this area.

## Risks and General Situation

2. Republic of North Macedonia is located in South-East Europe, in the centre of the Balkan Peninsula. North Macedonia is not a financial centre and its assets weight is low in the large scale of facts at the global financial landscape. The banking sector is the most significant across the financial industry, with assets accounting for 87.8% of the GDP in 2020.

3. The geographical location of the country affects the two key criminal markets, illicit drug trafficking and migrant smuggling. Authorities identified 4 major ML predicate offences, assets of which could be a subject of laundering in North Macedonia: abuse of official position, unauthorized drug trafficking, tax evasion and smuggling of migrants. In addition, TF risk level was assessed as medium-low. In general, the high threat predicate offences have been subject to investigations and prosecutions along with ML.

4. Conclusions of the NRA appear reasonable and comprehensive. They were widely distributed by the FIU and supervisory agencies to the obliged entities. Whereas the ML/TF risk assessment of legal entities is still to be completed, construction sector and informal economy merit further analysis with regard to ML related risks.

## Overall Level of Compliance and Effectiveness

5. North Macedonia introduced major amendments to its Anti-Money Laundering and Terrorism Financing Law (AMLTFL) in July 2022, right before the on-site visit of the 5th round of evaluations, considerably enhancing the requirements for application of preventive measures. It also has conducted two NRAs, reports of which were adopted in 2016 and 2020. Important steps were undertaken towards improving transparency of legal persons and arrangements by introducing a BO Register. The amendments to the AML/CFT legislation also included VASPs into the AML/CFT framework, based on which VASPs are subject to regular AML/CFT preventive measures and supervision from April 2023.

6. In terms of technical compliance, the legal framework has been significantly amended, but number of technical shortcomings are noted, some of which present challenges for effectiveness. There are gaps with the definition of TF offence, the implementation of UN TFS on TF and PF, measures with respect to the NPO sector, wire transfer requirements, measures related to legal persons and legal arrangements, supervision of FIs and DNFBPs and sanctions. In addition, the cross-border regime does not cover all the bearer negotiable instruments.

### *Assessment of risk, coordination, and policy setting (Chapter 2; IO.1, R.1, 2, 33 & 34)*

7. Both NRAs carried out so far by North Macedonia used the World Bank methodology as a basis. The latter NRA (from 2020) included participation of a wide range of authorities and the private sector. It is a candid and reasonably comprehensive assessment. The National Strategy for Combating ML and TF (Action Plan) developed after the 2<sup>nd</sup> NRA addresses the major risks identified, and has partially resulted in mitigating measures applied by the authorities. Some vulnerabilities (lack of statistics and resources) identified in the first NRA and meant to be addressed by the relevant Action Plan for 2017- 2019, reappeared in the 2<sup>nd</sup> NRA and are yet to be addressed. Informal economy accounts to more than 20% of the GDP, but the extent to which it influences ML activities in the country was insufficiently analysed in the NRA. Further

consideration appears to be needed regarding the appropriateness of risk level determined for some sectors, such as casinos.

8. The NRA has been complemented with further sectorial and thematic risk assessments, covering virtual assets service providers (VASPs), non-profit organisations (NPOs), TF risk assessment and National serious and organized crime threat assessment, as well as risk assessment by financial supervisors and several strategic analyses prepared by the FIU. The TF risk assessment, despite some major events taking place after 2020, has not been updated.

9. The interagency Council for Combating ML and TF is responsible for policy coordination and implementation of the NRA, relevant action plans and PF related matters. Strategic coordination on combating ML/TF is carried out by the FIU, which also places an additional burden on its limited resources. At an operational level, competent authorities demonstrated good cooperation and coordination on ML/TF issues through the interagency National Coordination Centre (NCC). Conclusions of the NRA were widely distributed to the private sector.

*Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; 10.6, 7, 8; R.1, 3, 4, 29–32)*

10. The FIU constitutes an important source of financial intelligence information in the country. A range of financial, administrative and law enforcement information is accessed by the FIU and its counterpart authorities. The available statistics and stage of development of cases initiated upon financial intelligence produced by the FIU suggest that this intelligence has only been used to a limited extent to develop evidence and launch investigations in relation to ML/TF and underlying predicate offences.

11. The quality of STRs is considered good by the FIU, however, the volume of STRs reported appears incommensurate to the risk, context, and size of the country and there are no STRs reported by several sectors whatsoever.

12. The FIU has to a large extent adequate technical tools in place to perform financial intelligence actions, including, analyses STRs, that would support the needs of its partners – most importantly – the ASKMK system designed for the needs of the FIU. LEAs and PPOs view financial intelligence produced by the FIU as good and helpful to carry out ML/TF of predicate offences investigations. For successful exchange of information, the country has established the NCC, which allows for faster information exchange between competent authorities. However, further improvements in streamlining communication (especially feedback from LEAs and PPO to the FIU) is needed.

13. There are doubts on the extent to which the FIU properly filters and prioritizes information received in STRs. Taking into account that the FIU serves as an intermediary between the OEs and LEAs and is submitting almost all STRs (with additional information and analysis) into disseminations to LEAs. This might restrict LEAs in their ability to focus on the most material cases given the risk profile of the country.

14. North Macedonia has a broad range of LEAs involved in detecting and investigating ML and underlying predicate crime. A specialized prosecutorial office has been established to pursue ML. Despite their efforts, the results of ML investigations/prosecutions are modest. The fact that for ML conviction an existence of prior conviction for predicate offence(s) is needed is a key factor which negatively affects the overall AML efforts by LEAs and prosecutors.

15. LEAs are aware of the need to carry out parallel financial investigations, but these investigations do not seem to be systematically pursued. They rarely follow the money of unidentified origin to detect their potential criminal source and are mostly conducted only in

relation to predicate offences. Whilst the authorities argue that lack of resources, in conjunction with the often slow provision of the MLA from some jurisdictions are the key reasons for this, the fact is that judicial authorities need to ensure that interpretation and understanding of ML offence is in line with international standards (primarily on the issue of stand-alone ML in the absence of a conviction for predicate offence). At the time of the on-site visit, the vast majority of cases dealt by LEAs and PPOs was in the phase of what is, strictly legally speaking, classified as 'pre-investigation' phase of the proceedings. Pre-investigation is, de facto, a fully-fledged investigative part of the proceedings, which includes collection of evidence and determination of features of a potential criminal offence. Its timing is, contrary to the investigative phase, limitless, thus also producing a significant discrepancy between (i) the number of ML investigations, prosecutions and convictions, and (ii) the number of pre-investigations launched for ML and proceeds generating predicate offences. Generally speaking, ML investigations and prosecutions reflect the findings of the NRA and typologies therein.

16. Based on the concept of punishing the offences in concurrence, the criminal sanctions imposed for ML in self laundering cases do not add an appropriate value to the final sentence, whose gravity hinges mostly on penalties adjudicated for predicate crime. Even if convictions for the third-party laundering are achieved, most often suspended imprisonment is imposed, accompanied by fines. Apart from that North Macedonia's authorities have not secured any convictions of legal persons.

17. Confiscation of the proceeds of crime, instrumentalities and property of equivalent value has been considered a policy objective in the AML/CFT Strategies and other strategic documents adopted by the authorities. This has been further confirmed through adoption of the Strategy on Financial Investigations and establishing of a proper institutional framework. Against this background, some technical deficiencies, such as some restrictions in respect of confiscation of instrumentalities as well as the limitation in application of temporary freezing measure during the pre-investigative stage of criminal proceedings (i.e. it cannot last longer than 3 months) present a risk that assets identified may not be available to competent authorities once a final confiscation decision is made.

18. Although it remains unknown how many verdicts are passed in cases where assets were seized and then effectively repatriated, some cases presented to the AT included significant amounts of funds and other assets being confiscated. On the other hand, these confiscations result from very few cases, suggesting that the systematic approach in operational matters by all competent authorities is still to be achieved.

19. Property subject to financial investigations has been generated and located in the territory of North Macedonia. At very few occasions search for property originating (or allegedly originating) from crime was carried out cross border. The application of cross-border cash controls resulted in large amounts of cash restrained. These actions were rarely followed by investigations into potential ML offences that could lead to ultimate confiscation of the proceeds.

*Terrorist and proliferation financing (Chapter 4; IO.9, 10, 11; R. 1, 4, 5-8, 30, 31 & 39.)*

20. Authorities have generally good understanding of TF-related risks. Despite some recent developments where returnees from Syria attempted to commit terrorist attacks in North Macedonia, in conjunction with recent listing of 15 individuals in the national list of terrorists based on the UNSCR 1373, call for reconsideration of the TF risk level.

21. Two individuals have been convicted for what is broadly considered to be TF. The exact article of the Criminal Code based on which the conviction was achieved refers to 'funding of participation in a foreign army or paramilitary forces'. Whilst the authorities are to be

commended for their actions in this particular case, one TF prosecutions against two individuals does not fully correspond to the country's risk profile and its threats environment. Financial investigations are a part of investigations targeting terrorism related offences. The practice showed that these parallel financial investigations last longer and are more complex than those targeting terrorism. Whilst the results of a number of such investigations (in majority of cases pre-investigations) are yet to be seen, it could be concluded that the competent authorities have good understanding of actions which need to be carried out in TF related investigations. TF component is integrated in the National Counterterrorism Strategy (2018-2022). Although one conviction which resulted in dissuasive and proportionate criminal sanctions appears insufficient to conclude what would be the general sanctioning policy in TF cases, the discussions held on-site confirmed that the competent authorities are aware of the threat posed by TF and are determined to sanction any such activity dissuasively and proportionally. Other measures to disrupt TF have been applied - banning the entry of persons to North Macedonia based on suspicion that they were involved in promoting terrorism, extremism or religious radicalism.

22. In relation to TFS for TF, in North Macedonia the national legal framework does not always ensure immediate implementation of TFS which is a major deficiency. Effective communication mechanisms have recently been introduced for OEs, but many legal and natural persons are not captured by the obligations themselves which undermines effectiveness. TFS-related engagement and guidance has been provided to OEs although this has not been sustained over the long-term. No TF TFS related assets have been frozen or confiscated so far although UNSCR 1373 tools have been used demonstrating willingness to improve effectiveness and the AT strongly commends these efforts.

23. The country has identified the NPOs which fall under the FATF definition of NPO (and could be at risk of TF misuse) through a good risk assessment although it was affected in places by a general lack of robust data - a systemic issue across IOs. The AT considers there to be no risk-based monitoring or supervision. However, the AT commends the positive outreach and guidance that has been provided to some NPOs although authorities have found it a challenge to reach higher-risk NPOs.

24. In relation to TFS for PF (similarly as for TF TFS), the legal framework aimed at implementation of PF TFS without delay has several technical deficiencies. Multiple trainings have been delivered by the FIU to persons subject to the LRM and PF typologies are provided to OEs. Despite this most OEs have a very limited understanding of sanctions evasion.

25. OEs generally have uneven understanding of PF related TFS apart from banks and insurance companies. Challenges in relation to identifying indirect ownership and control were noted. Other FIs, and most DNFbps and VASPs had inconsistent and broadly limited understanding of LRM obligations and sanctions evasion red flags and typologies. Across all supervisors, one recommendation has been made in relation to TFS improvements of an FI. The AT considers that this is part due to a lack of awareness amongst supervisors of PF related TFS.

26. Whilst TFS-related STRs have been submitted to authorities, there have been none in relation to PF TFS. No assets have been frozen under PF TFS regimes.

#### *Preventive measures (Chapter 5; IO.4; R.9-23)*

27. Overall, all categories of OEs tend to provide traditional products and services, with low levels of complexity, sophistication and innovation, as well as a limited risk appetite.

28. FIs and DNFbps have the obligation to perform risk assessments that are updated at least on an annual basis. Understanding of ML/TF risks is overall good regarding the banking and insurance sectors, the former being, by far, the most material sector in North Macedonia,

accounting for more than 80% of the financial sector's assets and representing 87.8% of the country's GDP in 2020. Risk understanding of the majority of DNFBPs and some FIs, such as capital market entities and MVTs providers was more formalistic and focused on compliance with legal obligations, instead of focusing on specific risks applicable to their businesses. Awareness of AML/CFT obligations is generally observed across all sectors, with the exception of some DNFBPs (smaller-sized casinos). Regarding the implementation of risk mitigation measures, their degree and scope depend mostly on the level of importance that each OE assigns to AML/CFT.

29. No TCSPs have been identified by the authorities, although the AT met some OEs which were also providing services to companies such as registered offices, without assessing the risks of these services or applying specific risk mitigating measures, which puts in question the ability of the private sector and the supervisors to understand the risks posed by these activities.

30. Implementation of CDD measures is generally in line with the legal requirements by all sectors, with ongoing monitoring in particular being based on customer risk profiles and generally utilising analysis and crosschecks of various sources data, while DNFBPs mostly rely on manual checks. However, exchanges offices lack measures to adequately identify linked transactions, which impacts the effectiveness of their ongoing monitoring procedures.

31. EDD measures are mostly applied depending on the customer's risk profile and mainly consist of analysis of additional documents, external sources of information and more frequent review of high-risk clients. The better performing sectors (banking and insurance) employ the monitoring of risk scenarios regarding customer behaviour and transactions via dedicated software solutions, while DNFBPs and smaller FIs rely mostly on manual systems, which is commensurate to their size and complexity, and often refuse business relationships with high-risk customers altogether. This notwithstanding, insufficient understanding of the "travel rule" requirements leads to the lack of implementation of additional, enhanced measures by those entities intermediating transfers. In relation to TFS, concerns arise due to an uneven understanding of obligations across sectors and the lack of a unified approach at detecting and managing potential matches, despite a generalised awareness of the consolidated sanctions list hosted at the FIU's new "Restricted Website" platform.

32. The overall number of STRs reported by the private sector is incommensurate to the risk, context and size of the country. While the banking sector accounts for approximately 80% of all STRs, other sectors, such as investment firms, exchange offices or casinos have filed none or close to none STRs during the assessed period, which seems inconsistent to their risk, materiality and volume of cash transaction reports (CTRs) submitted. In terms of substance, not much thought is given by all sectors in general to the typologies being reported. In relation to tipping off, some isolated cases have been detected by the authorities in low materiality sectors (a small credit provider, a law firm and an accounting firm), and some DNFBPs expressed concerns about the safeguards to protect STR reporters not being applied in practice by all competent authorities in all cases.

33. FIs and DNFBPs have internal controls and procedures in place that are commensurate to their size, complexity and risk profile, with properly structured and resourced AML/CFT compliance functions, especially in larger-sized OEs. International financial groups have procedures that enhance AML/CFT compliance by their branches and subsidiaries in North Macedonia.

34. VASPs became OEs in July 2022, but the obligation to comply with AML/CFT requirements does not come into force until April 2023. Although during this transitory period entities are supposed to start harmonising their internal controls and procedures with the

requirements of the law, at the time of the onsite, a general absence of risk understanding, mitigation, implementation of preventive measures (besides basic CDD measures) and formal internal controls was observed across the sector, which expressed a heavy reliance on the authorities' inputs.

*Supervision (Chapter 6; IO.3; R.14, R.26–28, 34, 35)*

35. The level of scrutiny of the licensing and market entry requirements varies across sectors. The National Bank of the Republic of North Macedonia (NBRNM) applies a series of thorough checks and controls to establish the fitness and properness of the entities and individuals that are applying for licensing, qualifying shareholders and holders of key positions within the institution concerned. The NBRNM powers include the suspension, restriction or withdrawal of an already granted license or registration to an OE. Unlike banks, the authorisation regime for MVTs providers and exchange offices is less comprehensive, focusing on the responsible persons and the employees or offices actually providing the service, and some issues in the capacity to detect unauthorised activities of exchange offices have been detected. The Securities and Exchange Commission (SEC) deals with the licensing of brokerage houses, investment funds management companies and funds themselves, including private funds, and focuses its checks on the qualifying shareholders and directors of OEs, with the ones applied to key function holders not being as extensive. The Insurance Supervision Agency (ISA) applies licensing and fitness and properness checks similar to those of the SEC, although no ongoing monitoring is conducted to ensure that authorised qualifying shareholders still meet the conditions on the basis of which the authorisation was granted. Regarding registration and authorisation of DNFBPs, no information on the beneficial owners (BOs) is sought with respect to operators in the casino sector. Market entry requirements are completely absent for certain sectors such as real estate agents or VASPs.

36. The authorities' risk understanding of the sectors under their supervision reflect the findings of the NRA, with both the NBRNM and the ISA having conducted additional sectorial risk assessments and implemented new supervision and risk scoring methodologies during 2022, and the SEC adopting its new risk assessment methodology after the onsite visit. With regards to DNFBPs, the main risk rating factor was annual turnover, which, on its own, is insufficient to assess ML/TF risks, although the FIU is in the process of implementing a new methodology to assess the sectors under its mandate taking into account a higher number of more relevant risk factors.

37. The NBRNM supervision of banks, MVTs providers and exchange offices is carried out through the use of both off-site and on-site supervisory tools. While it takes into account a considerable volume of information prior to an examination in order to select adequate file samples to assess adequate implementation of EDD measures when it comes to banks, the results of the examinations of MVTs providers and exchange offices are debatable, given the low number of cases where they have resulted in the identification of any breaches, notwithstanding the large number of annual inspections. The SEC also has a good supervisory process in place that combines elements of on-site and off-site supervision together, although the coverage of private funds and investment funds management companies seems to be incommensurate to the risk categorisation of these market participants by the SEC, unlike that of brokerage services. The ISA's staff dedicated to supervision and frequency of such could benefit from further improvements, even considering the low-risk exposure to ML/TF and an overall adequate AML/CFT performance of the sector under its remit.

38. When it comes to the FIU, it is the primary supervisor for accountants, auditors and leasing and financial (small credit providers) companies, while also holding powers to conduct so-called "extraordinary supervision" over all other OEs and to carry out ordinary supervision of

certain categories of DNFBPs jointly with their respective primary supervisors. The supervisory plans of the FIU largely focus on accountants, which represent 90% of the OEs under its remit, and out of all DNFBP supervisors, the FIU inspections tend to uncover the majority and most significant AML/CFT breaches, a stark contrast with the supervision exercised by self-regulatory bodies (SRBs) in relation to the lawyers and notaries sectors, which lacks effectiveness. Regarding the Public Revenue Office (PRO), tasked with the supervision of real estate agents and casinos, it is only in 2022 that it started to fulfil an active role as an AML/CFT supervisor, in the form of 2 on-site inspections alongside the FIU, although it priorly took several steps to enhance its AML/CFT understanding.

39. Supervisors have a number of tools at their disposal to sanction OEs for non-compliance with their AML/CFT obligations, namely corrective and coercive actions, including pecuniary sanctions. Only the FIU, the NBRNM and, to a lesser extent, the SEC have imposed pecuniary sanctions and the overall number and amount of them is low. There are concerns about the dissuasiveness, proportionality and effectiveness of the sanctioning regime under the AML/CFT law, due to the mandatory application of a settlement process (established in the Law of Misdemeanours) that reduces the penalty amount by 50% and the long resolution timeframes if the case is to be resolved by the courts. Authorities could not provide tangible evidence that their supervisory and sanctioning actions were having an impact on OE's compliance with AML/CFT obligations.

40. Outreach actions regarding AML/CFT obligations, such as guidelines and training, have mostly been provided by financial supervisors and the FIU, with the latter's new "Restricted Website" being especially useful in this regard. However, this can, in some instances, foster an overreliance on the risk factors provided by supervisors instead of independent risk-based analysis, which leads to a more formalistic approach to AML/CFT compliance for certain sectors, as described in IO.4.

#### *Transparency and beneficial ownership (Chapter 7; IO.5; R.24, 25)*

41. Information on the creation of legal persons that can be established under the laws of North Macedonia is publicly available on the website maintained by the Central Register. The said website provides extensive guidance as to how any such entity can be registered by making use of a registration agent (authorised lawyers or accountants to submit information on the legal entity to the Central Register) or by the actual founder/s of the legal person itself. In addition, it provides guidance in respect to the submission of annual financial statements, changes to the legal person or BO information.

42. The NRA has highlighted some possible forms of abuse of legal persons for ML/TF purposes, but this analysis did not take into account relevant phenomena such as how prevalent is the use of strawmen and possible implications thereof or the significant number of legal persons being struck off on an annual basis from the Central Register. The FIU and LEAs demonstrated to have some operational understanding about strawmen and the abuse of legal persons for TF purposes and the FIU also carried out strategic analysis of legal persons declared in STRs. A specific risk assessment focused on legal persons was underway at the time of the onsite, with the aim to cover the potential abuse of incorporated/registered legal persons and those foreign entities that are active in the country.

43. North Macedonia has adopted a series of measures to ensure that legal persons are not abused or misused. In particular, it has established a so-called "One-Stop-Shop" system whereby all registers have been centralised and entrusted to the Central Register, as well as a tool (SORIS) for the continuous processing of data entered into the register. Significant efforts have also been

undertaken to establish a BO Register (also contained within the Central Register) which has been active since April 2021 and, as of March 2022, was 92.5% populated. Further safeguards are in place, such as the participation, in certain situations, of lawyers and notaries to register companies and changes thereto, or the auditing of financial accounts, which mitigate, only up to a certain extent, the lack of checks of the Central Register to prevent the misuse of legal persons for ML/TF purposes.

44. Competent authorities in North Macedonia can in a timely manner obtain basic and BO information of legal persons from the Central Register, OEs and legal persons themselves or, where necessary, from foreign counterparts, as well as relevant shareholder information from the Central Securities Depository (CSD). However, there are concerns about the accuracy of the information held by the Central Register, as there is a complete reliance on legal persons and registration agents themselves to ensure the correctness and completeness of the information provided, the Central Register carrying out no verifications of its own. The fact that there is not a clear understanding of “control through other means” in the private sector also impacts the accuracy of the BO information submitted. Furthermore, registration agents, OEs and LEAs have been encountering situations where the actual BO, according to their understanding, is someone other than the individual/s indicated in the BO Register. Even if there are tools available to registration agents and OEs to report discrepancies and suspicions in this regard, conflicting information about such has been provided to the AT, and this reporting obligation does not extend also to authorities.

45. North Macedonia is not a signatory of the Hague Convention on the Law Applicable to Trusts and on their Recognition and, as a result, its laws do not recognise trusts or other similar legal arrangements. This notwithstanding, LEAs and the FIU have sporadically encountered such legal arrangements in the course of their investigations. The ability of authorities to appreciate the risks associated with trusts and similar legal arrangements, including with respect to how these may impact the determination and identification of beneficial ownership, is limited, especially as authorities are of the view that there are no TCSPs active in the country, without tangible evidence to back up this statement. Having said that, from a technical standpoint, OEs have the obligation to obtain BO information when servicing trusts and other legal arrangements, which would be accessible to competent authorities.

46. Although the Law on Trade Companies provides for misdemeanour penalties to be applied where basic information is not provided to the Trade Register or is not otherwise updated accordingly, and the AML/CFT Law provides the same in relation to failures by legal entities and OEs to submit, keep and update BO information, no sanctions have been imposed in this regard. Furthermore, the concerns regarding the proportionality, dissuasiveness and effectiveness of the sanctioning regime under the AML/CFT Law due to the mandatory application of the settlement process would also have to be taken into account.

#### *International cooperation (Chapter 8; IO.2; R.36–40)*

47. North Macedonia provides MLA across a range of requests, including those on extradition. The feedback received from foreign partners is mostly positive, whilst shortcomings have been highlighted in relation to timelines and quality of responses provided by the authorities. Against this background, the overall data on MLA requests sent and received, including details on status of their execution, are not consistently kept by the competent authorities thus making it challenging for the AT to assess to what extent the intensity and results of international cooperation reflect the risk profile of the country. MoJ is a central body for MLA coordination. Better coordination appears to be needed to enable swift analysis and adequate follow up actions in the field of international cooperation. Absence of a specific and integrated case management

system for all the relevant authorities and prioritisation mechanisms to some extent have effect on timely execution of international cooperation.

48. North Macedonia (in particular BPO OCC) is seeking foreign co-operation to a limited extent. The limited appreciation of ML offence in general (see IO.7) by the North Macedonia's authorities affects outgoing MLA requests. In relation to extradition, the authorities are active in requesting its nationals to be extradited to North Macedonia and the number of refused extradition requests in majority of the cases relates to unsatisfactory prison conditions.

49. LEAs request and provide formal and informal assistance with international counterparts using Europol (SIENA), Interpol, CARIN and other channels. At the prosecutorial level, Eurojust and Joint Investigating Teams (JITs) have also been used, so far only for investigating predicate offences. Supervisory co-operation has taken place, particularly amongst competent authorities in material sectors, mostly in relation to fit and proper checks. FIU's international co-operation is supported through its membership in the Egmont Group. Foreign FIUs have provided generally positive feedback and have not identified the existence of any systematic shortcomings in relation to their cooperation with the North Macedonia's FIU.

50. The authorities exchange basic and BO information with their international partners. Although no obstacles in providing the relevant information were identified, the deficiencies related to verification of BO information submitted by respective legal persons, which were identified under IO 5, can impact the quality of BO information, given the fact that the exchange of BO information at an international level (apart from the one provided by the FIU) relies solely on the data contained within the BO Register.

## Priority Actions

- North Macedonia should seek to ensure that the judiciary's interpretation and understanding of the ML offence are aligned with the international standards, and that the existence of a conviction for the predicate offence is not a pre-condition for bringing ML charges before the court. Prosecutorial authorities should adopt policy guidelines which would emphasise importance of proceeding in ML cases without waiting for a conviction for the predicate offence.
- Legislative and technical deficiencies concerning the length of seizing/freezing measures in pre-investigative phase should be addressed in order to limit the possibility of assets being released early.
- North Macedonia should ensure that LEAs and PPOs use financial intelligence, including FIUs disseminations more actively to develop evidence and launch investigations in relation to ML/TF and underlying predicate offences. Also, LEAs and PPOs should provide regular feedback to the FIU on the use of financial intelligence so that FIU could better tailor its activity to operational needs of law enforcement, including further prioritize its disseminations.
- The authorities should rectify the remaining deficiencies in criminalising TF, and, in the way they deem appropriate (e.g. through providing a legal interpretation or issuing any guidance), elaborate key principles for harmonised and unified application of relevant legislation, i.e. the application of Article 322(a) of the CC.
- TFS obligations (both for TF and PF) should be extended to all legal and natural persons and not just OEs and the Land Registry. Authorities should take steps to further improve awareness of TFS amongst competent authorities and OEs.

- North Macedonia should take steps to ensure there is risk-based supervision or monitoring of the NPO sector at higher risk of TF abuse, without hampering legitimate NPO activity. It should also consider refreshing the NPO risk assessment to further strengthen the understanding of those NPOs at higher risk of TF abuse and ensure that proportionate measures are applied.
- The FIU should take measures to ensure adequate reporting by all sectors, especially in relation to the sectors with the lowest STRs volumes, most notably casinos and exchange offices. These measures should include outreach to OEs to reassure them about the absolute confidentiality of the STR reporter.
- North Macedonia should: (i) implement the necessary changes to ensure that sanctions imposed are proportionate, effective and dissuasive as well as imposed in a timely manner; (ii) reconsider mandatory requirements which limit the discretion of authorities to tailor the sanction to the circumstances of the case and; (iii) provide any authority charged with sanctioning responsibilities with the necessary human and technical resources.
- North Macedonia should finalise the specific risk assessment with respect to legal persons incorporated or otherwise active in the country and take commensurate measures to address the identified risks, taking into consideration aspects like strawmen, struck-off companies and the eventuality of an unregulated TCSP sector.
- North Macedonia should, at least, include the mechanisms for the: (i) verification of all information provided at the stage of registration of a legal person; (ii) timely detection and registration of changes to basic and BO information, and (iii) supervision of the accuracy and timely update of information registered.
- North Macedonia should develop clear policy objectives for MoJ, prosecutors, LEA and judiciary to ensure systematic and proactive seeking and providing foreign assistance in line with the investigative priorities as well as identified risks. For MLA, North Macedonia should establish a clear procedure to streamline cases with a foreign nexus and introduce an integrated case registration and management system.

## Effectiveness & Technical Compliance Ratings

### Effectiveness Ratings<sup>1</sup>

<b>IO.1 – Risk, policy and coordination</b>	<b>IO.2 – International cooperation</b>	<b>IO.3 – Supervision</b>	<b>IO.4 – Preventive measures</b>	<b>IO.5 – Legal persons and arrangements</b>	<b>IO.6 – Financial intelligence</b>
Substantial	Moderate	Moderate	Moderate	Moderate	Moderate
<b>IO.7 – ML investigation &amp; prosecution</b>	<b>IO.8 – Confiscation</b>	<b>IO.9 – TF investigation &amp; prosecution</b>	<b>IO.10 – TF preventive measures &amp; financial sanctions</b>	<b>IO.11 – PF financial sanctions</b>	
Moderate	Moderate	Moderate	Moderate	Moderate	

### Technical Compliance Ratings<sup>2</sup>

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

<sup>1</sup> Effectiveness ratings can be either a High - HE, Substantial - SE, Moderate - ME, or Low - LE, level of effectiveness.

<sup>2</sup> Technical compliance ratings can be either a C – compliant, LC – largely compliant, PC – partially compliant or NC – noncompliant.

## MUTUAL EVALUATION REPORT

### Preface

1. This report summarises the AML/CFT measures in place as at the date of the on-site visit. It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the AML/CFT system and recommends how the system could be strengthened.
2. This evaluation was based on the 2012 FATF Recommendations and was prepared using the 2013 Methodology. The evaluation was based on information provided by the country, and information obtained by the evaluation team during its on-site visit to the country from 21 September to 6 October 2022.
3. The evaluation was conducted by an assessment team consisting of:
  - Mr Fuad Aliyev, FIU Azerbaijan, law enforcement expert,
  - Mr Mike Scott, UK Office of Financial Sanctions Implementation, HM Treasury, financial expert,
  - Mr Jonathan Phyll, FIU Malta, financial expert,
  - Mr Michal Volny, Czech National Bank, financial expert,
  - Mr Jacek Lazarowicz, Prosecutor, Poland, legal expert,
  - Mr Toms Platacis, FIU Latvia, law enforcement expert

MONEYVAL Secretariat:

  - Mr Lado Lalacic, Head of Unit
  - Ms Laura Kravale, Administrator
  - Mr Gerard Prast, Administrator
4. The report was reviewed by Ms Soren Meius, Ministry of Finance of Estonia<sup>3</sup>, Mr Borja Aguado, Prosecutor from Andorra, and the FATF Secretariat.
5. North Macedonia previously underwent a MONEYVAL Mutual Evaluation in 2014, conducted according to the 2004 FATF Methodology. The 2014 evaluation report and the 2018 Exit Follow-up Report have been published and are available under the country's profile at <https://www.coe.int/en/web/moneyval/jurisdictions>.
6. That Mutual Evaluation concluded that the country was compliant with 3 Recommendations; largely compliant with 22; partially compliant with 22; 2 were non applicable and there were no non-compliant ratings. North Macedonia was rated compliant or largely compliant with 7 of the 16 Core and Key Recommendations.
7. North Macedonia exited the regular follow-up procedure in 2018, taking into consideration that the exit follow-up report concluded that all core and key recommendations rated "partially compliant" have been brought to a level of at least "largely compliant". Consequently, the country was removed from the follow-up process.

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<sup>3</sup> Shortly after the review process, Ms Meius changed her position and currently works in the private sector.

## 1. ML/TF RISKS AND CONTEXT

8. The Republic of North Macedonia is located in South-East Europe, in the centre of the Balkan Peninsula and covers a surface area of 25,713 km<sup>2</sup>. Its state border is 894 km long, broken down into the northern border with Serbia and Kosovo<sup>4</sup>, the eastern border with Bulgaria, the southern border with Greece and the western border with Albania. Administratively, the territory is divided into 80 municipalities (10 of which comprise the City of Skopje, as a separate local self-government unit) and 8 planning regions.

9. North Macedonia is a sovereign, independent, democratic and social state, whose power is divided into legislative, executive and judicial. The country has been a full member of the United Nations since 1993, a member of the Council of Europe and the OSCE since 1995, a member of the World Trade Organization since 2003 and a member of NATO since 2020. It has signed the Stabilisation and Association Agreement with the European Communities and their Member States (SAA) in 2001 and has been a candidate to join the EU since 2005.

### 1.1. ML/TF Risks and Scoping of Higher Risk Issues

#### 1.1.1. Overview of ML/TF Risks

##### *ML risks*

10. The authorities identified that the ML risks in North Macedonia are mostly linked to domestic criminal activities such as abuse of official position and corruption, tax evasion, migrant smuggling, illegal drug trade, damage or privilege of creditors, financial and insurance fraud, burglary or forest devastation.

11. In terms of organised crime, 26 groups devoted to illicit drug trafficking, migrant smuggling, cigarette smuggling, smuggling of goods and counterfeiting money have been identified. The crime rate shows the flexibility and adaptability of criminal groups to the needs of criminal markets. The geographical location of the country affects the two key criminal markets, illicit drug trafficking and migrant smuggling. Money laundering together with corruption are the biggest enablers and influence the organized criminal groups, which act in the structure of unattached criminal networks.

12. In relation to drug trafficking there are 13 organized criminal groups active in this area. Large quantities of marijuana from the Albania transit through North Macedonia to Türkiye. For transport of heroin, the territory of North Macedonia is bypassed. The country does not have a strategic role in the cocaine trade, it is used primarily as a transit country and in a smaller number of cases as a final destination, but despite that, cocaine seizures have increased in last few years.

13. The authorities noted that tax evasion is declining, whilst, at the same time, VAT fraud has increased though using fictitious invoicing between legal entities. Tax evasion continues to be performed through the sale of trade goods for cash without preparation of appropriate documentation and payment of funds to the account of the legal entity, by fictitious sale of legal entities to persons with low social status in the country or abroad, as well as by paying cash to

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<sup>4</sup> All references to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

several individuals on a fictitious basis for alleged payments under a contract, in order to avoid the payment of personal income tax.

#### *TF risks*

14. TF risk in North Macedonia is considered as medium-low based on: (i) not having identified local terrorist organizations, (ii) the country not being a target of international terrorist organizations, (iii) continued actions against FTFs; and (iv) decline or lack of cases of abuse of local NPOs for TF purposes.

15. Threats are mostly linked with the fact that individuals from North Macedonia have been involved in foreign armies and/or paramilitary organizations (FTFs), primarily ISIL. These radicalized persons are involved in the logistics of terrorist activities. There is also infiltration of terrorists into migrant routes in the so-called “Balkan route” as a means to access Western European countries to perpetrate attacks on behalf of parent terrorist organizations. In addition, there is a number of returning FTFs that continue to pose a threat to the security of the country and the region.

16. In relation to sources of funds fencing terrorism, a small portion of the funding are proceeds of crimes such as theft, blackmail, racketeering, threats, illicit trade or smuggling. Some FTFs would have received funds via wire transfers or fast money transfer services from, mostly, Western European and Middle Eastern countries, but also the US, China, Malaysia or Oman.

17. Terrorism-related cases have been prosecuted and several convictions were achieved. One prosecution and conviction (against two individuals) of what is broadly considered as terrorism financing, were achieved during the period covered by this report.

### ***1.1.2. Country’s Risk Assessment & Scoping of Higher Risk Issues***

#### *Risk Assessment*

18. To date, two national risk assessments of ML and TF have been conducted, covering the period from 2014-2016 and then 2016-2020. The analysis has been carried out in accordance with the methodology of the World Bank. Data were provided from various sources (official statistics of the competent institutions, surveys conducted, etc. academic research and analysis of the civil society), and were analysed by eight multidisciplinary groups identifying potential risks and risk factors, through identified threats and vulnerabilities.

19. Both iterations of the NRA present the threats and risk from ML and TF perspective at the national level, capacities of the AML/CFT system, risk exposure of financial institutions and DNFBPs. By contrast, the consequences of identified ML/TF risks are not a part of the NRA. The findings of the NRA report are used as a basis for the preparation of a National Strategy for Combating Money Laundering and Financing of Terrorism, which defines measures and activities presented in the Action Plan aimed at adequate management of ML and TF risks and reduction of harmful consequences. In addition to the NRA, sectoral assessments were conducted - TF risk assessment for NPOs and VASPs risk assessment (both concluded in 2021).

#### *Scoping of Higher Risk Issues*

20. In advance of the on-site visit, the AT identified several areas requiring increased focus in the evaluation through an analysis of information provided by the authorities and by consulting various open sources. These areas are presented below:

*Corruption and abuse of power:* Although North Macedonia has undertaken several steps in order to address issues related to corruption, this topic still remains an area of concern at a national

level. In this regard, the abuse of official position is still rated as one of the predicate offences entailing a higher ML threat in the context of the NRA, and the integrity and independence of the financial crime prosecutors and the judiciary is given a medium score in terms of ML vulnerability. The NRA also emphasises the construction sector and its potential to be abused for the purposes of corruption (e.g. abuse of position when assigning public procurement contracts, bribery, criminal association and fraud). The FIU has opened a number of ML cases involving businesses related to construction. As a result, the AT considered the measures adopted by North Macedonia's authorities in this regard aiming to assess to what extent the threat posed by corruption has on the overall AML/CFT system.

*Tax evasion:* According to the NRA during the 2016-2018 period, a total of 226 tax evasion related offences were detected generating unlawful proceeds of more than 1 billion MKD (around 16 million €). VAT return scams are the most prevalent ones, involving the misuse of legal persons placing the illegal proceeds in "tax havens" abroad. Certain shortcomings in relation to the availability of BO information, accessibility of BO information held by banks or availability of accounting records of entities that ceased to exist, could impact the pursuit of tax evasion offences. Furthermore, the NRA points out that the perpetrators of tax evasion have relied on the expertise of accountants, tax advisors and persons proficient in the customs and tax legislation. However, the assessment contains little information regarding their market entry and fit & proper requirements or the extent of the supervision exercised. The AT reviewed the robustness of regulation and the extent of supervision and, if necessary, sanctioning in relation these types of DNFBPs, as well as the measures adopted to mitigate the risk of tax evasion perpetrated through them.

*Human trafficking and migrant smuggling:* According to the global organized crime index, North Macedonia is a country of origin, transit and destination for women and children trafficked into prostitution and forced labour. It is also a route of migrant smuggling, especially Iranian and other Middle Eastern citizens attempting to enter Greece from Serbia or to access Western European countries with the assistance of smugglers, often organized as criminal groups. The NRA estimates that around 3 million € were generated through these activities. On a positive note, there have been recent cases of success where perpetrators have been detained. The NRA rates the quality of the border controls as implying a medium ML vulnerability and identifies, as main concerns, illegal migrations, cross-border crimes and challenges regarding control and surveillance of the borders. Enhancing the cooperation between authorities responsible for border management, provision of adequate financial, human and IT resources and further practical implementation of existing agreements with neighbouring countries are established as priority actions by the North Macedonia's authorities. The AT reviewed the extent of achievement of these mitigation measures.

*Informal economy:* this phenomenon has one of the highest ratings in terms of ML vulnerability. According to the latest labour force survey by the International Labour Organisation (ILO), it is estimated that 13,8% of the overall country's employment corresponds to informal economy, with agriculture and construction being the sectors most exposed to it. The NRA also concludes that informal economy and employment are of large scale and represent a complex issue. The AT focused on assessing the effectiveness of measures adopted by the North Macedonia's authorities to fight against the negative consequences of informal economy, in particular the National Strategy on Formalization of the Informal Economy, initially established in 2017 and subsequently adjusted in 2020, as well as the measures to reduce the use of cash, such as the prohibition of cash payments exceeding 3,000 euros introduced by the AML/CFT Law or the proposed law to incentivize the request of fiscal bills for cash payments.

*Misuse of legal persons:* the BO register managed by the Central Register of the Republic of North Macedonia has only been operational since 27.01.2021. According to North Macedonia's authorities, as of 04.03.2022, 92,5% of the legal entities that have the legal obligation to submit their BO information have done so, including limited liability and joint stock companies, associations, partnerships, foundations, subsidiaries, political parties, cooperatives, chambers, unions or communities, among others. 80% of entities have declared single BOs and most of them (92,6%) are domestic citizens, with foreign BOs being mainly nationals from Serbia, Bulgaria, Greece, Germany and Türkiye. Legal entities themselves are responsible for the accuracy, adequacy and updating of the data and are obliged to notify any changes in their ownership. Given the novelty of the framework, this was an area of focus of the current assessment.

*Banking Sector:* The banking sector is the most material in North Macedonia. The NRA considers it to be the most exposed to the ML, assigning it a medium ML vulnerability. Incoming/outgoing wire transfers, non-resident accounts, fast money transfer services and correspondent accounts are considered the riskiest products.

*Use of cash:* The NRA concludes that higher attention should be put to determining the source of cash entering the banking sector, practical implementation of the Register of Beneficial Owners established in 2021 and granting access to the sector to its information, closer monitoring of non-residents activities and further development and effective implementation of sanctions. The AT centered its efforts on those products, areas for improvement and the overall implementation of preventive measures by banks as well as the supervision over them.

*Casino sector:* This sector is significant in terms of materiality, taking into account the different types of operators and products and services provided (lottery and bingo games, betting, slot machines, their video and online variants, etc.), their annual income (424.850.961 euro in 2018, being the highest earning sector among non-financial sectors, after construction) and the medium ML vulnerability assigned to it in the NRA. However, the analysis does not seem to sufficiently cover all the associated risks, focusing instead on providing data and explanations of the legal and supervision framework, as well as on the low or null number of STRs and supervisory actions concerning this sector during the reviewed period. The AT discussed with the authorities their understanding of these risks, mitigating measures in place and the way these risks could have materialized into concrete ML schemes.

*Prosecution of stand-alone ML offence:* the NRA presents a total number of ML convictions, pursuant to article 273 of the CC, of 43 individuals for the period 2014-2018, with prison sentences ranging between 1 and 5 years. These numbers are not too different to those from the previous round of evaluation (33 individuals convicted between 2008 and 2012), where it was concluded that to be low but proportionate with the country's size and features of its FIs. Several case examples are also presented, covering self and third-party laundering, involving typologies such as criminal association, abuse of official position when awarding public procurement contracts, false bankruptcy, illegal drug trade, migrant smuggling or tax evasion and VAT fraud. In this regard, one of the most recent, highest-profile cases is the conviction, in April 2022, of the former Prime Minister, alongside four associates, on ML charges, in particular due to unlawful appropriation of political party funds and their misuse through offshore legal persons. Regarding autonomous ML, the NRA acknowledges that, when prosecuting ML cases, the judiciary requires the predicate offence to be proven by conviction, and sets the need to review ML criminalisation in order to be more in line with the international practice. The AT evaluated how well the judiciary understands the three types of ML, their capacity to progress complex ML/TF investigations and prosecutions and whether the shortcomings identified in the previous round (in terms of backlog at the trial stage) are still a prevailing problem in this context.

## 1.2. Materiality

21. North Macedonia is a middle-income country (6720.9 USD of GDP per capita in 2021, according to World Bank data<sup>5</sup>). Since its independence in 1991, many advancements have been made in the liberalization of the economy and the improvement of business environment. The country's economy is highly opened and has a small size, with a GDP of 11.7 billion EUR and an average annual real growth rate of 1.1% for the 2017-2021 period. The most important sectors in the economy in 2021 were wholesale/retail trade (20.3%), manufacturing (10.3%), real estate (9.9%), construction (8.6%), information and communication (6.8%) and agriculture (6.4%).

22. The principal trading partner is the EU (77.3% of exports and 46.2% of imports), in particular Germany, but also Kosovo\*, Serbia and the UK in terms of exports, and the UK, Serbia and China regarding imports. The most traded goods are machinery and transport equipment, chemical products, iron and steel, textiles, energy and food and beverages. Foreign investment has amounted up to 512 million euros in 2021, with the top 3 countries being Germany (14.3%), Türkiye (11%) and Austria (7.2%) and the most attractive sectors to investors being manufacturing, electricity, gas, seam and air conditioning supply, trade, agriculture, foster and fishing and finance.

23. North Macedonia is not a global financial centre and the weight that the assets of its domestic financial system, which amounted to 109.5% of the country's GDP, according to the latest Financial Stability report in 2020, have in the overall international landscape is low. The system majorly focuses on the domestic market. Banks are the dominant type of financial institution, as their assets (including assets under management) correspond to more than 80% of the total assets of the domestic financial system. The remaining 19% belongs to non-deposit taking financial institutions, especially mandatory pension funds, followed by non-life insurance companies. The amount of assets, distribution of such across the different financial sectors and number of players has remained quite stable over the past few years.

24. In terms of ownership, the largest and most important segments of the domestic financial system are predominantly owned by foreign institutions, due to being members of international financial groups, mainly EU-based. In particular, percentages of foreign ownership in 2020 amount to 76% in the case of banks, 80% for insurance companies, 87% regarding pension funds management companies and 69% for investment funds management companies.

25. Informal economy and employment are of a large scale and represent a complex issue in North Macedonia, with the NRA assigning one of the highest ratings in terms of vulnerability to this issue. According to the latest labour force survey by the ILO<sup>6</sup>, it is estimated that 13.8% of the overall country's employment corresponds to informal economy, being agriculture and construction the sectors most exposed to it. This notwithstanding, authorities are adopting measures to fight against the negative consequences of informal economy, in particular the National Strategy on Formalization of the Informal Economy, initially established in 2017 and subsequently adjusted in 2020, as well as measures to reduce the use of cash, such as the prohibition of cash payments exceeding 3,000 EUR introduced by the AML/CFT Law or the proposed law to incentivize the request of fiscal bills for cash payments.

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<sup>5</sup> <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=MK>

<sup>6</sup> International Labour Organization ([https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/genericdocument/wcms\\_751316.pdf](https://www.ilo.org/wcmsp5/groups/public/---europe/---ro-geneva/---sro-budapest/documents/genericdocument/wcms_751316.pdf))

### 1.3. Structural elements

26. North Macedonia has some of the main structural elements in place for an effective AML/CFT system, including political and institutional stability, government accountability, separation of state powers and a capable and independent judiciary.

27. Corruption is widespread in all levels of the public administration to varying degrees. The latest GRECO report of April 2021 acknowledges progress with regard to prevention of corruption and promoting integrity in top executive functions and law enforcement agencies and welcomes the adoption of several other anti-corruption measures. In addition, the adoption of a national strategy for the prevention of corruption and conflicts of interest (2021-2025) and setting up dedicated units to fight corruption within the Ministry of Interior, the Police and the State Commission for the Prevention of Corruption are also highlighted in the NRA.

28. Notwithstanding the above, the very same report also points out certain deficiencies regarding asset declaration, periodical reviews of integrity or the implementation of risk management procedures, and criticises certain aspects of the measures already in place, such the implementation of the Code of Ethics adopted by the Government. On top of that, the most recent edition of the Transparency International Index shows that the perceived level of public sector corruption is still moderately high.

### 1.4. Background and Other Contextual Factors

29. In recent years, North Macedonia has experienced large inflows of migrants and refugees travelling to the European Union through Southeast Europe and applying for asylum in European Union countries. North Macedonia is part of the “Balkans Route”, a route for many migrants from Asia and the African continent, although the majority were only transiting through North Macedonia and left the country after a few days. Since March 2016, the Western Balkans Route has been closed for legal transit of migrants and North Macedonia continues to implement measures in line with the European Council decisions on the closure of the Balkans Route. Between 1 January 2018 and 1 January 2020, 41,496 illegal border crossings through North Macedonia have been prevented.

30. The geographical location of the country affects the two key criminal markets, illicit drug trafficking and migrant smuggling. Money laundering together with corruption are the biggest enablers and influence the organized criminal groups. There are 13 organized criminal groups active in this field. Large quantities of marijuana from the Republic of Albania transit through the country to Türkiye.

31. The use of cash is prevalent in the two largest criminal markets in which organized criminal groups and criminal networks are involved, namely the illicit drug trade and migrant smuggling. For the transfer of cash earned in other countries, international criminal groups often use “mules”. North Macedonia has taken measures to reduce the use of cash by prohibiting payment in cash for goods and services in the amount of 3,000 euros or more which is not performed through a bank, savings house or through an account in another institution that provides payment services.

32. According to the data of the International Monetary Fund (IMF), the share of the shadow economy in the overall economic sector of the Republic of Northern Macedonia is 37.6 %. According to this data, the country is in fourth place in the region of Southeast Europe. In 2017, within the Ministry of Labour and Social Policy, a Strategy for formalization of the informal economy 2018-2020 was adopted, which aims to create basic preconditions for sustainable and

continuous economic growth, a favourable business environment and to ensure equal conditions for all market participants, to support the transformation of informal economic activities into formal ones, as well as to prevent illegal cash flows.

33. It has been assessed that the risk of terrorism in the Macedonia is at a low level. No organised forms of operation of terrorist organisations are active. The country is not a target of international terrorist organisations. However, certain individuals have been members of international terrorist organisations (groups/networks/cells) and have participated in the commission of terrorism. Other radicalised persons, members of religious radical groups and self-radicalised persons on various grounds have also been active in the country. All these categories of persons represent a potential threat of extremely radicalised operation and commission of terrorist acts. North Macedonia is also one of the countries that carried out repatriation of citizens who were recruited and involved in terrorist activities in Syria. Men, women and children were repatriated and authorities worked on re-socialization and reintegration with the help of NGOs.

#### *1.4.1. AML/CFT strategy*

34. In accordance with the established strategic priorities, and based on the findings of both NRA Reports, the Government adopted two strategic documents for the improvement of the system for combating ML/TF: (i) National Strategy for Combating ML/TF, with Action Plan (2017-2020), which was adopted by the Government in October 2017, and (ii) National Strategy for Combating ML/TF, with Action Plan (2021-2024) - adopted in August 2021. Both strategic documents are medium-term that define the basic strategic goal, rank the priorities and define the activities in special action plans that should improve the AML/CFT system.

35. The competent authorities implemented the measures of the National ML/TF Strategy (2017) in the period between 2017-2020 in order to realize the defined 13 specific goals. Most of the determined measures have been fully implemented or are in process of being implemented continuously. However, some measures have been redefined or their implementation deadline has been extended.

36. The National Strategy (2021) ranks the priorities and defines the activities that should improve the AML/CFT system through the realization of 15 specific goals. Namely, these goals will be realized by implementing the defined measures and activities prescribed by the Action Plan in the period 2021-2024 which is an integral part of this Strategy. The goals and activities planned in this strategy are coherent with the activities envisaged by the National Program for Adoption of the Acquis, the other strategic documents adopted by the Government of the Republic of North Macedonia and are in continuity with the activities implemented so far. One of the goals related to prevention of use of funds for the purpose of financing the proliferation of weapons of mass destruction which should contribute to strengthening the capacity to prevent the use of funds for the purpose of financing the spread of weapons of mass destruction.

37. In addition to these strategies, other strategic documents have been adopted that define the priorities for the fight against organized crime and corruption (National Strategy for Prevention of Corruption and Conflict of Interest (2021-2025), National Strategy for Financial Investigations, National Strategy for Capacity Building for financial investigations and confiscation of property 2021-2023, Judicial reform, reform of security structures, etc.).

### *1.4.2. Legal & institutional framework*

#### *Institutional framework*

38. The AML/CFT and CPF institutional framework in North Macedonia involves the following authorities:

39. The **Financial Intelligence Office** is the central institution in the AML/CFT framework in North Macedonia. It is a Financial Intelligence Unit (**FIU**) which operates as a legal entity within the Ministry of Finance (MoF) and performs its tasks independently. As an administrative type of FIU, it acts as an intermediary between the private sector (obliged entities), on one side, and the investigative bodies, on the other. FIU receives, stores, analyses and disseminates information gathered as per the AML/CFT Law. FIU has a leading role in development of AML/CFT policy in North Macedonia, through its representation in the Council for combating ML and TF (AML/CFT Council). Besides its functions as FIU of North Macedonia, it is also the AML/CFT supervisor over the activities of the obliged entities (OEs) under the AML/CFT Law.

#### *Criminal justice and operational agencies*

40. **Public Prosecutor's Office (PPO)** is composed of Public Prosecutor's Office, Higher Public Prosecutor's Office (4), the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption (BPO OCC), the Basic Public Prosecutor's Office (22) and Special Public Prosecutor's Office for prosecution of crimes related to and arising from the content of illegal interception of communications (SPO). BPO OCC has jurisdiction over cases involving serious and organized crime throughout the country. In the BPO OCC, apart from the basic public prosecutor, the function of public prosecutor is performed by 9 public prosecutors.

41. **Ministry of Interior** is responsible for investigating all offences in North Macedonia, including ML, predicate offences, TF, and TFS violations. Within the Department for Suppression of Organized and Serious Crime separate units deal with investigating ML/TF and related predicate offences: i) Financial Crime Unit, ii) Corruption Unit, iii) National Unit for Suppression of Migrant Smuggling and Human Trafficking, iv) Unit for Illicit Drug Trafficking and Unit for Serious Crime, v) Crimes against Cultural Heritage and vi) since January 2020, Sector for Combating Terrorism, Violent Extremism and Radicalism.

42. **Financial Police** is established within the Ministry of Finance and is responsible for investigating ML and predicate offences such as illicit trade, smuggling, tax evasion, as well as other proceeds generating criminal offenses.

43. **Customs Administration (CA)** is established within Ministry of Finance. The CA controls the entry and exit of money, precious metals (gold) and BNI to North Macedonia. The CA has a separate special investigative body called the Financial Investigation Service with competences in identifying illegally acquired property and criminal proceeds as well as applying temporary seizure (confiscation) to property that is suspected to be proceeds of crime.

44. **Intelligence Agency (IA)** is a special body of the state that collects intelligence information on threats and risks from abroad for protection of national security, independence, sovereignty, constitutional order, fundamental freedoms and rights of man and citizen, guaranteed by the Constitution of the Republic of North Macedonia.

45. **Agency for National Security (ANS)** is an independent body of the state administration for the protection of the national security of the state, *i.e.* for protection of independence, sovereignty, constitutional order, fundamental freedoms and rights of citizen guaranteed by the

Constitution The Agency is member of the National Committee for Prevention of Violent Extremism and Fight against Terrorism.

46. **Ministry of Foreign Affairs (MFA)** is the competent authority which manages coordinates and controls the execution of the foreign policy and international activities of North Macedonia. MFA is also the competent institution for drafting the Law on Restrictive Measures (LRM). The competencies of the MFA in relation to implementation of the restrictive measures are defined in the LRM. MFA also performs the expert-administrative work of the Coordination Body for Coordination and Monitoring the implementation of restrictive measures.

47. **Ministry of Finance (MoF)** is responsible for drafting all the laws in the financial sphere as well as law which regulates the operation of all games of chance (Law on games of chance) and to issue licences (decision for approval for operating) to financial companies (small credit providers) and leasing companies, which are OEs according to AML/CFT Law, as well as to supervise their operations from a prudential perspective.

48. **Ministry of Justice (MoJ)** is a central authority concerning all types of international legal assistance, including mutual legal assistance requests, transfer of proceedings, transfer of sentenced persons, extraditions, recognition and enforcement of judgements, etc.

49. **Asset Recovery Office (ARO)** has been established within the Public Prosecutor's Office of North Macedonia, within a Department for International Legal Assistance responsible for MLA in the area of financial investigations. As the ARO has been established recently it has not been used very actively by other competent authorities.

50. **State Commission for Prevention of Corruption (SCPC)** creates anti-corruption policies by giving opinions on draft laws important for the prevention of corruption and conflict of interests. It also conducts anti-corruption review of the legislation. SCPC also coordinates the activities for preparation of National Strategy for combating of corruption and conflict of interests.

51. **Agency for Confiscated Property Management** is responsible for the management, use and disposal of temporarily confiscated property and temporarily seized assets, as well as confiscated property by final judgment rendered in criminal and misdemeanour procedure.

#### *Legal Framework*

52. The Law on prevention of money laundering and financing of terrorism (Off. Gazette 120/2018, 275/19 and 317/20) is the main legislation dealing with AML/CFT matters. It requires the application of preventive measures, including STR reporting, by obliged entities, the conduct of AML/CFT supervision by relevant authorities, and establishes sanctions. It also provides for the establishment and functioning of the FIU and the Council for combating ML and TF (AML/CFT Council).

53. Other relevant pieces of legislation include the sectorial laws regulating the financial and DNFBP sector, the Criminal Code (CC), the Criminal Procedure Code (CPC), Law on International cooperation in criminal matters, Law on Restrictive Measures, Law on Prevention of Corruption and Conflict of Interest and other sectorial legislation.

54. In the period since the adoption of the 4th round MER (2014), the legislation that regulates the prevention of money laundering and financing of terrorism in the Republic of North Macedonia – the Law on Prevention of Money Laundering and Financing of Terrorism (AML/CFT Law) – has been amended several times. In June 2018 a new Law on Prevention of Money Laundering and Financing of Terrorism (Off. Gazette 120/2018) was adopted mainly in order to implement the 4th EU AML/CFT Directive 2015/849, and has been amended three times – in

2019, 2020 and 17 July 2022. Some bylaws and guidelines required to implement the 2022 amendments to the 2018 AML/CFT Law are still being prepared and adopted during year 2023.

### 1.4.3. Financial sector, DNFBPs and VASPs

55. Overall, it can be stated that the categories of OEs present in North Macedonia tend to operate straightforward businesses, providing traditional, low-complexity and low-sophistication products and services. Use of new technologies and implementation of innovative business lines is, in general terms, scarce, and risk appetite is limited across all industries.

56. The following table shows the number of market participants from 2017 to 2021.

**Table 1.1: Structure of the financial and non-financial systems**

Type	Number of entities at year end	2017	2018	2019	2020	2021
FIs	Banks	15	15	15	14	13
	Saving houses	2	2	2	2	2
	MVTS* (fast-money transfer service providers)	9 (and 182 subagents)	9 (and 200 subagents)	9 (and 220 subagents)	9 (and 232 subagents)	8 (and 242 subagents)
	Exchange offices	242	243	244	242	243
	Life-insurance companies	5	5	5	5	5
	Life-insurance intermediaries (agents and brokers)	50	51	56	57	58
	Investment/private funds	15	16	16	16	19
	Investment funds management companies	5	5	5	5	5
	Brokerage companies	5	5	5	5	5
	Pension funds management companies (mandatory and voluntary pension funds)	2	2	3	3	3
	Financial companies (small credit providers)	19	21	26	30	32
	Leasing companies	6	7	7	7	7
DNFBPs	Casinos**	6	34	35	36	43
	Real estate agents	183	177	188	188	133
	Pawnshops	28	11	13	13	13
	DPMS***	n.a.	n.a.	n.a.	n.a.	n.a.
	Lawyers	2,287 lawyers and 67 firms	2,335 lawyers and 68 firms	2,673 lawyers and 70 firms	2,797 lawyers and 71 firms	2,028 lawyers and 73 firms
	Notaries	199	194	187	181	216
	Accountants/tax advisors	2,033	2,064	2,115	2,115	1,983
	Audit companies	40	39	39	41	39
	TCSPs****	n.a.	n.a.	n.a.	n.a.	n.a.
VASPs*****	n.a.	n.a.	n.a.	n.a.	18	

\* The figures include trade companies registered as MVTS and banks also providing such services.

\*\* Includes land-based casinos, smaller-sized operators mainly providing betting and slot machine products and the State-owned video lottery. Only land-based casinos were OEs before 2018.

\*\*\*Not covered under the AML/CFT Law.

\*\*\*\* Considered to have no presence in the country according to the authorities.

\*\*\*\*\* Estimations from the FIU, although there is no formal authorization regime in place.

### *Banks and saving houses*

57. The **banking sector** is, by far, the most material in North Macedonia, with a size of 87.8% of the country's GDP in 2020. The sector is performing well in terms of capitalization and profitability, according to international references such as the IMF<sup>7</sup>.

58. Domestic institutions have universal business models. As deposit-taking financial institutions, they mainly provide conventional services of collecting deposits and providing credit to customers. In the case of banks, they also provide payment (including wire transfers and MVTs), insurance and investment and trading services. New technologies are not widely adopted, with the most extensive implementation of such seemingly being limited to e-banking applications.

59. Services are mostly provided to resident customers, as it is evidenced by the fact that non-resident customers only represent 1.2% of the whole banking sector customer base and a share of 6.2% of total assets and 9.2% of total liabilities of banks as of the end of 2021. Most of the cross-border assets are accounts in foreign banks and the majority of liabilities to non-residents are borrowings from foreign financial institutions, including foreign parent entities. Presence of PEP customers is low (less than 0.1% across the whole sector).

60. As observed in Table 1.1, the sector consisted of 13 banking institutions (including a state-owned bank with the special purpose to develop the national economy and exports) and 2 savings institutions as of December 31, 2021. 9 banks are owned by foreign shareholders (7 from EU countries), out of which, 5 are subsidiaries of foreign banks. Banks with predominantly foreign capital comprise the largest share of total assets, loans, deposits, revenue and profits of the banking system. The five largest banks in North Macedonia amount for 81% of the sector's assets and, with the exception of the largest one having 100% domestic ownership, the remaining four are subsidiaries of EU (Greece, Slovenia, Germany and Austria) and Turkish financial groups.

### *Insurance*

61. There are 16 licensed **insurance companies** operating in North Macedonia, 5 of them providing life-insurance. As stated, the aggregate share of foreign ownership in the market is 80%, which translates to 14 companies being controlled by foreign, EU-based, insurance groups. The sector mainly targets resident natural persons and pay-outs are carried out via bank accounts.

62. The insurance market is the third segment of the financial system after the banking sector and private pensions funds in terms of assets, holding 3.6% of them, or 1.3% when only considering life-insurance, according to the 2020 Financial Stability report. Regarding gross written premiums (GWP), as of 31 December 2021, life-insurance premiums amounted for the 14.7% of the whole insurance sector. Life insurance with investment component (unit-linked) represents a small share of the overall life insurance segment, although a rising trend has clearly been detected, as its share went from 4.4% of the total life-insurance GWP in 2016 to 17.3% in 2020. Despite its place as the third segment of the financial system after banks and private pension funds in terms of assets, the characteristics of this sector entail low materiality.

63. The role of intermediaries has become increasingly important for the insurance sector. In 2021, 56.9% of GWP were generated through intermediaries. Out of the 58 licensed participants,

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<sup>7</sup> <https://www.imf.org/-/media/Files/Publications/CR/2022/English/1MKDEA2022002.ashx>

there are 40 brokerage companies and 18 insurance agencies (including banks that sell insurance products).

#### *Securities*

64. North Macedonia has a quite traditional stock exchange, where the most traded financial assets are shares (up to 80% of traded assets) and bonds. In terms of **authorized securities market participants**, at the end of 2021 there were 5 brokerage houses (plus 5 banks that are also providing securities trading services), 5 investment fund management companies that are managing 19 open-end investment funds and 1 investment advisory company. The number of individual brokers and advisors licensed to deal with securities is 55 and 44, respectively. Information on private investment funds and companies that manage them has been scarce, which has limited the identification and mitigation of the potential ML/TF risks associated to them. This notwithstanding, the SEC adopted a new regulation in 2022 on the manner of registration of a private fund, which has led to the number of private funds being reduced to 3 (managed by 3 different private fund management companies) and declining the registration of 2 new private funds so far. The SEC has rated all such funds as high risk.

65. In relation to the potential risks associated with investing in a private fund being one of the two ways individuals can attain citizenship through North Macedonia's citizenship by investment (CBI) program, only 2 out of the 3 active private funds offer this program and none of their investors have used them for the purpose to attain citizenship so far. Furthermore, the procedures in place require an opinion from the Ministry of Interior in each proposed case. All these mitigating measures, paired with the fact that North Macedonia is not an international nor regional financial centre, reduce the chances of the CBI program being abused for ML purposes.

66. When it comes to brokerage companies, their total amount of assets only represents 0.02% of the financial sector, which is negligible. The largest brokerage company accounts for 32.08% of the total traded volume. Similarly, fund management companies represent 0.03% of the financial sector in terms of assets, and the two biggest companies manage 46.73% and 33.67% of the invested funds, respectively. The 19 open-ended funds were investing a total amount of 186 million EUR as of December 31, 2021, most of them in North Macedonia's assets (between 66.20% and 71.35% share) in four sectors: financial services, health, information technologies and commodities.

67. Overall, authorities detected a significant increase in trading volume during the period under assessment, but the materiality and risk posed by the market participants remains low, due to the market being moderately developed, the limited types of instruments traded, the degree of regulation of the sector and the low-risk customer profile, mainly composed of domestic natural and legal persons.

#### *Other FIs*

68. Among other FIs, the ones presenting a higher degree of significance would be **MVTS providers and exchange offices**, due to the nature of their businesses and the lower consideration of risk and less robust controls, including market entry, both by the authorities and entities themselves.

69. MVTS providers in North Macedonia are the so-called "fast-money transfer service providers", who provide money remittances, and consist, as of 2021, of 3 non-bank entities that belong to international financial groups, 5 banks who also provide these services and a large network of 242 subagents of these providers (where exchange offices often act as such). According to the NRA, in 2018 there was a total of 159.1 million EUR of inflows, corresponding to nationals currently living and working abroad, and 19.6 million EUR of outflows via the MVTS

sector (excluding banking operators). Regarding exchange offices, there are 243 operators, who are mostly owned by single entrepreneurs, with the largest ones having presence in several cities across the North Macedonia's territory. Casinos can also provide exchange services within their premises. In 2018, according to the NRA, a total of 1,401 million EUR of foreign currencies were purchased and 282 million EUR were sold by natural persons through authorised exchange offices. Both sectors present risks regarding the significant presence of non-resident customers, the nature of their transactions, exclusively in cash and in low amounts, the difficulty in the identification of linked transactions and the associated TF risks.

70. **Pension funds** present a large significance in terms of size, as, out of the 19% of assets of the financial system that belong to non-deposit taking institutions in 2020, 12.3% correspond to this sector, in particular to mandatory pension funds, with voluntary funds only representing a 0.3% of assets. Despite this, and the fact that mandatory pension funds management companies were not subjected to risk assessment, the associated ML/TF risks associated to the pension funds sector are low, due to the very nature and characteristics of the product, such as the lack of early surrender options, contributions being made by way of deduction from wages and payments taking place via bank account.

71. On a less material side, **7 leasing companies and 32 financial companies (small credit providers)** would be present, as they only account for 1.5% of the assets of the financial sector, combined. Their activities are focused on the domestic market and mainly consist in leasing passenger vehicles and approving small-amount loans for individuals (around 500 euros on average), respectively.

#### *DNFBPs*

72. Regarding **DNFBPs**, the most significant sector corresponds to **casinos**, consisting of 6 land-based ones, 36 smaller-sized operators (mainly providing betting and slot machines products) and 1 remote operator (national video lottery). Their income in 2020 reached approximately 380 million EUR, which is equivalent to more than 3% of GDP and represents over 70 % the overall income of all non-financial sectors that have AML/CFT obligations. Such operators heavily target non-resident customers (which include customers from a high-risk jurisdiction as identified by the FATF), most of them have presence in border areas and are cash-intensive businesses.

73. Other DNFBPs (notaries, lawyers, accountants, tax advisors, auditors and real estate agents) are much less material, either in terms of numbers or the risks associated to the activities they perform, as described in the following paragraphs.

74. There are 216 notaries, who are required to report instances when preparation of notary documents and notarized certifications of signatures on contracts leads to acquisition of assets or rights equal or higher than EUR 15,000. When it comes to lawyers, there is a total of 2,028 professionals and 73 law firms, who mostly provide legal services (legal advice, representation in courts, drawing up legal acts, etc.) rather than being involved in managing customer's assets or accounts or companies' incorporation or management. Accountants/tax advisors amount to 1,983 entities and auditors are represented by 39 audit companies. It should be noted that authorities insufficiently considered the provision of services to companies and (foreign) legal arrangements, which has led to no identification of TCSPs, either acting as standalone entities or also acting as any of the previously mentioned groups of OEs, even when the AT has uncovered one such case during the course of the onsite interviews.

75. Regarding the real estate sector, consisting of 133 agents, there is a widespread conception across the country that the sector itself is not significant due to the majority of real

estate transactions taking place directly between the purchasers and the owners, including construction companies, although there are no figures to back up this statement.

76. Dealers in precious metals and stones (DPMS) are not covered under the AML/CFT Law, due to the approach taken by the country, consisting of not allowing cash payments above 3,000 EUR, a ban whose application is supervised by the PRO. Therefore, it is assumed by the authorities that the category of DPMS, as described in the FATF Glossary, which involves reaching a threshold of USD/EUR 15,000, could not be legally present in North Macedonia. As a result, DPMS were not subjected to the evaluation of the AT.

#### *VASPs*

77. There is no legal framework regulating VA and VASP activities or their authorisation requirements. In terms of AML/CFT, **VASPs** have been brought under application of the AML/CFT Law as a category of OE in July 2022, although the legal provisions concerning the sector only enter into force after a period of 9 months since the adoption of the law, that is, in April 2023. The defined scope of VASPs aims at also including advisory services and portfolio management on virtual assets, as well as crypto ATMs. Legal provisions of the AML/CFT Law include a prohibition to engage with assets or resources that enable or facilitate concealment of the client's identity or that prevent or complicate tracking transactions, whose purpose is to limit the use of privacy-enhancing coins and tools like mixers and tumblers.

78. Despite the AML/CFT legal framework not being enforceable yet, several steps to assess the risks and materiality of the sector have already been undertaken. In particular, authorities estimate that there are 18 active operators in the country, who are seemingly cash-oriented businesses focusing on providing exchange services between VAs and fiat money, in some instances also operating as regulated exchanges offices or MVTs providers. No entities providing custodial or payment services were spotted. In terms of volume of transactions, rough estimations refer to 3.5 million EUR of inflows and outflows through the domestic banking sector in the period for 2019-2021, based on analyses of credit card transactions, although the accuracy of available data does not allow to conclude that this amount exclusively corresponds to VA-related transactions and there are no figures on the volume of exchange transactions carried out by domestic VASPs. North Macedonia FIs do not offer services, store or invest in VAs. Additionally, in December 2021, an assessment of VA and VASPs was concluded, which identified ML/TF threats, vulnerabilities and risks, as well as recommended actions in order to mitigate them, such as the implementation of a legislative framework regulating such activities.

#### *Weighting*

79. The AT classified OEs on the basis of their relative importance, given their respective materiality and level of ML/TF risks. This classification is used to inform the conclusions throughout the report, weighting positive and negative implementation issues more heavily for most significant sectors than for less significant ones. This approach applies throughout the report but is most evident in IO.3 and IO.4:

a) most significant: banking sector;

b) significant: casinos, MVTs providers and exchange offices;

c) less significant: other FIs (including management companies of mandatory and voluntary pension funds, the insurance sector, asset management companies, brokerage companies, and leasing and financial (small credit providers) companies), other DNFBPs (lawyers, notaries, accountants, tax advisors, auditors and real estate agents) and VASPs.

#### 1.4.4. Preventive measures

80. Implementation of preventive measures in North Macedonia is primarily set out by the “Law on the prevention of money laundering and financing of terrorism”, the current AML/CFT Law approved in July 2022. It is supplemented by associated bylaws and sectorial guidelines issued by the respective authorities and supervisors, as specified throughout this report and, in particular, under the analysis of R.34. This current AML/CFT Law aims at bringing the North Macedonia’s preventive system more in line with the FATF standards and the provisions of the EU Directive 2018/843 (“5th AMLD”).

81. The legal act provides for the application of preventive measures to give response to FATF Recommendations 9 to 23, including the obligation for OEs to conduct ML/TF risk assessments, to set out internal controls and procedures, to apply KYC and CDD measures (including EDD on the basis of high-risk scenarios provided by the law), to submit STRs, to keep records of transactions or to establish safeguards to prevent tipping-off and ensure confidentiality. Some additional measures envisaged by the law consist of: (i) submission of cash threshold reports (CTRs) to the FIU for transactions above the equivalent of 15,000 EUR, pursuant to article 63; and (ii) the obligation for some categories of OEs to submit information on certain kinds of transactions or acts above the threshold of the equivalent of 15,000 EUR (notaries, banks in relation to credits and insurance companies), 5,000 EUR (banks in relation to loans) or 1,000 EUR (casinos, MVTS providers and VASPs) to the FIU, in accordance with article 64.

82. In terms of coverage, besides the categories of FIs and DNFBPs defined in the FATF glossary, the AML/CFT framework equally applies to auditors, tax advisors, auctioneers, pawnshops, traders and intermediaries or storers of works of art. The law also extends the obligation of article 64 explained above to certain stakeholders that are not defined as OEs, in particular enforcement agents (bailiffs) and entities involved in the sale and purchase of vehicles.

83. The AML/CFT Law prohibits cash payments for goods or services equivalent to 3,000 EUR or more, with an aim of gradually reducing the threshold to 1,000 EUR by 2025, according to the transitional provision set in article 204 of the law. This leads to DPMS not being covered by the AML/CFT legislation whatsoever, as explained in section 1.4.3 of this report.

84. The legislation provides for some exemptions on the application of preventive measures, in particular in relation to: (i) financial activities conducted on an occasional and limited basis (conditions set under article 6), which would be the case of, for example, businesses like hotels or gas stations occasionally providing currency exchange services; and (ii) electronic money, on the basis of a low ML/TF risk identified by an NRA and the conditions established in article 14, such as lack of anonymity, no possibility of reloading the payment instrument or the payment amount not exceeding the equivalent of 150 EUR. It should be noted that there were no electronic money institutions in the country during the period under assessment.

#### 1.4.5. Legal persons and arrangements

85. The below table outlines the number of legal persons and arrangements in North Macedonia as at the end of 2021:

**Table 1.2: Registered legal persons and arrangements**

Type of Legal Person	Number as of 31.12.2021
Sole proprietors	6,082
General Partnership	354

Limited Partnership	9
Limited Liability Company	12,198
Simplified Limited Liability Company	9
Joint Stock Company	568
Limited Partnership with Stocks	1
Limited Liability Company (Single Member)	59,122
Economic Interest Group	41
Subsidiaries of Foreign Trade Companies	347
Cooperatives	289
Chambers And Business Associations	86
Political Parties	302
Trade Unions	161
Associations	16,449
Foundations	215
Religious Communities and Religious Groups	44
International Organizations	22
<b>TOTAL</b>	<b>96,299</b>

86. North Macedonia has a Central Register in place, which serves as the central point for the incorporation, registration and information of legal entities. The “Law on the one-stop-shop system and keeping a trade register and a register of other legal entities” regulates the so-called one-stop-shop system, a system whereby all registers have been centralised and entrusted to the Central Register, including the trade register, the register of other legal entities and the register of associations and foundations, among many others unrelated to legal persons and arrangements. Other relevant pieces of legislation in relation to legal persons and arrangements are the Law on trade companies, the Law on the central register, the Law on securities and the Law on associations and foundations. All data and information on legal entities held by the Central Register is available to the general public through electronic distribution systems, web services or in written form at the cost of a fee.

87. According to the Law on trade companies, there are 8 forms of trading companies that can be established in North Macedonia: sole proprietors, general partnerships, limited partnerships, limited liability companies (including single-owned LLCs and simplified LLCs), joint stock companies, limited partnerships with stocks, economic interest groups and subsidiaries of foreign trade companies or sole proprietors. The most common legal form are single-owned LLCs (approximately 75% of the registered trading companies), followed by LLCs (15%), which also makes them the most prone to be involved in criminal cases, including ML. Most companies in North Macedonia develop their business activities in the retail sector (35% of registered companies), followed by the processing industry (12%) and the construction sector (9%). Legal entities tend to be incorporated and registered using the services of so-called “registration agents”, that is, lawyers and accountants authorised to submit information on the legal entity to the Central Register. Information on the aforementioned types of companies, the registration process, as well as in relation to other types of legal entities such as associations and foundations is available on the Central Register’s website.

88. In the particular case of joint stock companies, article 415-a of the Law on trade companies requires the supervisory board to establish an internal audit function in charge of assessing the adequacy and effectiveness of certain aspects of the company, such as the internal control systems, the risk management policies, the information systems or the accuracy and authenticity of accounting books and financial statements. Additionally, large and medium-sized joint stock companies and LLCs are obliged by article 478 of the same law to have their financial

statements externally audited and with an audit opinion under the possibility of a misdemeanour sanction in case of non-compliance.

89. Companies are struck off the Central Register when they become inactive in accordance with the conditions set by article 477-a of the Law on trade companies, consisting of not having complied with the annual obligation to submit financial statements and the PRO confirming that the company has indeed not conducted any transactions or managed its funds and property during the period concerned. Once the inactivity status has been confirmed, the deletion from the register occurs within the following 30 days.

90. In terms of legal arrangements, North Macedonia has not signed nor ratified the Hague Convention on the Law Applicable to Trusts and on their Recognition, therefore there is no domestic legislation that enables the establishment or operation of legal arrangements in the country.

91. Bearer shares are not allowed, as the Law on securities requires shares to be registered in the Central Securities Depository (CSD), including its owners. The CSD monthly publishes on its website a list of all shareholders holding over 5% of any class of securities of listed companies, according to Article 67 of the said law.

92. Regarding the availability of beneficial ownership information on legal entities, North Macedonia has established, since January 2021, a BO register, which is administered by the Central Register, in accordance with the one-stop shop system. The authorized persons of legal entities or the registration agents are responsible for submitting the information online via digital signature in a period of maximum 8 days since the incorporation of the entity or the change in ownership taking place, as well as ensuring the accuracy, adequacy and validity of the submitted data. The BO register is interconnected with the register of population, where it draws information of domestic citizens reported as beneficial owners.

93. Authorities estimate that, as of March 2022, 92.5% of entities with an obligation to submit BO information to the register had done so, including LLCs, joint stock companies, associations, partnerships, foundations, subsidiaries, political parties, cooperatives, chambers, unions or communities, among others. 80% of legal entities have declared single BOs and most of them (93.1% of all BOs) are either nationals (92.6%) or resident citizens (0.5%), with foreign BOs being mainly nationals from Serbia, Bulgaria, Greece, Germany and Türkiye.

#### *1.4.6. Supervisory arrangements*

94. **The National Bank of the Republic of North Macedonia (NBRNM)** is the prudential supervisor, as well as the primary AML/CFT supervisor according to Article 151.1(1) of the AML/CFT Law, for banks and saving houses, exchange offices and MVTs (the so-called “fast money transfer services providers”, who mostly engage with money remittances) and other financial institutions providing payment services and electronic money institutions, although there are no entities operating in the country under the last two categories, since the legal framework regulating them is not yet in force.

95. The NBRNM draws its supervisory powers from the Law on the National Bank, the Banking Law and the AML/CFT Law, as well as Decisions specifically issued for such purposes. These powers include that of conducting inspections to assess the safety, soundness, risk exposure, compliance with regulations and internal AML/CFT controls and procedures of the aforementioned groups of entities. The NBRNM also issues and revokes licences in regards to

banks and saving houses, authorises persons holding key functions in them and has registration regimes in place for fast money transfer service providers and exchange offices.

96. The National Bank policies require banks to adopt a three lines of defence model where the front office constitutes the 1st line, the AML/CFT officer (the “Authorized Person”) and Department is the 2nd line and the Internal Audit function acts as the 3rd line. The functions and tasks of the respective positions and departments, as well as the requisite skills and expertise are reviewed by the National Bank via its supervisory activities. According to the national legislation, the NBRNM also performs banking activities for the needs of the Government of the Republic of North Macedonia and international payment operations by opening and keeping accounts for government institutions.

97. The **Insurance Supervision Agency (ISA)**, on the basis of the Insurance supervision law, is the authority responsible for developing the insurance sector in North Macedonia and the public awareness of its role. As such, it is responsible for the market entry requirements, as well as the supervision, of insurance companies, insurance brokerage companies, insurance agencies and insurance brokers and agents. According to article 151.1(2) of the AML/CFT Law, it is also the primary AML/CFT supervisor for the aforementioned types of entities and professionals. Some of its other functions include giving proposals for the adoption of laws related to its area of influence, adopting bylaws, prescribe the conditions, manner and procedure to conduct supervision and cooperate with other financial supervisors, both domestic and foreign. It is a member of the International Association of Insurance Supervisors (IAIS).

98. The **Securities and Exchange Commission (SEC)** is the body in charge of ensuring the legality, honour and transparency of the securities market. Its functions are described in Article 184 of the Securities Act and include controlling the issuance and trading of securities, protecting the interests of owners and investors, licensing authorised market participants and appointing its directors, monitoring, controlling and inspecting the operations of licensed market intermediaries, setting the rules of the licensed stock exchange or cooperating with other domestic and foreign institutions. In terms of AML/CFT, Article 151.1(3) appoints it as the primary supervisor for brokerage houses, banks authorised to trade in securities, investment advisors and advisory companies and open, closed and private investment funds and management companies of such.

99. The **Agency for Supervision of Fully Funded Pension Insurance (MAPAS)** is an independent regulatory body aimed at protecting the interests of members and retired members of the mandatory and voluntary pension funds and encouraging the development of fully funded pension insurance. The agency licenses, withdraws and revokes approvals in relation to management of mandatory and/or voluntary pension funds, and supervises the lawful operations of the pension companies and the funds they manage. In terms of supervising the implementation of AML/CFT measures of companies managing voluntary pension funds, Article 151.1(4) of the AML/CFT Law sets MAPAS as the primary authority.

100. The **Public Revenue Office (PRO)** main mandate is in relation to tax-related activities, of an administrative or any other kind, such as implementing laws and regulations on taxes, registration of taxpayers, tax collection and record-keeping, monitoring and analysing tax revenues, monitoring and implementing international tax agreements, cooperating with foreign counterparts and providing international legal assistance, and, overall, ensuring the organisation, developing and functioning of the tax system. Pursuant to Article 151.1(5) of the AML/CFT Law, it also has AML/CFT supervisory competences with regards to casinos, tax advisors, real estate agents and pawnshops.

101. The **Notaries Chamber** has a Commission, pursuant to Article 160 of the Law on Notaries, composed of 5 of the members of the Chamber, to supervise the application of the provision of the AML/CFT Law by notaries, in accordance with article 151.1(7) of the same law.

102. The **Bar Association** has established a Commission that supervises the implementation of AML/CFT measures by its members. This self-regulatory body is defined as the main supervisor for lawyers and law firms by virtue of article 151.1(8) of the AML/CFT Law.

103. The **Postal Agency** basic competences in the field of AML/CFT derive from Article 151.1(6) of the AML/CFT Law, as it places it as the primary authority to supervise the application of measures and actions in this area by the Post of North Macedonia. This notwithstanding, the onsite interviews with the authorities revealed that the Post of North Macedonia is not providing MVTs services in practice, therefore, despite its formal appointment as supervisor, the Postal Agency has no activities within the AML/CFT scope to actually monitor. As a result, this area will be excluded from the analysis of the report.

104. The **FIU** also has powers in terms of supervision of OEs, as it is the sole AML/CFT supervisor for accountants, auditors, TCSPs, leasing companies and financial companies (small credit providers), as well as other categories of OEs that fall outside of the scope of the FATF standards (such as auctioneers or traders, intermediaries or storers of works of art). It also acts as the secondary AML/CFT supervisor of all other categories of OEs. Furthermore, once the legal provisions regulating VASPs in terms of AML/CFT enter into force in April 2023, the FIU will become their primary supervisor in this area.

105. The FIU can also perform so-called “extraordinary supervision” in relation to any category of OE, regulated by article 151.3 of the AML/CFT Law, which is triggered by situations where specific customers, transactions and/or entities are flagged by the FIU or any other authority due to information spotted in the course of their duties.

#### ***1.4.7. International cooperation***

106. The importance of international cooperation in criminal matters for North Macedonia stems from its geographical location and the country’s ML/TF risk profile. When investigating ML there is always a need to prove the predicate offence committed abroad. This is particularly important as many proceeds generating offences are trans-national due to the fact that North Macedonia is a part of the Balkan route. The mentioned exposes the country to, e.g., illegal trafficking and trade in drugs, people, arms and both licit and illicit goods particularly by organised crime groups, and other crimes with international nexus. With respect to ML/TF issues the most significant international partners for North Macedonia are the neighbouring jurisdictions.

107. In general, North Macedonia has a comprehensive legal framework to provide international cooperation to its counterparts either through MLA or other forms of international assistance. International cooperation is governed by the AML/CFT Law and various international conventions ratified by North Macedonia. The Moj is the central authority for both MLA and extradition requests, though requests may be addressed directly to the courts and PPO and BPO OCC. Some requests way also goes through diplomatic channels. North Macedonia has entered into an Agreement on Operational and Strategic Co-operation with the EU Agency for Law Enforcement Cooperation (Europol), has access to the SIENA) secure system for information exchange and participates in the Camden Asset Recovery Inter Agency Network (CARIN). North Macedonia is also a member of INTERPOL.

## 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### 2.1. Key Findings and Recommended Actions

#### **Key Findings**

##### **Immediate Outcome 1**

- a) North Macedonia's authorities have generally good understanding of the country's ML/TF risks. This being said, the FIU, LEAs and financial supervisors have better understanding of these risks than prosecutorial and judicial authorities. Although competent authorities demonstrated good understanding of TF risks and potential typologies that might occur in North Macedonia, recent developments in this area suggest that the threats environment evolves and that the TF risk level as determined by the 2020 NRA should be reconsidered.
- b) North Macedonia has carried out two National Risk Assessments (NRA) exercises, first one in 2016 - based on data collected for 2011 to 2015 and the second one in 2019/2020 - covering the period and data collected from 2016 to 2018. Both NRAs were performed using the World Bank methodology through eight working groups consisting of about hundred representatives from competent authorities and also the private sector. It is a candid and reasonably comprehensive assessment.
- c) Further to the 2nd NRA iteration, National Strategy for Combating ML and TF (Action Plan) addresses the major risks identified, and has partially resulted in mitigating measures applied by the authorities. Some vulnerabilities (lack of statistics and resources) identified in the 2016 NRA and meant to be addressed by the then Action Plan, reappeared in the 2nd NRA and are yet to be addressed.
- d) The scope of the NRA could have been broader in relation to some sectors, such as on ML risks deriving from informal economy. As an example, informal economy remains relatively significant, accounting for more than 20% of GDP. Further consideration appears to be needed regarding the appropriateness of risk level determined for some sectors, such as casinos.
- e) The NRA has been complemented with further sectorial and thematic risk assessments, such as on virtual assets service providers (VASPs), non-profit organisations (NPOs) TF risk assessment, National serious and organized crime threat assessment, as well as risk assessment by financial supervisors and several strategic analysis prepared by the FIU. Whilst the ML/TF risk assessment of legal entities is underway, construction sector and related activities around it merit further analysis with regard to ML related risks.
- f) Financial institutions (FIs) implement EDD measures in the scenarios provided by the law and in accordance with their internal controls and risk understanding which is in part, based on the NRA and sectorial risk assessments provided by their supervisors. As an example, the supervisors have instructed OEs to treat customers from the construction sector as high risk in accordance with the NRA.
- g) The interagency Council for Combating ML and TF is responsible for policy coordination and implementation of the NRA and relevant action plans. The Council, which relies significantly on the FIU resources, is also in charge of PF related matters. At an operational level, competent authorities demonstrated good cooperation and

coordination on ML/TF issues through the interagency National Coordination Centre (NCC), where all key agencies are represented.

- h) Conclusions of the NRA were widely distributed by the FIU and supervisory agencies to OEs. The FIU sent the NRA report to all OEs through its information exchange system and monitored whether it was viewed. The NRA report is publicly available in full.

### ***Recommended Actions***

#### ***Immediate Outcome 1***

- a) North Macedonia should enhance its ML/TF risk understanding, most notably through further assessments of the areas which did not benefit from sector specific risk assessments such as (i) legal entities and their abuse for ML/TF, (ii) casinos and (iii) informal economy. In addition, the authorities should ensure that emerging risks that have been identified are immediately reflected in ML and TF risks' level assessments.
- b) More profound assessment should also be carried out on consequences of integrity issues in judiciary and prosecution on their impact on the effectiveness of the overall AML/CFT efforts by the country.
- c) Authorities should ensure the collection and availability of comprehensive quantitative (i.e. statistics) and qualitative data (cases brought before the court for both ML and TF) for purposes of further NRA processes. Improvements in collecting statistical data pertains to almost all IOs in this report.
- d) North Macedonia should have an effective mechanism which would ensure that the risk assessment is updated and adjusted whenever specific circumstances require so – e.g., through regular exchanges between competent authorities, and whenever important developments in ML/TF areas are observed, or when intelligence/LEA situation reports suggest so.
- e) North Macedonia should ensure that CDD exemptions and enhanced measures for higher risk scenarios are based on the specific results/conclusions of ML/TF risk assessments.
- f) Mechanisms to ensure accountability for the effective delivery of policy objectives should be further strengthened. Action Plan activities should be streamlined with the clear deadlines for their implementation which would foster the monitoring and reporting on their implementation.

108. The relevant Immediate Outcome (IO) considered and assessed in this chapter is IO.1. The Recommendations relevant for the assessment of effectiveness under this section are R.1, 2, 33 and 34, and elements of R.15.

## **2.2. Immediate Outcome 1 (Risk, Policy and Coordination)**

109. Republic of North Macedonia is located in South-East Europe, in the centre of the Balkan Peninsula. The geographical location of the country affects the two key criminal markets, illicit drug trafficking and migrant smuggling. Further to that, corruption and tax evasion are seen as other two major ML predicates. The authorities consider the following jurisdictions as those of the highest risk from the ML/TF perspective and materiality: Bulgaria, Serbia, Greece, Cyprus, Switzerland, Türkiye, Great Britain and the United States.

### 2.2.1. Country's understanding of its ML/TF risks

110. North Macedonia has generally good understanding of its ML/TF risks. The highest degree of risk understanding was demonstrated by the FIU. Supervisors (in particular, those in charge of financial institutions) and LEAs demonstrated a good level of understanding of risks. Whilst the PPOs' risk understanding is satisfactory, the same could not be stated for judicial authorities.

111. North Macedonia carried out two National Risk Assessments so far. The first NRA covers the period 2014-2016, and its report was adopted by the Government in August 2016. The second iteration of the NRA, covering the period from 1 January 2016 to 31 December 2018, was adopted by the Government in March 2020. Both NRAs used the World Bank methodology as its basis. Consequently, the NRA process gathered and analysed information from various sources (available statistics from competent authorities, surveys and other academic researches, ML/TF typologies observed in the country and in the region, private and civil sector inputs, etc.). For the purposes of the 2<sup>nd</sup> NRA, eight different thematic areas were analysed:

- (i) money laundering threats,
- (ii) vulnerabilities of the ML prevention system
- (iii) five specific sectoral risks analysis (banking sector, securities sector, insurance sector, sector of other financial institutions and DNFBPs sector);
- (iv) financing of terrorism threats.

112. Whilst the information gathered during the process was a subject to an extensive analysis, its heterogeneity called for intensive inter-ministerial consultation and a multidisciplinary approach. This approach was kept throughout the NRA process and it was one of the added values of this large scale exercise. Consequently, it resulted in accurate identification and understanding of potential risks and risk factors, taking into account threats and vulnerabilities acknowledged by all stakeholders.

113. In addition to the NRA, three other ML/TF related assessments were also carried out. These assessments include (i) TF risks exposure of NPOs, (ii) VASPs ML/TF risk assessment, and (iii) National serious and organized crime threat assessment (SOCTA).

114. As it could be seen from the table below, competent authorities have taken a number of sectorial and thematic risk assessments following the adoption and publishing of the NRA results. Table below presents these assessments.

**Table 2.1: List of actions taken after the NRA by all authorities in terms of sectorial risk assessments**

Institution	Sectorial risk assessments
Ministry of Interior	<ul style="list-style-type: none"> <li>• National serious and organized crime threat assessment (SOCTA).</li> </ul>
FIU	<ul style="list-style-type: none"> <li>• NPO TF Risk Assessment.</li> <li>• VASPs Risk Assessment.</li> <li>• Strategic analysis on Proliferation Financing.</li> <li>• Strategic analysis on foreign threats.</li> <li>• Strategic analysis on legal entities.</li> <li>• Strategic analysis on transfers from/ to Pakistan.</li> </ul>

	<ul style="list-style-type: none"> <li>• Strategic and operational analysis of the needs of introducing financial restrictive measures against persons who represent a security threat to the Republic of North Macedonia.</li> </ul>
Insurance Supervision Agency	<ul style="list-style-type: none"> <li>• AML/CFT Strategy (2021-2023).</li> </ul>
NBRNM	<ul style="list-style-type: none"> <li>• Adoption of sectorial risk assessment of banks, savings houses, fast money transfer providers and exchange offices.</li> </ul>
Securities Exchange Commission	<ul style="list-style-type: none"> <li>• Updated sectorial risk assessment.</li> </ul>
Public Revenue Office	<ul style="list-style-type: none"> <li>• risk assessment –real estate.</li> <li>• risk assessment –pawn shops.</li> </ul>

115. On-site interviews and review of these processes confirmed that the FIU is the driving force for the NRA and subsequent sectorial/thematic risk assessments and was also a leading agency in understanding the ML/TF risks of the country.

### ML risk

116. ML risks are generally well understood by all key stakeholders. The 2020 NRA identified, as high threats, the following offences: (i) abuse of official position (i.e., corruption), (ii) drug trafficking, (iii) tax evasion, and (iv) smuggling of migrants. These threats, to a large extent, mirror those identified in the 2016 NRA. In terms of categorising threats from the geographical perspective, the NRA, identified several jurisdictions from which these threats could materialise: Bulgaria, Serbia, Greece, Cyprus, Switzerland, Türkiye, Great Britain and USA. Various criteria were used to determine these higher risk jurisdictions. More precisely, criteria such as (i) inflows/outflows from/to foreign jurisdictions, (ii) links between criminal groups in North Macedonia with criminal groups abroad, (iii) ML/TF typologies observed and cases investigated by competent authorities, and (iv) FATF grey list, were the key factors which informed the composition of this list.

117. Inherent threat factors are also generally well understood. The 2020 NRA took into account the fact that North Macedonia is part of the ‘Balkan Route’, between the Middle East and Europe. Other geographical factors contributing to ML risk and effects these factors may have on financial and non-financial sectors were also analysed. These mostly pertain to smuggling of migrants, illicit drug trafficking and links between organised criminal groups from the region and the Western Europe countries. The transportation of significant volumes of cash across borders and its effect on ML/TF risk was also analysed and acknowledged.

118. The threats as presented in the NRA appear realistic in the context of North Macedonia. The assessors, to a large extent, find the identification and analysis of threats as reasonable and comprehensive.

119. Many indicators, such as different international institutions’ reports, public opinion and high-profile cases investigated and prosecuted in North Macedonia, suggest that abuse of official position is a major ML threat in the country. This is confirmed in the NRA. Abuse of official position is a corruption related offence which is often committed by individuals (usually public officials) entrusted with an authorisation from the state. In the period 2016-2018 a total of 687 of these offences were detected, with the estimate that their commission damaged the state budget, shareholder companies or limited liability companies for around 55 million Euros. Perpetrators of these offences were domestic and foreign public officials, responsible persons in domestic and foreign institutions as well as individuals who acted (or were supposed to act) in public interest.

120. Further to this, during the period 2016-2018 a total of 226 tax related offences were detected, and their perpetrators have generated unlawful proceeds in the amount of approximately 18,5 million Euros. In North Macedonia, tax offences are considered as those which are most frequently associated with ML, i.e., a predicate offence which is commonly followed by an ML activity.

121. Other major threats are common to something what could be considered as a regional context of Western Balkans. All competent authorities demonstrated good understanding of risks posed by migrant smuggling, drug trafficking, fraud and loan sharking. The NRA confirms that criminal groups in the region use different payment methods to launder proceeds and investigators observed that money flows generated by these groups are difficult to be traced as they often involve straw men - mostly individuals with clean criminal record.

122. The threat analysis was complemented by identification of the areas of higher vulnerability. The key vulnerabilities identified are the following: (i) informal economy and difficulties of taxation thereof, (ii) capacities and resources available to competent authorities to effectively seize and confiscate proceeds of crime, (iii) capacities to provide and request timely international cooperation in criminal matters, (iv) capacities of the PPOs to pursue financial crimes (i.e. parallel financial investigations), (v) effectiveness and efficiency of border control and (vi) integrity and independence of judges. Whilst the AT considers these vulnerabilities as realistic and material for the North Macedonia's context, the last point has not been sufficiently discussed in the NRA neither its potential consequences triggered specific analysis on how it may affect efforts by other authorities in combatting ML/TF. Whilst the extent to which the potential corrupt practices in judiciary may be obfuscating the full and proper identification of ML typologies and vulnerabilities merits further attention, specific set of measures aimed at strengthening the integrity in judiciary are included in the National Strategy of Prevention of Corruption and Conflict of Interest (2021-2025) and its Action Plan. Authorities advised that a number of the Action Plan measures have already been applied, but the AT could not assess to what extent these measures could mitigate the identified risk. In addition, issues related to prosecution of stand-alone ML (see IO7) merit to be analysed in the NRA, including a set of measures how this problem could be solved.

123. Significant role of cash-based economy along with corruption and tax evasion, widespread practice of informal deals which include compensations au lieu de payments through the financial system, as well as capacities of the competent authorities and their effectiveness in minimising informal economy are also included in the NRA. Whereas the authorities acknowledge materiality and risks of the informal economy in general terms, the AT is of the view that direct and indirect impact of informal economy on ML/TF risks and related ML typologies merit further attention by the authorities. Whilst prior to the NRA, policies and strategy documents were developed to analyse and address issues related to informal economy, more targeted analysis on its impact on ML/TF risks is still needed.

124. A strong point of the country's assessment of ML risks and their understanding is the private sector involvement in the process. It provided data and analysis, and also assistance in drawing up conclusions in specific areas (e.g. vulnerabilities of banking sector, non-banking FIs, non-financial obliged entities, etc.) Banking association, insurance companies, brokerage and investment funds, exchange offices, FMTS, casinos, lawyers, notaries and other DNFBPs as well as some non-obliged entities such as construction companies, participated in different surveys and analyses within the framework of the NRA.

125. Although the NRA defined the banking sector as the most exposed to ML compared to other FIs, it assessed its sectorial vulnerability as medium. As far as ML vulnerability in certain

banking products or services are concerned, high ML risks were associated with non-resident accounts and correspondent banking, medium-high risk for wire transfers and medium risks in fast money transfers. The origin of cash entering the banking sector, establishing a register of beneficial owners, establishing records and more active monitoring of the activities of non-residents, are the areas where the NRA noted a need for further improvements. This analysis and understanding of sectors exposure to ML appear realistic and in line with what was observed by the AT. The same statement applies to the following sectors: (i) brokerage houses and banks with a license to work with securities; (ii) insurance; (iii) exchange offices and fast money transfer service providers; (iv) DNFBP Sector, including legal and natural persons acting as investors in construction business, lawyers, accountants and tax consultants. For each of these assessments detailed analyses of their vulnerabilities were carried out, taking into account sectors' specific exposures to wide variety of ML/TF risks. As an example underlining this statement is the analysis of investments in real estate construction. Although the sector is not included as a subject to ML/TF obligations by the law, the cash flows in this business are high and thus triggered authorities' attention to analyse it from the ML/TF risks perspective. Even though the analysis of the risks this sector brings is of a good quality, addition of specific typologies when the sector was abused by launderers would further assist practitioners to understand these risks and thus to better detect potential ML activities.

126. DPMS were not assessed since they are not obliged entities, due to the consideration by the authorities that, given the prohibition of cash payments above 3,000 EUR, the 15,000 USD/EUR threshold established by the FATF definition of DPMS could not be legally reached. As already noted, lawyers and accountants have been assessed, and while they do not tend to provide offices for legal entities or act as their directors, the AT has detected cases where accounting and auditing firms were actually providing services such as incorporation of companies and NPOs and the provision of registered offices to companies. Whilst the authorities consider that no provision of services to companies or legal arrangements takes place in the country, this particular issue merits further attention and clear conclusion by the authorities on this matter.

127. As already noted, VASPs were subject to a separate ML/TF risk assessment. The overall conclusion is that the sector is exposed to a moderate ML/TF risk. The grounds to sustain this conclusion are mostly related to the low materiality of the sector in the country (18 active VASPs providing exchange services between VAs and fiat currency and vice versa, who are also supervised exchange offices and MVTs providers), the lack of TF cases, "insignificant" number of ML cases and prohibition to provide services in relation to anonymity-enhanced coins or the use of tumblers and mixers. This notwithstanding, the risks assessment highlights many issues related to the inherent risks of the technology, and, within the context of the country, it stands out a lack of regulation on the matter, particularly, in relation to initial coin offering (ICO). Discussions held on-site suggest that the risk understanding in this particular area is developing. In this context, VASPs met onsite expressed their expectations to receive guidelines from the authorities on the ML/TF risks they are exposed to, as well as on implementation of their AML/CFT obligations.

128. Although both iterations of the 2020 NRA contain certain references to how legal persons can be abused for ML within the context of setting out what are the main predicate offences and how proceeds of crime are usually generated, North Macedonia has not yet conducted a comprehensive risk assessment of legal persons. However, the methodology had already been developed and North Macedonia had already started an assessment of these risks by the time of the onsite visit. While the level of understanding of risks in this area is to be further developed during the forthcoming targeted risk analysis, some authorities (mainly the FIU and LEAs) have

good operational understanding as to how legal persons can be exploited for ML/TF, including the use of strawmen, and, in the case of FIU, some analytical documents have been produced in this regard (“Strategic analysis of legal persons subject to STRs submitted to the FIU”).

129. In general, the 2020 NRA finding with regard to the vulnerabilities appear realistic and in line with what the AT observed when examining different components of the North Macedonia’s AML/CFT system. Issues related to the capacities of the competent authorities in identification, seizure and confiscation of proceeds of crime (domestically and abroad) are further discussed in other parts of this report. For purposes of IO1, the AT is of the view that this vulnerability is one of the major obstacles and thus fully supports the authorities’ honesty and openness to discuss and raise these issues in the NRA, which was then followed by a specific strategy document (see CI 1.2 and IO8). In addition, the onsite interviews also confirmed that the construction business, tourism related services (including casinos) and agriculture are the sectors mostly associated with informal economy and tax violations, thus being the sectors exposed to ML risks. As far as the analysis of vulnerabilities of the private sector is concerned, in general, the overview provided above is good and convergent.

130. Whilst there is a scope for a more comprehensive understanding of risk in some sectors, this only requires enhancements to what is already a well-established process. Having said that, apart from more comprehensive understanding of threats coming from informal economy, the AT view is that the assessment on vulnerabilities of some types of entities (i.e. casinos) merits specific and more detailed analysis. The authorities advised that such assessment was hampered by COVID-19 as these entities were then inactive thus making it impossible to assess them from AML/CFT perspective.

131. Furthermore, the authorities acknowledge that the NRA report does not contain an assessment of consequences of ML/TF risks. Despite the lack of such a formal assessment, the awareness of negative consequences brought by informal economy, higher risk sectors, lack of effectiveness by prosecutorial and judicial authorities in prosecuting/convicting for ML and in confiscating proceeds of crime in conjunction with the issues of their integrity, has been observed across the range of different authorities, including also by the AML/CFT Council (see CI 1.2).

#### TF risks

132. As a general note, the competent authorities have good understanding of TF related threats. On the other hand, their understanding of vulnerabilities varies – while the FIU and the most material private sector entities (i.e. banks and MVTs) have good understanding of TF related vulnerabilities, this aspect merits further improvements with other competent authorities and obliged entities.

133. The TF part of the NRA was driven by four key threats. The analysis of these threats formed basis for assessing the TF related risk and its rating. These threats mirror country’s context and are the following: (i) large number of foreign terrorist fighters (FTFs) - persons who are/have been involved in the activities of foreign armies and police, paramilitary and parapolice formations through direct or indirect participation; (ii) other radicalised persons who, on their own initiative or under the influence/instructions of foreign terrorist fighters or members of terrorist organisations, may be involved in provision of logistics for terrorist activities in the country and/or abroad; (iii) terrorists and other radicalised persons infiltrated into migrant routes transiting through the Western Balkans region; (iv) criminal and radical groups and individuals whose activities are aimed at disrupting security and endangering the constitutional order.

134. The assessment of these four pillars of TF risks created a good basis for appropriate understanding of key challenges the country faces in relation to TF. Throughout their detailed analysis the authorities demonstrated a good broad understanding of core TF risks by the country.

135. The process of assessing the TF risks was well established and brought together key stakeholders, including the FIU and other intelligence agencies. This was of particular relevance for analysis in relation to FTFs and their financial profiling, including the money pathways they did or could have used to finance their activities. This is, context wise, the most material part of the assessment. The analysis also included details on FTFs family members and their close associates financial profiling, thus presenting a case of good practice in assessing both strategic and operational challenges for a country with a large number of FTFs. The NRA also identified problems in investigating and prosecuting FTFs funding – in these cases establishing of a purposive element (i.e. proving that the funds were to be used for terrorist activity or by a terrorist or terrorist organisation) – is seen as a key obstacle. The NRA concludes that the funds used for financing their trips to conflict zones were mostly from their personal savings which again derive from social welfare aid they received. Consequently, the TF risk is considered as medium-low. In addition, extensive efforts by LEAs and FIU to trace and identify TF activities related to FTFs suggest that FTFs from North Macedonia are mostly driven by ideological reasons and that they or their families received no financial or other benefits for joining ISIL. This was another reason why the NRA concluded that the TF is medium-low.

136. The 2020 NRA also examined possible existence of organised forms of activity of terrorist organisations. The analysis concludes that North Macedonia is not a target of international terrorist organisations which are mostly aimed against Western European countries. Existing threats and risks faced by North Macedonia are multidisciplinary, specific and by their nature and they may pose a real threat to the security and stability.

137. As already noted, the analysis covers broad range of areas/elements of importance for TF. It is comprehensive and of good quality. It is also realistic and it targets the most material issues for North Macedonia. The same could be stated for the competent authorities' understanding of TF risks. From that perspective, the AT has identified no issue of concern. This notwithstanding, some issues were identified in relation to the lack of updates to the 2020 NRA further to its adoption and events that might have triggered changes in the TF threat environment.

138. As further discussed under IO9 and IO10, in December 2020 a group, with three of its members being returnees from Syrian warfare, was arrested under the charges that they planned a terrorist attack in North Macedonia. Whilst the terrorism charges against them resulted in a conviction, the possible TF activity around this event (attempt of terrorism) is still under investigation. Furthermore, in September 2022, 15 FTFs (from Syrian warfare) were listed in a national terrorist list based on the UN SC Resolution 1373. Two of these individuals were listed specifically for their alleged involvement in TF. Both events, in view of the AT, affect the TF risk environment the country is exposed to. Whereas the AT commends the authorities for actions to prevent and disrupt terrorism and TF, it also notes that such changes in the risk environment merit immediate action and reconsiderations of the TF risks level. Subject to these reconsiderations, follow up measures/actions may be needed, including eventual changes of the 2020 NRA's TF risk rating. The authorities informed the AT of consultations they have had carried out on this particular matter, including recent preparation and signing of the *Memorandum of cooperation, coordination and exchange of information for efficient and effective application of the Law on restrictive measures*. Still, the AT retains its view of a need for further considerations in relation to TF risks.

139. Another element related to the TF risk assessment is the NPOs risk assessment (completed in 2021) which was carried out by a working group composed of the representatives of state bodies responsible for the establishment, registration, operation and monitoring of NPOs. The FIU, as well as the NPOs' representatives were also involved in this process. This assessment was made using data from various sources (statistics of competent authorities, case analysis, data from the NPO sector, surveys, etc.). In relation to the materiality of NPO sector, out of over 10,845 NPOs registered in North Macedonia, around 13% of them fall under the FATF definition of NPOs. The AT considers the NPO risk assessment to be reasonably comprehensive although some key areas are omitted such as the widespread use of cash, direct donations and the frequent use of cash boxes to raise funds. During the onsite visit, representatives from the NPO sector also presented some additional typologies and data that were not considered in the NPO risk assessment (see IO10).

140. Overall, the efforts made by the authorities to understand the TF risks present a set of thorough and good quality measures resulting in good analysis and good understanding of these risks. As also noted in previous paragraphs, a more vigilant approach appears to be needed in responding to changes in the TF related threat environment.

### *2.2.2. National policies to address identified ML/TF risks*

141. Pursuant to Article 4 paragraph (2) of the AML/CFT LAW, the Council for Combating Money Laundering and Financing of Terrorism has developed a National Strategy for Combating Money Laundering and Financing of Terrorism based on the findings of the NRA report with a supporting action plan. The plan consists of measures and activities aimed at reducing and managing the identified ML/TF risks and their consequences.

142. For purposes of strengthening the AML/CFT system, five national strategies have been prepared and adopted so far (2 of which are relevant for the period covered by this report – these are discussed in the following paragraphs). These are medium term strategies, which, as their basis, have the ML/TF risk assessments carried out thus far. The priorities emphasised in these strategies reflect the risk analyses findings, putting forward the activities needed for further improvements of the AML/CFT system. In addition, the strategies also put emphasis on a need to properly implement the FATF Recommendations and the provisions of the relevant EU AML Directives. These high-level priorities are transposed into specific actions to be implemented, all of which are attached to an institution(s) responsible to carry them out, within the specific timeframe.

143. 4<sup>th</sup> AML/CFT strategy was adopted in October 2017. It included 13 specific goals, each consisting of specific measures and activities covering the period 2017-2020. Documents and information provided by the authorities confirm that the vast majority of the actions/measure have been implemented. In August 2021, further to the adoption of the 5<sup>th</sup> AML/CFT Strategy, 15 specific goals were set forth, accompanied with the Action Plan for the period 2021-2024. These high-level goals aim at improving coordination, cooperation and concrete results of competent authorities in preventing, investigating and prosecuting ML/TF, as well as strengthening the TFS implementation system and prevention of NPOs abuse for TF purposes.

144. These goals are further fragmented into relevant measures/actions with deadlines and authority(ies) responsible for their implementation. Although these goals are in line with the NRA findings, the related activities are often formulated in very general terms and specific, measurable deliverables for accurate judgement on their effective implementation are thus not included. As an example, improvements in keeping relevant statistics, being a reoccurring item in a number of strategic documents, have not yet been materialised. Furthermore, Action Plan, does not explicitly

assign the competent authorities (apart from the FIU) to carry out any strategic analyses once the results of actions' implementation are in place.

145. In parallel, other national strategies and related actions that also include AML/CFT issues were developed. The most relevant are the National Strategy for Capacity Building for Financial Investigations and Property Confiscation with its Action Plan (2021-2023, hereinafter 'Financial investigations Strategy'), and the National Antiterrorism and Extremism Strategy also followed by its Action Plan. The implementation of the Financial Investigations Strategy's Action Plan is still on-going and by the time of the on-site visit very few measures (such as trainings for investigators and provision of IT equipment) were completed.

146. At the legislative field, actions have been taken to mitigate some of the risks identified: to further enhance financial inclusion and limit the informal payments, the AML/CFT law introduced limitations in cash payment to 3000 €. Consequently, an obligation was imposed to all banks to request and obtain declaration about origin of funds deposited on accounts. This measure, as authorities advised, is also aimed at mitigating the ML threats stemming from informal economy as well as certain ML risks in relation to construction business, where significant amounts of cash circulate.

147. In general, the actions as foreseen, mirror the identified risks. Their implementation in practice would still benefit from further streamlining and more targeted approach, i.e. the actions should have been more specific and detailed in many areas of risks. In addition, some specific ML/TF vulnerabilities of various high-risk FIs, DNFBPs and non-reporting sectors (such as those related to banks, brokerage houses, investment funds, fast money transfer service providers, accounting companies or construction) are not in the strategies' focus. As an example, one of the strategic goals deals with the problem of transparency of bank account holders and safe boxes, which is just one issue among many other contributing to the sector's vulnerability and thus does not seem strategic enough to be a separate goal. In view of the AT, this action, for example, could have been a part of the large-scale package of activities under a broader strategic goal related to addressing the risks emanating from the banking sector.

148. Furthermore, mechanisms to ensure accountability for the effective delivery of policy objectives could be strengthened. Budgets are not consistently indicated, while implementation timeframes that are included in the strategies are often long. Almost a half of AP's activities is continuous, which can make monitoring of their implementation challenging thus risking to dilute their effectiveness.

149. Although both NRAs acknowledge challenges in international cooperation and inability to properly analyse its effects due to lack of statistics, the relevant deficiencies are not fully covered by the recent AML/CFT Strategy (e.g. there is nothing about having effective case management and statistics systems for MLA, specific measures to actually expand international cooperation for recovering stolen assets, etc.). The AT also have noted that measures on human and IT resources are almost identical in 2017 and 2021 strategies indicating that little progress has taken place in the period under review. Some important actions are foreseen in the AML/CFT Strategy, such as introduction of the LURIS system, which provides efficient electronic management of documents and provides statistical data on various grounds. Moreover, the Strategy envisaged establishing of the Asset Recovery Office, which has been set up recently (see IO8).

150. The AT notes that in North Macedonia, activities on developing different strategies have been numerous during the period covered by this evaluation. The most important are the strategies targeting anti-corruption, human trafficking and suppression of informal economy. Whereas these strategies (including the AML/CFT one) are independent from each other and prepared by different stakeholders, more focus needs to be placed in their further aligning and the actions foreseen by them. Such alignment across these strategic documents would be

beneficial to improve coordination and streamline implementation of actions in relation to some of the key ML predicates.

### *2.2.3. Exemptions, enhanced and simplified measures*

151. No exemptions or simplified measures have been introduced as a result of the NRA. Exemptions provided by Article 14 of the AML/CFT Law make no explicit reference to the NRA findings and are instead based on the relevant provision of the 4<sup>th</sup> EU Directive. The Law also defines situations for the application of simplified and enhanced measures in accordance with the FATF Recommendations and the provisions of the EU Directives, as well as additional risk-based measures, such as: (i) restriction of the use of cash over 3,000 EUR, (ii) intensified measures for analysis of domestic PEPs, (iii) application of intensified measures for NPOs that have been identified as high risk, and (iv) submission of reports for products with a higher risk (loans, borrowings, life insurance policies, purchased chips in organizers of games of chance, exchange of virtual currencies, etc.). In addition to the legal requirements, other measures such as instructions for dealing with non-residents and non-resident accounts and for identifying the beneficial owner have also been introduced. However, the link between some of these measures and the assessment of risks was not clear.

152. FIs and DNFBPs implement SDD and EDD measures in accordance with the situations defined by the law and their own internal customer risk scoring and transaction monitoring systems (or manual ongoing monitoring checks in the case of most DNFBPs), as well as their ML/TF risk understanding, based on the NRA, sectorial risk assessments provided by their supervisors and internal risk assessment exercises. This leads to an implementation of EDD mainly in the cases of PEPs, NPOs, high-risk jurisdictions, cash transactions and non-resident customers. NBRNM, ISA and SEC have specifically instructed the obliged entities under their supervision to treat customers from the construction sector as high risk in accordance with the NRA findings on this matter, a practice that is also observed among DNFBPs. Other supervisory agencies have not called for any actions which would result from the NRA findings.

### *2.2.4. Objectives and activities of competent authorities*

153. Objectives and activities of the competent authorities are, in general, commensurate with the risks identified in the 2020 NRA and the subsequent AML/CFT Strategy including its Action Plan.

154. As a matter of fact, and as already noted in previous chapters of this Immediate Outcome, the AML/CFT Strategy and its Action Plan are designed in a way that they ensure that the objectives and activities of the competent authorities are consistent with the ML/TF risks. The first goal embedded in the Action Plan requires the authorities to formulate and coordinate their policies in line with the ML/TF and other related risks.

155. At an institutional level, the NRA findings informed, to a different extent, authorities' priority actions. The FIU and the financial supervisors prioritised their activities versus the threats identified by the NRA. For example, the FIU included the key threats/predicates as a criterion for prioritisation of incoming SARs through relevant internal procedures and posted the extended list of high-risk jurisdictions on its restricted website. It also initiated some internal restructuring focusing more on conducting strategic analysis. Consequently, the FIU carried out a number of strategic analyses targeting, inter alia, areas identified as ML/TF threats or vulnerabilities in the 2020 NRA: (i) foreign ML threats; (ii) abuse of legal entities for ML/TF purposes; (iii) transfers to/from a high-risk jurisdiction. Furthermore, in 2021, the FIU

established an electronic system for monitoring the cases it initiated. Other competent authorities (MoI, PPOs, Customs, Public Revenue Office, Commission for Prevention of Corruption) are obliged to enter data in this system and thus improve the overview of the status of cases. As regards TF, following the assessment of risks, the FIU prepared new indicators for TF for obliged entities.

156. National Bank amended its AML/CFT off-site supervisory procedures, including references to the level of vulnerability identified in the NRA for each of the sectors under the NBRNM remit. In addition, the NBRNM conducted thematic onsite controls regarding TF/PF for the whole banking sector (2021-2022).

157. Given that the NRA identified the capacities to pursue financial investigations as one of the vulnerabilities, Ministry of Interior undertook measures and activities for strengthening their capacities to conduct financial investigations and confiscation of criminal assets. The ministry's actions included, inter alia, establishing of a financial investigation unit to deal with financial investigations of all proceeds generating offences. Similar units were also established in the Customs Administration and in the Ministry of Finance (i.e. Financial Police). Further to these, Standard Operating Procedures for financial investigations across the different LEAs (i.e. MoI, Financial Police and Customs Administration) and those of the PPO are in process of being fully harmonised. Apart from these, the competent authorities are still in process of initiating more concrete and more targeted actions vis-à-vis financial investigations in the areas of higher risks, such as, for example, issuing specific guidance or continuous trainings on financial investigations in relation to specific predicate offences. Some actions are observed in relation to tax crimes, but these are a part of a large-scale plan to combat this type of criminality, rather than a result of the NRA.

158. With regard to TF, it is important to note the establishing of the Sector for Fight against Terrorism, Violent Extremism and Radicalism in the MoI. Whilst the primary focus of the Sector is on investigating terrorism, TF component is also included under their remit. More concrete TF related actions commensurate with the risks are carried out by the FIU – further to the NPOs TF risk assessment revision of indicators for TF suspicious transactions reporting has been done.

159. Regarding the activities of the supervisory authorities, the results of the 2020 National Risk Assessments informed, to some extent, the planning and implementation of their supervisory and risk assessment actions. In addition, the FIU, ISA and SEC undertook several steps to align their activities to ML/TF risks. As a consequence of NRA findings, the NBRNM has introduced amendments to the on-site supervisory procedure, which led to a shift from the SREP model, where ML/TF risk were considered as part of the operational risks of a bank, to a standalone ML/TF methodology, where information obtained from the sector, such as the volume and value of transactions or the number of high risk customers, is taken into consideration in order to risk rate entities and base supervisory actions upon their risk categorisation.

160. Further to the NRA, the ISA prepared and adopted its own AML/CFT strategy for 2021-2023, made amendments to their offsite and onsite procedures and introduced, as an offsite measure, questionnaires to the entities under its supervision in order to risk rate them for AML/CFT purposes, which, in turn, will influence the frequency of onsite inspections, aiming at entities rated as high risk being inspected at least every 5 years.

161. The Public Revenue Office (PRO) is in the process of shifting some of its activities towards the areas identified as of higher risk. The PRO is currently updating the sectoral risk assessment for real estate agencies, casinos and pawnshops. The aim of this assessments is to risk rate the sector participants, which should inform the PRO further actions.

162. Overall, the AT is of the view that objectives and activities of the competent authorities are generally in line with the risks identified. As already noted under CI 1.2, whilst, at strategic level, there is a clear intention to address the risk identified, this has not always been followed by implementation of concrete and targeted actions and allocation of resources. Apart from the FIU and some supervisors, more needs to be done by other competent authorities (e.g. MOI and PPOs) in this field.

#### ***2.2.5. National coordination and cooperation***

163. The Council for Combating Money Laundering and Financing of Terrorism (AML/CFT Council), whose administrative work is supported by the FIU, is responsible for coordinating the activities in relation to the NRA. The Council, composed of members from all competent authorities in combating /preventing ML/TF, takes note of the results and conclusions of the NRA and based on them develops the corresponding AML/CFT Strategy and its action plan. As discussed above, the implementation of the Action Plan, once approved, is monitored by the Council at its regular sessions. The AML/CFT Council meets quarterly but it is not clear what can trigger its extraordinary meetings. Although the Council has its Rules of Procedure, they do not impose formal procedures on how the monitoring of the action plan implementation should be recorded. The information on this matter is gathered by the FIU and then submitted to the members of the Council.

164. As it may be observed from the paragraph above, the Council is in charge for strategic decisions and policies against ML/TF. As an example, a decision to have the PPOs being a direct recipient of the STRs has been discussed and suggested by the Council. The effects of this decision could not be assessed during the on-site given that the AML/CFT law which introduced such provision started to be applied shortly before the on-site. At an operational level, competent authorities established their channels of communication, whereas the Council is involved in operational matters only in cases when this cooperation would not be smooth. The authorities advised that such situations are rare and when they occur, the issues mostly concern technicalities.

165. Vulnerabilities in confiscation of proceeds of crime are addressed by Strategy on Financial Investigation (see also CI 1.1 and IO8) which aims, *inter alia*, at strengthening cross sectorial cooperation and teamwork. Consequently, a National Coordination Center for Combating Organized Crime and Serious Crime (NCC) has been established and is functional since 2018. The Center is used as a platform for coordination and exchange of operational information between the MOI, the Customs Administration, the Financial Police, Public Revenue Office, FIU and the PPOs. Organization, competencies and functioning of the Center, including the modalities of information exchange and record keeping are regulated by the NCC's standard operating procedures. NCC performs cross-linking, unification, processing and analysis of data in order to determine possible connections and connections of persons, companies, assets etc. and enables fast exchange of information in real time, as well as the coordination of inter-agency activities (see also IO7).

166. In 2021, the Government adopted a Decision on establishing a National Committee for Prevention of Violent Extremism and Fight against Terrorism. The Committee has 23 members from across the different agencies and authorities. The Committee coordinates planning and actions needed to prevent, protect, prosecute and respond to the threats of radicalization that can lead to violent extremism and terrorism. It also serves as a platform for information exchange with the aim to detect, define, assess and intercept possible threats from terrorists and/or terrorist organisations. Authorities advised that the Committee also discusses specific

operational issues in relation to TF, details of which remain confidential. The AT observed that financial investigations into cases where terrorism is investigated last long and have not yet been translated (apart from one case) into prosecutions (see IO9). Consequently, the AT observed that this cooperation platform undoubtedly achieved significant results with regard to terrorism prevention and disruption. With regard to TF, more tangible results from on-going TF pre-investigations are expected in the period to come.

167. The Coordination Body for Coordination and Monitoring the Implementation of Restrictive Measures was established in 2018. This body is presided by a senior officer from the Ministry of Foreign Affairs, and has ten members from other competent authorities. It is in charge for ensuring consistency, coordination and monitoring the implementation of restrictive measures and informing the Government on this matter. The initiative which resulted in recent listing of 15 individuals in line with the UN SCR 1373, is the most important achievement of this mechanism (see IO10).

168. The Coordination Body for Coordination and Monitoring the Implementation of Restrictive Measures is also in charge for PF matters. On the other hand, inter-ministerial cooperation in the area of dual-use goods and technologies takes place within the Commission for Export of Dual-Use Goods and Technologies. The Commission considers applications for export licenses, brokerage services licenses and transit licenses for goods and dual-use technologies, prepare minutes for each individual case and submit the minutes with its opinion to the Minister of Economy for decision. More details on these decisions are provided under IO11.

169. Overall, national coordination and cooperation is functional and well set up. Having said that, the coordination framework could be improved to ensure better accountability for delivery of mitigation programs (see core issue 1.2).

#### *2.2.6. Private sector's awareness of risks*

170. Private sector entities participated in the elaboration of the NRA, by responding the questionnaires requesting information about their products and services and customers, which served as the basis for the NRA conclusions on sectors vulnerabilities and exposure to threats. Professional chambers and associations and representatives from different types of entities were also a part of the different NRA working groups.

171. After the adoption of the NRA, its results were disseminated by the FIU to both - competent authorities and the private sector through a series of trainings and informal meetings. Other supervisors, especially in the case of the NBRNM and the SEC, undertook, between 2020-2022, similar initiatives aimed at raising awareness in banks, MVTS providers, exchange offices, investment fund management companies and brokerage houses.

172. Certain measures at a sectorial level, especially within the context of the banking association and the NBRNM, were also adopted. As a result, unified on-boarding and source of funds statements or guidelines and instructions on how to deal with non-resident customers, NPOs or other high-risk customers, were approved.

173. During 2020-2022 14 awareness raising events on NPO TF risks were organized for NPOs and competent authorities.

174. As a consequence of these actions, private sector entities in North Macedonia are, overall, aware of the NRA results and use it as a basis of their own internal risk assessment procedures. Consequently, they acknowledge the risks associated with PEPs, cash transactions, informal economy, NPOs, high-risk jurisdictions, non-resident customers or high-risk industries like

construction, even if sometimes, especially within the less material FIs and DNFBPs, focus of internal controls is still put on these areas in cases when they are not relevant in the context of the business, thus decreasing the effectiveness of said internal controls by not focusing on the relevant business-specific risks instead.

175. The AT also notes that the country's awareness raising efforts appear to be concentrated on regulated sectors. Some unregulated sectors of high risk (e.g. construction business, agriculture) merit more attention by the authorities in raising their awareness on ML/TF risks.

#### *Overall conclusions on IO.1*

176. North Macedonia has made significant efforts in carrying out national risk assessments and producing a comprehensive report as well sharing it with the relevant actors across the competent authorities and the private sector. Overall, the NRA process, the resources used, the scope of information analysed and reasonable risk levels attached, ensured the authorities' proper understanding of the key ML/TF threats and vulnerabilities. Whilst there is a scope for a more comprehensive understanding of risk in some sectors, this only requires enhancements to what is already a well-established process. Having said that, apart from more comprehensive understanding of threats coming from informal economy, the AT view is that the assessment on vulnerabilities of some types of entities merits specific and more detailed analysis.

177. TF risks are generally well understood among the authorities involved in a wide range of actions in the field. Although some latest development leading to possible changes in the TF risk environment did not trigger updates of the TF part of the NRA, operational and other actions carried out by the competent authorities confirm that the TF risks understanding remains consistent.

178. North Macedonia developed two strategic documents following the NRA, as well a number of other relevant strategies, which mainly reflected the risks identified. Cooperation and coordination platforms for both, strategic and operational matters were established, whereas the FIU is a driving force in these endeavors.

179. **North Macedonia is rated as having a Substantial level of effectiveness for IO.1.**

### 3. LEGAL SYSTEM AND OPERATIONAL ISSUES

#### 3.1. Key Findings and Recommended Actions

##### **Key Findings**

##### **Immediate Outcome 6**

- a) A range of financial, administrative and law enforcement information is accessed by the authorities. The AT commends the FIU for producing financial intelligence that is timely disseminated to the LEAs. However, available statistics and review of cases initiated upon FIU disseminations suggest that LEA and PPO use this intelligence only to limited extent to develop evidence, launch investigations and trace criminal proceeds in relation to ML/TF and underlying predicate offences. Whilst reasons for this are manifold, lack of adequate resources has been outlined by all competent authorities (in particular FIU, Customs, MoI, FP and PPO) that are competent to detect, investigate and prosecute ML/TF and related predicate offences.
- b) To a large extent the FIU has adequate technical tools in place to perform financial intelligence actions that support the needs of its partners. LEAs and PPOs view financial intelligence produced by the FIU to be of a good quality and helpful to carry out investigations. The lack of feedback from the competent authorities to FIU on how financial intelligence is used hampers and the outcomes of its use. Although the ASKMK system allows for electronic and secure exchange of information, there are obstacles in place for LEAs to use the system.
- c) The FIU serves as an intermediary between the OEs and LEAs, transferring almost all STRs (with additional information and analysis) into disseminations to LEAs with only limited prioritization. This restricts the LEA (due to the lack of resources) in their ability to focus on the most material cases given the risk profile of the country.
- d) The lack of comprehensive statistics hampers the FIUs' ability to assess its effectiveness, tailor its priorities accordingly and perform strategic analysis. The FIU gathers statistics and performs strategic analysis to some extent, focusing on development on typologies and red flags.
- e) The general quality of STRs is considered good. Nevertheless, further technical improvements for the STR reporting process would improve the timeliness of the FIUs work. Upon a receipt of an STR the usual practice of the FIU is to request additional information from all banking institutions. Whilst this approach is understandable, it creates tipping off risks, that have not been properly mitigated by the authorities.

##### **Immediate Outcome 7**

- a) North Macedonia has a broad range of LEAs involved in detecting and investigating ML and underlying predicate crime. At the level of prosecution, a specialized office has been established, which is exclusively dedicated to pursuing ML. Although the LEAs and PPO investigate ML, the results of these investigations/prosecutions also depend on existence of prior conviction for predicate offence(s). Complex ML schemes investigations and prosecutions are rare.
- b) LEAs are aware of the need to carry out parallel financial investigations, but these investigations are not systematically pursued. They rarely follow the money of

unidentified origin to detect their potential criminal source and are mostly conducted only in relation to predicate offences. Number of ML investigations, prosecutions and convictions is modest. Whilst the authorities argue that lack of resources, in conjunction with the often slow provision of the MLA from some jurisdictions are the key reasons for this, the fact is that LEAs, PPOs as well as the judicial authorities need to substantially improve their understanding and better target their actions against ML.

- c) The vast majority of cases dealt by LEAs and PPOs are in the '*pre-investigation*' phase aimed at collecting evidence and determining features of a potential criminal offence. The timing of this stage is limitless, as opposed to the subsequent '*investigation*' phase, which produces a significant discrepancy between (i) the number of ML investigations, prosecutions and convictions, and (ii) the number of pre-investigations launched for ML and proceeds generating predicate offences. The actual investigative phase (which starts when charges are pressed) is limited by a narrow, 18-month deadline for proceeding with an indictment, which poses the risk that investigations in cases related to serious crimes involving transnational and cross-border features or complex laundering schemes do not end up before the court.
- d) In principle, ML investigations and prosecutions reflect the findings of the NRA and typologies therein. As a matter of fact, the NRA was informed by identified typologies involving, in particular, the predicate offences of abuse of authority (i.e. corruption), fraud and drug trafficking, whereas ML stemming from other offences such as tax evasion, cross-border cash transfers and trafficking in human beings is still to be adequately addressed by an appropriate number of prosecutions. While legal entities are reported as frequently used as a vehicle for ML from some of the main predicate crimes (e.g., tax evasion), in practice no legal entities have been convicted for ML.
- e) On the face of it, the current legal framework provides no impediment for prosecuting different types of ML. In practice, the evidentiary standard regarding predicate offences in third-party and stand-alone ML cases has not been indisputably determined and the judiciary demonstrates a reluctance to draw inferences based on objective, factual circumstances and establish specific features of ML offence. Securing the conviction for a predicate offence is expected by the courts prior to prosecuting third-party ML.
- f) The majority of convictions achieved are related to self-laundering cases. The penalties imposed result from merging of individual penalties determined for a predicate crime and for ML. In the unanimous opinion of the representatives of the judiciary and PPOs, the penalties imposed for ML are not a significant component of the final penalties envisaged in single sentences. In respect of third-party ML cases, the authorities have not provided examples of custodial sentences, meaning that the sanctions imposed in these cases are not proportionate and dissuasive and thus not effective.
- g) The legislation provides for criminal justice measure (i.e., a non-conviction-based confiscation) in cases where ML conviction cannot be obtained. Little information has been provided on application of this measures, leading to a conclusion that it is yet to be used by competent authorities and thus did not bring results during the period under review.

### ***Immediate Outcome 8***

- a) Confiscation of the proceeds of crime, instrumentalities and property of equivalent value has been considered a policy objective in the AML/CFT Strategies and other

strategic documents adopted by the authorities. This has been further confirmed through adoption of the Strategy for strengthening the capacities for conducting financial investigations and confiscation of property and establishing of a proper institutional framework (inter alia through setting up of the Assets Recovery Office (ARO), the Agency for Management of Seized and Confiscated Assets), aiming to facilitate in-country and cross border actions targeting criminal assets.

- b) Some technical deficiencies as well as the limitation in application of temporary freezing measure during the pre-investigative stage of criminal proceedings (i.e. it cannot last longer than 3 months) present a risk that assets identified may not be available to competent authorities once a final confiscation decision is made.
- c) The cases presented confirmed that the competent authorities possess knowledge, tools and mechanisms how to identify, trace, seize and confiscate the proceeds of crime, instrumentalities and property of equivalent value. These cases, taking into account contextual factors of the jurisdiction, resulted in notable assets being confiscated. On the other hand, there are few such cases, suggesting that the systematic approach in operational matters by all competent authorities is still to be achieved.
- d) Property subject to financial investigations has been generated and located in the territory of North Macedonia. At very few occasions search for property originating (or allegedly originating) from crime was carried out cross border. Instrumentalities were subject to confiscation in a large number of cases and mostly those involving smuggling of migrants and trafficking of narcotic drugs.
- e) The application of cross-border cash controls resulted in large amounts of cash restrained. These actions were rarely followed by investigations into potential ML offences that could lead to ultimate confiscation of the proceeds. False or non-declaration of cash is, in practice, considered as a misdemeanour and triggers administrative procedure that mostly ends up in imposing fines and confiscation of the restrained assets over the statutory threshold.
- f) The results of efforts taken by the authorities, given the lack of substantial amounts/assets being confiscated in respect of proceeds of some of the high-risk predicate crimes (e.g. trafficking in drugs; smuggling of migrants, tax evasion) lead to a conclusion that the existing regime of confiscation reflects the identified ML risks to some extent.

### ***Recommended Actions***

#### ***Immediate Outcome 6***

- a) Human and technical resources of competent authorities involved in financial intelligence activities should be substantially increased (see also RA under IO.7). Technical resources should also include the development of electronic systems for LEAs and PPOs to enable the authorities to receive information from the FIU and adequately use the tools already available to the FIU.
- b) LEAs and PPOs should substantially increase the regularity and detail of feedback provided to the FIU regarding its disseminations (statistical information and information in regards quality and usage thereof) to ensure better support of their operational needs. The FIU should subsequently perform analysis on the feedback to ensure further enhancement of quality of its disseminations.

- c) The FIU should enhance its STR prioritization mechanisms and align its dissemination (both Reports and Notifications) with the needs of LEAs and PPOs based on the feedback provided in order to allocate the competent authorities resources to the most material cases given the risk profile of the country.
- d) The FIU should further strengthen its strategic analysis capacity, focusing also on strategic analysis reports that support the needs of its public sector partners.
- e) The FIU should take additional targeted actions to increase the volume (see IO.4) and quality of STRs throughout all sectors of OEs, focusing also on those sectors that have reported no STRs and are of higher risk. The FIU should introduce: (1) further technical improvements for the STR reporting process; (2) a mechanism for targeted information requests to avoid tipping off risks.

***Immediate Outcome 7***

- a) North Macedonia should seek to ensure that the judiciary's interpretation and understanding of the ML offence are aligned with the international standards, and that the existence of a conviction for the predicate offence is not a pre-condition for bringing ML charges before the court.
- b) The lack of human resources in the key LEAs and PPOs should be addressed immediately. At minimum, the positions as foreseen by organigrammes of these authorities should be filled in as a matter of priority (this RA is also valid for IO8).
- c) Prosecutorial authorities should adopt policy guidelines which would emphasise importance of proceeding in ML cases without waiting for a conviction for the predicate offence. These guidelines should also include (i) minimum evidential requirements for the prosecution of stand-alone and 3rd party laundering in the absence of a conviction for the predicate offence; and (ii) good practices in gathering evidence relevant for the conversion, transfer and integration of illicit proceeds. The guidelines should be made available to all prosecutorial authorities in the country. Granting PPOs a direct access to relevant databases, in line with data protection legislation of the country, should be considered.
- d) The authorities should review whether the 18-month deadline for completing the investigative phase of the proceedings conforms to cases involving serious criminal offences. Following this review, appropriate measures should be taken to mitigate risks imposed by the current deadline to the results of the investigations.
- e) LEAs and prosecutors, when carrying out financial investigations, should place an equal focus on investigating laundering of the proceeds as they put on investigating predicate offences. Specific components of their Standard Operating Procedures (SOPs) should translate such approach into concrete investigative actions to be applied.
- f) LEAs and PPOs should, at both policy and operational levels, make efforts and concrete steps to target more complex and sophisticated types of ML in cases involving organised crime (drugs trafficking, human trafficking, cases involving foreign predicates), tax evasion/fraud and grand corruption schemes. Given the risk and context of the jurisdiction, LEAs and PPOs should extend their investigations to legal persons used for ML and individuals who ultimately control and benefit from them.

- g) Judicial authorities should review sentencing policy for ML cases with a view to developing a greater understanding of the need for a sanctioning regime which would ensure that dissuasive sanctions are applied.

### ***Immediate Outcome 8***

- a) Authorities should keep and maintain detailed statistics regarding the activities relevant to confiscation of proceeds of crime, which should include number of seizing/freezing/confiscation measures and the amounts/nature of assets subject to these measures. In addition, statistics, at the level of different LEAs and PPOs on their performance on these matters, should also be kept.
- b) Once detailed statistics are available, the authorities should carry out a stock-taking exercise which includes comparison of assets traced, seized and confiscated against the overall value of assets generated through criminal activities in North Macedonia (including those moved abroad). The results of this study should then inform the scope and application of the concrete policy and operational measures which aim at increasing the effectiveness in the area of confiscation of proceeds of crime.
- c) The country should review procedures for seizing/freezing measures at the pre-investigative and investigative phases in order to avoid early release of the assets in line with procedural guarantees.
- d) Standard operating Procedures for LEAs and PPO should include detailed guidelines on how to trace, identify, seize and confiscate proceeds through application of non-conviction-based confiscation and confiscation from a third party. Further to inclusion of these guidelines appropriate training should be carried out for LEAs and PPO.
- e) Authorities should ensure that the origin of cash resulting from the cross-border seizures is regularly checked whenever there is a suspicion that it derives from criminal activity or that it may be a subject of ML/TF activity. In addition, the customs authorities should review their existing SOPs to include guidelines and procedures on when and how to detect suspicion on ML/TF/predicate offences once undeclared/falsely declared cash is found.

180. The relevant IOs considered and assessed in this chapter are IO.6-8. The Recommendations relevant for the assessment of effectiveness under this section are R.1, R. 3, R.4 and R.29-32 and elements of R.2, 8, 9, 15, 30, 31, 34, 37, 38, 39 and 40.

## **3.2. Immediate Outcome 6 (Financial Intelligence ML/TF)**

### ***3.2.1. Use of financial intelligence and other relevant information***

#### ***Access to financial intelligence and other relevant information***

181. The competent authorities in the field of AML/CFT access a number of financial intelligence and other relevant information required to conduct their analysis and financial investigations, to identify and trace assets, develop operational analysis and investigate ML/TF and associated predicate offences.

182. The FIU obtains information required to carry out financial intelligence by accessing several databases such as: Central Register, BO Register, national population register, and databases kept by the following agencies: FP, employment agency, Ministry of Justices (PPOs),

real estate cadastre agency, public revenue authority, SCPC, NSA, Intelligence Agency, Customs administration, Port and Civil aviation Authority and public procurement Breuer. These registers and databases are accessed by the FIU both directly and indirectly. Also, the FIU receives STRs, CTRs, notifications on suspicion of ML/TF from state authorities. The FIU also receives information via international information exchange channels such as the Egmont Group.

183. It should be noted that not all competent authorities have direct access to all necessary databases. The basic PPO for prosecuting organized crime and corruption is not connected with institutions such as the FIU the MoI, the Central Register, the Real Estate Cadastre, and the Employment Agency. The requested information, reports, etc. are submitted in written and sent by post. Some of the LEAs have direct access to banking information, which eliminates the need for requesting information from the FIU. It should be noted that the FP and Customs Authority both have electronic access of bank information, which diminishes the need to request such information using the FIU channels.

184. Apart from access to different databases, the LEAs also have access (upon request) to financial intelligence produced by the FIU. The LEAs can obtain financial information from OEs directly (with an order of a PPO or court) or through the FIU. It should be noted that information requested to the FIU by LEAs is in vast majority of cases related to requesting information from banks (where the FIU acts as an intermediary) rather than requesting the FIU's analysis. However, when replying to LEA requests FIU adds information from its databases and its analysis of the requested statements.

185. Given the concerns on the accuracy of information held in Central Register (for more detailed analysis, please refer to IO.5), it should be noted that BO information can be accessed by the FIU and other competent authorities via other sources, most importantly through requests to OEs. In addition, there is a mechanism in place, which requires OEs to report to the FIU discrepancies identified with BO information in the register and information at their disposal. Although, the mechanism is still developing in practice – it appears to be a potentially useful source of information for the FIU.

#### *Use of financial intelligence*

186. A range of financial, administrative and law enforcement information is accessed by the authorities. The available statistics and stage of development of cases initiated upon financial intelligence produced by the FIU suggest that this intelligence has only been used to some extent to develop evidence and launch investigations in relation to ML/TF and underlying predicate offences. Whilst reasons for this are manifold, the resources issue has been outlined by all authorities competent to detect, investigate and prosecute ML/TF and related predicate offences.

#### **Box 3.1: Case on use of financial intelligence Case D.V. 2021**

The MoI initiated a case by collecting operational data and data through Interpol. In a coordinated police action, police conducted a search at two locations in Skopje. They found in one location explosives (TNT with wires of electric lighters-M5 detonators for explosives), counterfeited 396,200 USD, polyethylene package containing 149 ecstasy tablets. The persons present at the scene were taken into custody.

Immediately after the action, the MoI requested information from the FIU on the involved persons. Accordingly, the FIU analyzed information from its databases and obtained additional data and information from all competent institutions (LEA, Employment Agency, Real Estate Cadastre Agency, Central Registry) and OEs (banks, insurance companies for life insurance and Central Securities Depository), and information from open source. The FIU performed financial analysis and determined that the involved persons using the MTSV, have sent significant

amounts of money to different persons in Balkan's countries and in Europe. It has also been established that the closest family members of the main dealer (his mother, brother and sister) sent the money through the MTVS to different persons in other countries.

Mol filed criminal charges for illegal production and possession of drugs, trading in explosives and counterfeit money. Basic Public Prosecutor's Office for the prosecution of organized crime and corruption, investigates grounds for suspicion of money laundering.

187. LEAs and PPOs obtain information from the FIU both as spontaneous dissemination and upon request (in most cases via the NCC). These disseminations include different types of information that the FIU has access to (e.g., bank account information), as well as the results of the FIU analysis.

188. When FIU analysis identifies suspicion of ML or TF, the FIU prepares a Report which contains identity data of the persons (legal and natural) to whom the suspicion refers and a brief description of the suspicion based on which the STR is submitted, description of the performed checks and the performed analysis, summary of the committed crime, list of the identified suspicious transactions, activities, and persons (as an example see Case Box 3.2). If the analysis does not identify suspicion for ML or TF, but rather identifies grounds for suspicion of another crime committed, the FIU prepares and disseminates a Notification.

**Box 3.2: Case on use of financial intelligence (Case S.A. 2019)**

In 2019 a bank reported suspicious transactions to the FIU on payments through accounts owned by off-shore legal persons, local and foreign nationals. The payments and supporting documentation (invoice, contracts) raised suspicion that accounts are used only to transfer the funds through the banking system.

Based on the received information the FIU conducted analysis of its databases and was able to establish the following: (i) connected legal entities in their ownership and management structure; (ii) identified resident legal persons without employed persons, (iii) identified that resident legal entities use the same address off registration, (iv) identified joint business partners, (v) mutual transactions, (vi) unapproved and returned transactions from correspondent banks, (vii) suspicion in the authenticity and reliability of documents by foreign banks, (viii) submitted reports on suspicious transactions in other countries for the involved legal entities, (ix) investigations in other countries. This information was disseminated to LEAs. Following FIU's Report, temporary measures have been applied, whereby the court has frozen 28,300,000 MKD and 299,787 EUR in banks in MKD, as well as 3,361,475 EUR in bank in another country.

This case is in pre-investigation procedure, and it is being conducted for the crime of ML, without a determined predicate crime. The public prosecutor on 05.09.2022 sent request for MLA to the PPO of 17 counties involved in this case.

189. As illustrated by the case example in Box 3.2, when carrying out financial analysis the FIU uses the information and databases at its disposal to connect legal entities in an ownership and management structure, analyse financial flows and existing links to form a suspicion of ML or predicate offences. Information from foreign FIU is requested to supplement the analysis and produce financial intelligence to be used by LEAs and PPOs to further develop evidence.

190. As discussed during onsite visit LEAs considered that the FIU is a good cooperation partner and a generally important source of financial intelligence. During interviews it was noted that competent authorities are requesting, and the FIU is disseminating financial intelligence and other relevant information to the PPO, LEAs and other competent authorities based on their requests. However, there is limited statistics available that could allow AT to conclude to what extent LEAs and prosecutors use financial intelligence obtained from FIU to develop evidence

related to ML and associated predicate offences in relation to the whole period under review (2017-2022). Available statistics in conjunction with case examples provided by the authorities suggest that financial intelligence produced by the FIU is only used to a limited extent by LEAs and PPOs to develop evidence and launch investigations in relation to ML/TF and underlying predicate offences.

**Table 3.1. Number of FIU disseminated notifications (predicate offences) that lead to pre-investigations, investigations, prosecutions and convictions (year 2021).**

Year	FIU disseminations (notifications)	Pre-investigation started based on notifications disseminated	Investigations started based on notification disseminated	Prosecution initiated based on notes disseminated	Conviction based on notifications disseminated
2021					
Ministry of interior (police)	94	40	6		
Financial Police	46	36	2		
Public Prosecutor Office	22	10	4	4	3

**Table 3.2. Number of FIU disseminated reports (ML/TF) that lead to pre-investigations, investigations, prosecutions and convictions**

Year	FIU disseminations (reports)	Pre-investigation started based on reports disseminated	Investigations started based on reports disseminated	Prosecution initiated based on reports disseminated	Conviction based on reports disseminated
2021					
Ministry of interior (police)	59	40	3		
Financial Police	9	8	1		
Public Prosecutor Office	21	12	4	4	3

191. Tables 3.1 and 3.2 above show that in year 2021 there was a low ratio of FIU disseminations that result in official investigations being launched by the LEAs. As can be seen from the statistics, majority of cases are still in the pre-investigative stage or have been terminated.<sup>8</sup> The financial intelligence is used for initiating predicate crime pre-investigation to some extent. The same cannot be stated for the investigative phase where only very few cases reach this stage of proceedings. This clearly indicates that evidence gathering by LEAs and PPO in both ML and predicate offence pre-investigations is a long-lasting exercise and still presents a challenge and might indirectly indicate that the FIU disseminations potentially lack quality and are used by LEAs only to a very limited extent.

192. In relation to financial intelligence being used to carry out or further develop TF related investigations/pre-investigations the AT notes that a small number of STR targeting TF has been submitted to the FIU so far. The competent authorities that are dealing with TF suspicion in cases carried out so far to a large extent rely on financial analysis and information that the FIU obtains. To further support this statement please see cases presented under IO.9 (core issue 9.1 and 9.2).

<sup>8</sup> The difference between investigative and pre-investigative stage of proceedings has been in detailed analysed under IO.7

193. Regarding technical resources of the FIU and other competent authorities - IT tools used for analysis are the database designed for the needs of the FIU (ASKMK) and Analyst Notebook I2. Also, LEAs use Analyst Notebook I2 for financial analysis. All institutions involved in financial intelligence and investigations have identified a significant lack of resources in regards both – technical (IT) and human resources (please also refer to IO.7).

### *3.2.2. STRs received and requested by competent authorities*

194. The FIU receives a range of different reports. Most importantly – a limited volume of STRs and a range of CTRs (cash transactions reports), as well as cross-border reports from the Customs authority. Both STRs and CTRs can be used by the FIU for triggering operation analysis or for conducting strategic analysis.

195. FIU has established an independent IT system – ASKMK – that enables reception, analysis, data processing and communication with entities and competent state authorities. This system allows all OEs to submit STRs in a predefined STR form electronically. The STR is automatically imported into the FIU database. The system also allows for communication with the OEs, e.g., enables electronic request for additional data to the OEs and replies thereof.

196. It should, however, be noted that there appears to be a technical problem with the STR template, which results in additional information request to the reporting OE after the submission of an STR. The problem is related to the pre-defined template of one of the mandatory annexes – the account statement information. As a result, after receipt of every STR, the FIU requests additional information to the obliged entity. In many cases this can be the same information, but in a different format, in other cases – information covering longer timeframe. Technical improvements of the STR template would minimize the need for additional information request to OEs submitting STRs.<sup>9</sup>

197. The volume of STRs reported to the FIU appears not to be commensurate for the risk, context, and size of the country (as identified under IO. 4, see Table 5.1). These STRs are reported by a limited number of sectors (i.e., banks, MVTS, life insurance, lawyers, notaries). The AT commends some initiatives taken by the FIU to enhance the volume and quality of STRs, such as dissemination (publication) of red-flag indicators and typologies. Notwithstanding the mentioned, these actions are limited. Furthermore, the AT determined that when the FIU acts as a supervisor and identifies un-reported STRs during its supervisory actions, these un-reported STRs are not reported to the FIU (although the FIU Supervision department has competence to report the suspicion) The AT also determined that a vast majority of cases provided in Book of Cases to demonstrate effectiveness have not been initiated by an STR (rather – notifications from other LEAs; applications by citizens: regular report; etc.), which might indicate that not all suspicion that should be reported as an STR actually is done accordingly.

**Table 3.3.: Number of fraud cases reported to LEAs and FIU**

	2017	2018	2019	2020	2021	2022	Total
<b>MOI</b>	255	359	273	313	245		
<b>FIU</b>	1	1	5	2	5	1	15

<sup>9</sup> It should be noted that the FIU has acknowledged this issue and is in the process to review and update these shortcomings.

198. As demonstrated in Table 3.3. above, vast majority of fraud cases are reported to MoI rather than the FIU. As explained by the FIU, MoI receives reports (applications) by victims of fraud, not from OEs and large volume of these cases are not related to the abuse of finance sector. However, the fraud cases reported to the FIU and those submitted to the MoI are extensively disproportionate. Reporting fraud related STRs to FIU would constitute a double volume of all STRs.

199. Regarding statistics on what types of predicate offences STRs are reported on – the FIU was not able to demonstrate any. Also, there are no comprehensive statistics available on what predicate offences the FIU has disseminated information. However, the FIU was able to provide an estimate thereof. The FIU provided information on its dissemination (reports and notifications) to all LEAs and prosecutor in relation to predicate crimes in the period 2017-2021: 7% Drugs Trafficking, 6% Migrants Smuggling, 30% Tax Crime, 17% Abuse of Official Power and Position, 5% computer fraud, fraud, smuggling excise goods (tobacco, oil, and medicine), property crime, illicit arms trafficking, counterfeiting currency, environmental crime, 15% cannot recognize predicate crime, 20% (Spontaneous information, ad acta).

200. The quality of STRs is considered good by the FIU. The STRs reviewed on-site by the AT were of good quality substantially, however, each one had technical shortcomings (e.g., no reference to mentioned adverse media information, insufficient periods of bank account information, lacking description of suspicion). The FIU noted that the quality of STRs submitted by DNFBPs and to some extent – MVTs, should be enhanced. There were several good quality corruption and PEP related cases stemming from STRs presented by the FIU on-site. However, not all these cases could be shared publicly due to the sensitive nature of ongoing investigations.

201. The FIU provides feedback to OEs on the quality of STRs - an n instant technical feedback, as well as feedback on the substance. In regard to the substance of STRs: 1) case-by-case feedback is given upon dissemination or archiving an STR, and 2) feedback is given in accordance with 8 different criteria based on which the quality is assessed on STR-to-STR basis (this information is collected, and feedback is given to OEs on an annual basis). These include criteria such as the timeliness of report, quality of analysis, timeframe of analysis, etc.

202. In addition to STRs, the FIU receives a large number of regular reports for a range of transactions (please see Table 3.4.). Namely, the OEs submit data, information, and documents to the FIU in the event of a cash transaction exceeding the amount of EUR 15 000 (both in cases of transaction or clearly related transactions). In addition, there are special obligations in place for some types of OEs.

**Table 3.4. CTRs (regular reports) submitted by OEs (for both – domestic and foreign currency)**

<i>Obligated entity</i>	2021	2020	2019	2018
<i>Financial institutions</i>				
Total number of CTRs by banks (*)	180709	136757	164616	334268
*Regular cash transactions	43528	33208	36039	38572
*Connected cash transactions	48433	34600	49403	50881
*Credits	35238	25940	33687	29793
*Loans	53509	43009	45487	215022
MVTs	81498	66065	23620	
Life insurance companies	281	1671	3243	234
Exchange Offices	101	34		
<i>DNFBPs</i>				
Casinos	82558	32821	12258	26970

Notaries	25044	29387	19577	26970
<i>Other OEs</i>				
Contracts for the purchase and sale of new vehicles	4657	3565	2415	4951
<b>TOTAL</b>	<b>374746</b>	<b>270266</b>	<b>225729</b>	<b>366423</b>

203. It should be noted that the FIU can and does use regular reports as a trigger from operational analysis, which has also led to successful disseminations (as described in Case Box 3.3).

### **Case Box 3.3: Regular Report triggering financial analysis**

A case was opened from Notary Public's regular report. According to the report an agreement was conducted for transfer of shares between legal entities D.S from country A as a buyer and S.H from country B as a vendor. S.H is a legal and beneficial owner of 75% (693,000.00 MKD, approximately 10.000 EUR) of the capital of domestic company - DOO Skopje. According to the additional data that FIU obtained by the notaries, on a transaction in the amount of 8,281,000.00 EUR was performed by legal entity D.S from a bank account in country A to an account held by S.H -i in a bank in country C. Additionally, the same funds were transferred from account of S.H. in a bank in country C to an account opened in bank in country C in the name of an off shore company G.S. The off shore company G.S is owner of S.H. The owner of the offshore company G.S is the offshore company N.N Limited, who is the registered owner of 50,000 shares with a nominal value of 1.00 US dollars per share. N.N Limited is a registered entity as a TCSP.<sup>10</sup>

204. Regarding additional information requests to OEs, the FIU request additional information upon receipt of every STRs. I.e., as explained by the FIU – due to the lack of a bank account registry in the country, in order to identify assets and potentially linked ML/TF schemes, the FIU requests additional information from all (13) banks in the country whilst performing financial intelligence actions upon receipt of an STR. This creates tipping off risks.

### **3.2.3. Operational needs supported by FIU analysis and dissemination**

#### *Operational analysis*

205. The FIU disseminates two types of information – reports and Notifications. The FIU actively disseminates information related to ML/TF and/or associated predicate offences to LEAs and PPO as exhibited by Table 3.5. and 3.6. The references tables demonstrate number of Reports and Notifications disseminated to competent authorities, as well as spontaneous information disseminated to foreign FIUs.

**Table 3.5. Disseminations (notifications) of the FIU based on the recipient**

Year	Ministry of interior	Public Prosecutor Office	Financial Police	Customs Authority	Public Revenue Office	Anti-corruption commission	The intelligence agency	Agency for national security
2017	68	13	37	1	49	2	1	/
2018	42	17	29	/	53	/	/	/
2019	53	15	30	/	25	3	2	6

<sup>10</sup> In February 2023 conviction was achieved for ML and for predicate offence (abuse of official position) in the first instance court, including confiscation of proceeds of crime.

2020	47	14	17	3	35	1	/	4
2021	94	22	46	1	86	4	/	9
2022	25	11	14	2	35	1	/	6

**Table 3.6. Disseminations (reports) of the FIU based on the recipient**

Year	Ministry of interior		Public Prosecutor Office		Financial Police	The intelligence agency		Agency for national security	
	ML	TF	ML	TF	ML	ML	TF	ML	TF
2017	13	6 <sup>11</sup>	2	1	13	/	6	/	/
2018	14	4	11	/	13	1	3	/	/
2019	25	8	13		7	/	1	/	/
2020	12	2	14		6	/		/	1
2021	52	7	20	1	9	/	/	/	3
2022	18	2	15	1	1	/	/	/	4

206. AT commends the fact that upon a receipt of an STR, a priority of a case is assigned based on 4 categories of incoming information: from highest to lowest priority cases are related to (1) TF, blocking transactions, connected with a case in FIU database; (2) PEPs, high risk predicate offences or high-risk countries; (3) construction, medical plants, pharmacy (cannabis); (4) other information. However, the priority matrix appears to be quite basic (e.g., no volume of assets involved), which might lead to not achieving a level of prioritization as described below. Additionally, some level of priority is also assigned on case-by-case basis considering different variables.

207. The FIU performs financial analysis in accordance with the Procedure for collecting, processing, analysing, and delivering data. As explained above, the FIU disseminates two types of information – reports and notifications (and spontaneous information based on information submitted via ESW). When FIU analysis identifies suspicion of ML or TF, the FIU prepares a Report, but if the analysis does not identify suspicious for ML or TF, but rather identifies grounds for suspicion of another crime committed (i.e., predicate offence), the FIU prepares and disseminates a Notification.

**Table 3.7. Number of disseminations by the FIU**

Year	Reports	Notification	Spontaneous information	Ad Acta
2017	30	111	30	11
2018	32	123	42	9
2019	41	111	38	22
2020	25	102	49	17
2021	81	243	42	38

208. The total number of FIU disseminations has increased throughout the assessment period as demonstrated in Table 3.7. The most significant increase has been in 2021. These statistics corresponds to similar increase in STRs received by the FIU (315 in 2021; 292 in 2020; 293 in 2019; 194 in 2018; 232 in 2017). Most disseminations throughout the period are Notifications rather than Reports, which indicate that analysis of financial flows rather indicate predicate criminality than ML. It should be noted that the quality of the limited scope of disseminations

<sup>11</sup> In period from 2017 to 2019 the TF reports are disseminated to Security and counter intelligence agency within Ministry of interior, which in 2019 was reorganized in separate independent body out of Ministry of interior as Agency for national security

presented to the AT – both Reports and Notifications – is good. Also, the FIU presented several cases (disseminations) with good and comprehensive analysis (as demonstrated in Case study 3.4. below).

**Box 3.4: Dissemination of the FIU**

In 2020, an STR was submitted to the FIU by a bank with suspicion that between a domestic legal entity and the North Macedonia’s Government a suspicious agreement for cooperation has been signed on the basis on which significant amounts of funds were transferred from the account of the Government to the account of the legal entity. Signatory of the agreement for the Government was a senior government official - PEP. Most of the funds from the account of the Government are transferred to the account of the legal entity and are further transferred to the account of one of the owners of the legal entity and are withdrawn in cash.

According to the data received from the Central Registry, it was determined that the legal entity was formed a short period of time before the signing of the contract; the owners are non-resident legal entities and natural persons, and the beneficial owner is a non-resident natural person. The FIU through the EGMONT network, requested data from the country where they originate from, id. requested information from their databases, criminal database, information concerning basic ownership structure and beneficial owners.

Based on the received data and the performed analysis, suspicions of a committed criminal offense of “abuse of official position and authority” was established and the report was submitted to the competent investigative body (MOI).

Due to the suspicion that the funds are being taken out of the territory of MKD in an illegal way, the Customs Administration was informed, which carried out a control over the natural person and the vehicle upon exiting the border, while no foreign currency was found in an amount that exceeds the threshold for the prohibition of cash withdrawals.

For the legal entity, the FIU has submitted an Order for monitoring of business relations to all banks, according to which it was informed about every realized transaction on accounts owned by the legal entity and its owners. The funds continued to be transferred from the Government’s account to the account of the non-resident legal entity, for which the FIU at this stage submitted a proposal for a temporary retention of the transaction to the PPO for prosecuting organized crime and corruption, for which a Court decision was made to freeze the funds at the request of the PPO.

The PPO for prosecuting organized crime and corruption, filed indictment of abuse of official position and authority against the government official and the owners of the legal entity. Also, a measure of detention was issued for the government official and an international warrant was issued for the non-resident natural person.

209. Nonetheless, due to insufficient information provided, the AT faced challenges in assessing the extent to which the FIU properly filters and prioritizes information received in STRs. Based on the statistics available, the FIU serves as an intermediary between the OEs and LEAs, transmitting almost all STRs (with additional information and analysis) into disseminations to LEAs. Considering that most disseminations are Notifications and taking into account the limited usage of this information by LEAs to trigger investigations (as discussed in detail below) - more efforts should be invested in focusing on ML suspicions to facilitate LEAs ability to focus on the most material ML cases. Operational needs of LEAs would be supported to higher extent, if the FIU would receive feedback from the LEAs and prioritize its disseminations accordingly.

210. The FIU also has a power to postpone transactions. This power is exercised via an order for application of temporary measures when the OEs are required to keep the transaction within 72 hours (or 120 hours, if it covers a weekend, holidays, or a non-business day). During this period, the OE is prohibited from notifying the customer of the reasons why the service or funds are not available until the customer receives a court decision. In these cases, there is direct communication and coordination between the FIU and the OEs. This power is exercised only in few cases (see Table 3.8.) but is in most cases followed by initiation on pre-investigative actions.

**Table 3.8. Number of postponement orders issued and following actions taken**

Year	Number of postponement orders issued	Number of cases where the order was followed by a preliminary investigation and a freezing order was issued	Number of cases where a prosecution /indictment was initiated	Convictions and confiscation	
				Cases	Amount (in EUR)
2021	6	5	/	/	/
2020	6 <sup>12</sup>	6	/	/	/
2019	6	6	1	/	/
2018	3 <sup>13</sup>	3	/	/	/
2017	1	1	/	/	/

211. The very limited statistics available do not allow the AT to precisely and comprehensively conclude to what extent LEAs and PPOs use financial intelligence obtained from FIU to develop evidence related to ML and associated predicate offences (see Tables 3.8., 3.5., 3.6., 3.1. and 3.2 for available statistics in this regard) and consequently – whether the operational needs of LEAs are supported in this regard. As demonstrated in Table 3.9. only approximately a half of the FIUs disseminations in the form of notifications lead to pre-investigations being launched (depending on the receiving authority). In regard to disseminations in the form of reports the ratio is slightly higher. However, only few percent of these dissemination lead to formal investigations being launched. Subsequently, a conclusion can be made that most cases (both based on Reports and Notifications) disseminated by the FIU are pending in the pre-investigative stage or have been terminated (please refer to IO.7 for more detailed information).

**Table 3.9. Number of FIU cases and prosecutions, convictions based on FIU disseminations**

Year	FIU Cases in the reference year			Related judicial proceedings in reference year – Number of cases						Related judicial proceedings in reference year – number of persons					
				Prosecution (based on FIU disseminations)			Convictions (final)			Prosecution (based on FIU disseminations)			Convictions (final)		
	Under analysis <sup>14</sup>	Archived	Disseminations	ML	TF	Other	ML	TF	Other	ML	TF	Other	ML	TF	Other
2021	484	435	354	4	/	/	3	/	/	9	/	/	/	/	/
2020	228	222	156	1	/	/	3	/	/	4	/	/	4	/	/
2019	314	250	188	1	/	/	/	/	/	1	/	/	/	/	/
2018	308	238	187	1	/	/	1	/	/	3	/	/	1	/	/
2017	335	247	206	2	/	/	1	/	/	7	/	/	12	/	/

212. In regard to the process of FIU disseminations, a new process has been established with recent amendments in AML Law. Until the relevant amendments, the FIU disseminated Reports

<sup>12</sup> Additionally, one request for postponing of transaction is sent to a foreign FIU

<sup>13</sup> Additionally, one request for postponing of transaction is sent to foreign FIU

<sup>14</sup> At the end of the respective year

and Notifications to the competent LEA and PPO, which, following the receipt of the dissemination carried out additional checks and analysis in order to direct the case to launching an official investigation (or terminating the case). After the additional checks, in order to determine the potential illicit source of funds, in accordance with the LCP, a notification by LEA was submitted to a competent PPO, which initiated investigation. After the relevant amendments, dissemination of Reports of the FIU will be made to the competent PPO, which then subsequently will re-direct the case to a competent LEA. Considering the recent nature of this process and the fact that there was yet no statistics available, the AT was not able to conclude the effectiveness of the newly established process.

213. Although, the reasons for lack of information or results of financial intelligence are manifold, one of such is the lack of feedback provided to the FIU by LEAs and PPOs. The FIU's IT system - ASKMK system - has the functionality to be used in cooperation with LEAs for both – disseminating and requesting information. However, no LEA is yet actively using the system. Based on the discussion with competent authorities, LEAs do not use the system due to lack of human and technical resources (i.e., lack of resources for digital document archives).

214. The FIU has also established a commendable system for tracing its disseminations – Case Monitoring System. However, this system has yet no support by other competent authorities. If followed correctly, this system will establish comprehensive data keeping mechanism in the country.

215. The FIU can initiate a case on its own initiative, only if there is a notification (e.g., STR, information from other FIU's, Regular CTR or request from a LEA or PPO) in the FIU's database. I.e., a case can only be initiated based on adverse media if there is information in the FIU's database.

216. Little information and statistics are available in regard to TF related financial intelligence. The FIU has explained that based on its experience, analysis in TF cases is comparably not sophisticated as the transactional activity does not involve banks but is rather straightforward. Based on explanations of the FIU, TF-related disseminations are drafted within 1 day. This might indicate a lower quality of this type of dissemination.

217. The FIU has received a steady number of STRs for TF – 3 STRs in 2017, 2 STRs in 2018, 2 STRs in 2019, 3 STRs in 2020 and 5 STRs in 2021. However, the number of TF-related disseminations does not allow for any conclusions to be made. The number of disseminations vary from 3 to 13 annually without indication of any trends.

218. In 2022 North Macedonia's authorities designated 15 individuals on its national sanctions list (for detailed information, please see IO.9 and IO.10). Based on explanations of the FIU, some of these individuals had opened bank accounts in local banks several years ago, but these accounts had remained inactive. No analysis (or other financial intelligence actions) was performed by the FIU or other authorities on the due diligence (KYC) information provided to banks upon opening these accounts.

#### *Strategic analysis*

219. Since 2019, the FIU actively performs and disseminates different products of strategic analysis, as well as is the leading institution in the NRA process (see IO. 1). These products are mostly disseminated (published) for the needs of the private sector. LEAs and PPOs were not aware of any strategic analysis products of the FIU. All strategic analysis pieces are available for the OEs at the FIUs "Restricted Website."

220. FIU prepares ML and TF red-flag indicators and typologies based on the trends identified in its operational analysis of the received STRs, as well as prepares changes in statistics within STRs received from different sectors of OEs. In regard to the CTR analysis, it appears that it is mostly limited by analysing increase or decrease in the volumes of different CTRs received by the FIU.

221. The FIU has carried out 6 strategic analysis reports since 2019. Most of the strategic analysis reports focus on development of typologies and red flags, as well as higher risk scenarios to be used by the OEs. The development of these reports include the usage of STRs, CTRs and other information available to the FIU.

222. Considering the above mentioned and the fact that there are only 2 analysts dedicated for strategic analysis, the AT concludes that the FIU carries out strategic analysis to some extent. The AT believes that the FIU would benefit from further strengthening its strategic analysis capacity. Regarding substance of strategic analysis, the FIU would benefit from revisiting the TF-dedicated section of the NRA (see also IO. 1).

223. It should be noted that the lack of comprehensive statistics is an overarching issue in the country. This hampers the ability of competent authorities to comprehensively assess their effectiveness, tailor their priorities accordingly and perform strategic analysis. Whilst the FIU gathers some statistics and performs strategic analysis as mentioned, the FIU's partners, such as LEAs and PPOs, would benefit from strengthening their data gathering systems (and actively using the FIU's established Case Monitoring System) and consequently also help the FIU to perform its analytical work.

#### *Resources and IT tools*

224. The FIU is an authority of the state administration integrated within the MoF. The FIU is organized in three departments with a total of 10 units. It should be noted that one of the Sectors within the FIU oversee both – part of core functions of the FIU, namely, international cooperation via Egmont channels, as well as the supervisory functions.

225. Regarding the premises of the FIU, although the premises appear to be adequate, there is a significant lack of space for ensuring appropriate division of responsibilities (information sharing) between the core functions and the supervisory functions of the FIU. I.e., there is one room shared between financial analyst, strategic analyst, supervisory inspectors, and IT professionals. The FIU would largely benefit from more premises being allocated to its needs.

226. The AT also identified minor issues regarding the autonomy of the FIU. There are instances where MoF signature is required, e.g., when publishing new vacancies and subsequently on-boarding new employees. There have been instances where MoF has declined publishing a new vacancy due to the general approach to reduce the government staffing. MoF signature is also required in cases of a promotion, if it requires increase in salary. These issues can have a limited effect of the overall effectiveness of the FIU.

227. As for the FIU resources, the FIU appears to be equipped with all basic needs for analysts and largely suitable premises. However, there are some technical limitations for carrying out effective financial analysis, such as only 1 computer used by all analysts for purposes of OSINT analysis.

#### ***3.2.4. Cooperation and exchange of information/financial intelligence***

228. Interviews and statistical data on the number of information requests sent by LEAs to the FIU, together with the information presented, confirm that there is good cooperation and

information exchange on a regular basis. As per explanations of the FIU and LEAs, the size of the jurisdiction and the location of the institutions allows also for informal information exchange and consultations among the competent authorities.

229. The cooperation between the FIU and LEAs, and PPO is carried out on a paper-based manner. As mentioned above, the FIU's IT system has the functionality that would allow the LEAs and PPO to request information and receive disseminations via secure electronic channels, however, this functionality is not fully utilized due to the lack of human and IT resources of LEAs and PPOs. As noted by the FIU, in urgent cases the information between FIU, LEA and PPO are exchanged informally by more expedited channels (e.g., by phone or through meetings), which cannot be considered secure channels for information exchange. Therefore, the FIU and LEAs, as well as PPOs would benefit from streamlining their cooperation via electronic channels.

230. LEAs and PPOs actively request information from the FIU. Such requests in most cases are carried out via the NCC, where representatives (liaison officers) from the MoI, the Customs Administration, the FP, the FIU, the PRO and the PPO have been referred to in order to ensure faster operational cooperation. The FIU's representative in the NCC has direct access to FIU's database, therefore can ensure faster information exchange upon requests of LEAs and PPOs. Also, often the FIU channel is used to obtain bank account information. All data, information, and documents subject to this procedure are confidential and may be used only in accordance with the AML Law, that is, for the sole purpose of preventing ML/TF. The documents from this procedure are classified with the degree of classification "Confidential". Regarding such information requests, there appears to be limited instances when LEAs would request the FIU's analysis, rather than bank account information or information from FIU's database.

**Table 3.10. Information received from and disseminated to competent authorities by the FIU**

Institution	2017		2018		2019		2020		2021	
	Received	Submitted	Received	Submitted	Received	Submitted	Received	Submitted	Received	Submitted
<b>MoI</b>	44	R <sup>15</sup> :4 N:40	16	R:5 N:11	23	R:8 N:15	14	R:6 N:8	18	R:6 N:12
<b>BPO OCC</b>	8	R:1 N:7	10	R:5 N:5	21	R:14 N:7	14	R:4 N:11	11	R:4 N:7
<b>FP</b>	7	N:8 <sup>16</sup>	1	N:1	1	N:1	1	N:1 <sup>17</sup>	/	/
<b>NBRNM</b>	/	/	/	/	/	/	1	/ <sup>18</sup>	1	/ <sup>19</sup>
<b>ACSC<sup>20</sup></b>	2	N:2	/	/	/	/	/	/	1	1 <sup>21</sup>
<b>Custom</b>	1	N:1	/	/	/	/	1	N:1	/	/
<b>IA</b>	/	/	4	R:4	/	/	1	N:1	/	/
<b>NSA</b>	/	/	/	/	/	/	1	N:1	2	R:3 <sup>22</sup>
<b>SJO</b>	/	/	1	N:1	/	/	/	/	/	/

<sup>15</sup> R is reports and N is notification

<sup>16</sup> One is notification is submitted upon information of the Securities Exchange Commission

<sup>17</sup> Reply on request of the FP to provide information in the frame od international cooperation

<sup>18</sup> Notification submitted to MoI

<sup>19</sup> Submitted spontaneous information

<sup>20</sup> Anti-Corruption State Commission

<sup>21</sup> Reply on request provide information in the frame od international cooperation

<sup>22</sup> One report is submitted to MoI and NSA

PRO	1	N:1	/	/	/	/	/	/	/	/
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231. As noted above, very limited feedback from LEAs and PPOs on the use of financial intelligence is provided to the FIU. This negatively affects the ability of the FIU to adequately assess the quality of its analysis and disseminations and subsequently tailor its analysis to the needs of relevant authorities. Although there is a clear legal requirement for LEAs and PPOs to provide feedback to the FIU, all authorities would benefit from systematic and regular provision of such feedback.

**Table 3.11: Requests that FIU received from LEAs and BPO OCC through the NCC**

	2018	2019	2020	2021	2022	Total
MOI	39	66	64	133	79	381
FP	10	91	86	68	50	305
SPO OCC	-	-	-	-	-	-
Basic Prosecutors Office	-	2	1	3	1	7
Customs Authority	21	57	56	95	126	355
Revenue Authority	-	45	33	67	40	185

232. The table above shows that LEAs (MOI, FP and Customs Authority) requests the information from the FIU in relation to the crimes under the remit of their investigations. The requests sent to FIU correlate to the higher ML risk events identified in the NRA. For example, the MOI sends majority of its requests on ML followed by fraud, drug trafficking, tax offences and in relation to corruption. On the other hand, FP, Customs Authority and Revenue Agency in majority of cases request information to the FIU in relation to predicate offences such as corruption tax crimes, corruption smuggling and drug trafficking. The PPO and the Specialised Prosecutors Office on Organised Crime and Corruption do not seem to use the NCC to request information from the FIU.

233. Regarding information security and confidentiality, the FIU and its counterparts appear to have comprehensive information security and confidentiality rules in place to avoid any branches or unauthorized disclosure of confidential information. However, based on interviews the AT identified potential instances of disclosing STR information to the defendant in a certain case (see analysis under IO.4).

#### *Overall conclusions on IO.6*

234. The FIU constitutes an important source of financial intelligence information the country. A range of financial, administrative and law enforcement information is accessed by the FIU and its counterpart authorities. The available statistics and stage of development of cases initiated upon financial intelligence produced by the FIU suggest that this intelligence has only been used to a limited extent to develop evidence and launch investigations in relation to ML/TF and underlying predicate offences.

235. Furthermore, there are very limited statistics available in the country in regards to ML/TF and associated predicate crimes, their investigations etc. This does not allow the relevant authorities to fully understand their risks and tailor their priorities and work flows accordingly. Consequently, in conjunction with the fact that there are limited human and, in some cases, also technical resources available for the authorities, the chain of institutions involved in financial

intelligence only to limited extent conduct their analysis and financial investigations, to identify and trace the assets, and to develop operational analysis.

236. The quality of STRs is considered good by the FIU, however, the volume of STRs reported appears incommensurate to the risk, context, and size of the country and there are no STRs reported by several sectors whatsoever.

237. The FIU has to a large extent adequate technical tools in place to perform financial intelligence actions, including, analyses STRs, that would support the needs of its partners – most importantly – the ASKMK system designed for the needs of the FIU. LEAs and PPOs view financial intelligence produced by the FIU as good and helpful to carry out ML/TF of predicate offences investigations. For successful exchange of information, the country has established the NCC, which allows for faster information exchange between competent authorities. However, further improvements in streamlining communication (especially feedback from LEAs and PPO to the FIU) is needed.

238. There are doubts on the extent to which the FIU properly filters and prioritizes information received in STRs. Taking into account that the FIU serves as an intermediary between the OEs and LEAs and is submitting almost all STRs (with additional information and analysis) into disseminations to LEAs. This might restrict LEAs in their ability to focus on the most material cases given the risk profile of the country.

239. **North Macedonia is rated as having a Moderate level of effectiveness for IO.6.**

### **3.3. Immediate Outcome 7 (ML investigation and prosecution)**

240. North Macedonia has, to a large extent, implemented the 1988 UN Vienna Convention and the 2000 UN Palermo Convention and criminalized ML offence. Despite some technical issues concerning selected material elements of the offence, the law framework, in general, conforms to the international standards and outstanding technical deficiencies seem not to adversely affect the overall efforts to pursue ML and underlying predicate offences. Apart from criminal legislation, North Macedonia has also developed adequate institutional structures designated for investigating and prosecuting ML as well as for gathering and sharing information on ML activities. Whereas various law enforcement authorities are in charge of criminal investigation in ML cases, a designated unit of the PPO (the Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption Skopje) exercises a strict oversight of these investigations.

#### **3.3.1. ML identification and investigation**

241. Within the framework of criminal proceedings in North Macedonia, criminal investigation is composed of two main stages i.e. pre-investigation and investigation itself. Notwithstanding a misleading terminology, the pre-investigation is a fully-fledged investigative part of the proceedings, carried out by LEAs under public prosecutor's guidance, which aims at collection of evidence and determining features of a potential criminal offence as well as a grounded suspicion that the criminal conduct in question has been committed by a specified perpetrator. Whenever such suspicion occurs a subsequent phase of the criminal proceedings (investigation) is launched which is directed by the competent prosecutor. The LEAs retain the capacity to collect intelligence before any investigative procedure starts. Whenever collected information justifies mere suspicion of a ML offence, they are obliged to inform the competent prosecutor who decides on launching a pre-investigation. Based on interviews with both prosecutors and the representatives of LEAs, the AT concluded that despite autonomy given to LEAs on assessment of information

collected, all the classified intelligence is routinely verified in respect of any indicators of ML offence.

242. At the level of the LEAs there are several units which are involved in investigation of ML. The main role is played by the Ministry of Interiors (MoI)/police, where the Department for Suppression of Organized and Serious Crime (DSOSC) was established. The specialized units within the DSOSC, namely the Financial Crime Unit and the Financial Investigation Unit are in charge of investigation of ML and underlying predicate crime. The Financial Crime Unit employs the head and 13 investigators whereas the Financial Investigation Unit has the head and eight police officers.

243. Apart from the MoI, the Financial Police Office (FPO) has been set up within the Ministry of Finance. Two units of the Financial Police Office, i.e. the Unit for Detection of Money Laundering and Other Proceeds from Crime and the Unit for Financial Investigations staffed altogether with 10 officers, are involved in the ML investigations. When setting up the unit, the idea was that it would be in charge for detecting mostly fiscal irregularities – i.e. tax crimes and ML. Investigation powers are also exercised by the Customs Administration where the Financial Investigation Service (FIS) operates.

244. The supreme prosecutorial authority is the Public Prosecution Office (PPO) in Skopje which acts at the level of the Supreme Court, brings cases to the constitutional court, conducts some of international cooperation and carries out managerial functions. As noted above, the chief role in investigating and prosecuting ML is played by the Basic Public Prosecution Office for Organised Crime and Corruption (BPO OCC) based in Skopje.

245. A unique character of that unit of the PPO is underscored by specific relation with North Macedonia's judiciary. The BPO OCC brings actions exclusively to the Department on Organised Crime and Corruption in the Basic Criminal Court Skopje. A practice that merits credit is setting up investigative centres for the purpose of ML investigations. The investigative centres are established by a decision of the PPO. The LEAs officers assigned to investigative centres, collect evidence either independently or under guidelines and instructions of the public prosecutor in charge of the case. The primary goal of establishing investigative centres was to enable multidisciplinary approach to cases (including ML investigations) and efficiently take all necessary investigative actions. At the time of the on-site visit two investigative centre were operational, one in BPO in Skopje and the other one in the BPO OCC.

246. The representatives of all the LEAs as well as the BPO OCC interviewed by the AT, raised the issue of understaffing that resulted in a high workload and thus adversely affected the pace of ML investigations. In case of the BPO OCC, a lack of 25% prosecutors can be observed in respect of the number of foreseen posts. Moreover, human resources are shared by all the departments of the BPO OCC, including the newly established department for prosecuting criminal offences committed by persons exercising police powers. Staffing problems also occur in the Financial Police Office where both departments involved in ML investigations lack 43 officers out of 72 envisaged members of personnel. BPO OCC also raised an issue on their limited access to data bases. Having a direct access to some databases would facilitate their efforts in building evidence during the course of their investigations.

247. Increased efficiency in detecting, prosecuting and adequately sanctioning the perpetrators of the crime of money laundering was set as one of the objectives of the Macedonia's National Strategies for fight against money laundering and terrorism financing adopted for the periods of 2017-2020 and 2021-2024. These documents put on all the stakeholders i.e. Ministry of Interior, Public Prosecutor's Office, Financial Police, Customs Administration, and FIU, an

obligation to conduct parallel financial investigations in a systematic manner when conducting criminal investigations into offenses that generate illegal income.

248. Adopted strategies resulted in issuing a number of documents that translated the goals of the Strategies into concrete actions to be taken. The main document in this respect is the Common Guidelines for financial investigations in North Macedonia adopted in 2019 which required that a set of actions must be taken in the course of ML investigations. They included, in particular: (i) search and identification of property benefit; (ii) detection of the type, value, and recipient of the property benefit; (iii) detection of all possible property transfers and circumstances related to those transfers, and (iv) any prospects that the property benefit will be used for further incriminating actions. The Common Guidelines explicitly stressed the need for cooperation between all those in charge of criminal investigations and parallel financial investigations.

249. Since 2013 the police have followed the Standard Operating Procedures (SOP) for financial investigations which further enumerated the investigative steps to be taken in the ML investigations. In July 2022 the SOP were amended and unified for all the LEAs. Within the PPO, no specific guidelines or SOP have been issued so far. The process of drafting specific SOP for the PPO was still in the pipeline at the time of the on-site visit.

250. At the level of the LEA the mechanism for prioritisation of cases was provided in the SOP. The criteria for prioritization pertain to all investigations, not necessarily those involving ML. The said criteria are focused on: *occurrence of the threat to the life or safety of citizens; involvement of the criminal group gaining significant property benefit or inflicting the harm to the same scale; and coverage of the criminal group with international investigation or an interest of EUROPOL or other relevant domestic and international institutions responsible for the fight against organized crime, terrorism and corruption.* Within the Customs Administration, prioritisation is based on the threats identified as a result of the NRA. These are primarily smuggling of drugs and migrants and human trafficking.

251. As already noted, the up-to-date SOP put an obligation on LEAs to routinely conduct financial investigations. When accessing the necessary information in the course of financial investigation, the competent authorities conform to the rules which have been outlined in IO 6.

252. The FIU is the principal source of information of suspicion of the ML offence. Under the recently adopted AML/CFT Law, all the reports on ML are now submitted directly to the BPO OCC in Skopje and notifications to the LEAs.

253. Authorities also advised that apart from the FIU disseminations, other sources are also used to trigger ML investigations (or strictly legally speaking 'pre-investigations'). These sources are mostly evidence gathered during the predicate offence investigations. As a matter of fact, more investigations derive from LEAs own actions/intelligence gathered than those deriving solely from the FIU disseminations. This is not to say that the FIU's role is undermined – LEAs and PPOs always include the FIU in their ML pre-investigations/investigations and are very satisfied with the assistance provided. Given the geographical location of North Macedonia and the threats posed by cross-border trafficking of drugs, weapons and human beings, the AT also notes that the international cooperation could be another vital source of information for triggering ML investigations. The practice applied during the period under review indicates, however, that incoming information/MLA rather served as a mean to verify allegations of predicate offences only.

254. In the course of investigation, LEAs and the PPOs may submit a so-called "initiative" to the FIU, which is a request for a financial analysis to be made whenever they come across a suspicion that ML has been committed. As a matter of fact, both LEAs and PPOs find the FIU's assistance and analysis very useful and they confirmed that the FIU has an important role in each and every ML

related investigations. Some of the cases presented in boxes in other chapters of this IO and in IO6 further corroborate this finding.

255. Against this background, insufficient evidence (i.e. ML cases) was provided by the authorities that they routinely and continuously carry out financial investigations in parallel with investigation of predicate offences. As a matter of fact, there is a considerable discrepancy between the number of detected predicate crimes which pose the main threats of subsequent ML, and the number of investigations launched in respect thereof. There are even fewer cases that reached the stage of prosecution and conviction. This disparity can only to some extent be explained as an effect of the backlog of pre-investigations and hurdles existing in the criminal proceedings. The crucial factor in this respect seems to be the lack of established practice to address the ML aspect whenever the proceeds generating offences are investigated.

256. It is commendable that North Macedonia also addressed in the legislation some innovative investigative measures such as opening a simulated bank account and simulated incorporation of legal persons or using existing legal persons for the purpose of collecting data. Nonetheless, the case law provided onsite mostly included simple cases where no such special investigative measures were applied.

257. As it has already been stated, the pre-trial criminal proceeding is composed of *pre-investigation* and *investigation*. Although both phases are under prosecutor's oversight, the latter has a fixed timeframe (it may last up to 18 months) whereas the pre-investigation is unlimited in time. Prosecutors and LEAs interviewed on-site advised that due to stringent timing of the investigation, the cases are kept at the pre-investigative phase until collecting all the evidence sufficient to press charges against identified perpetrators.

258. When the case reaches the next stage of the proceedings, which is investigation itself, some other obstacles in the swift conduct of the case occur. Investigation must be completed within 18 months. If that timing cannot be observed, there are neither legal rules nor established practice as to whether the investigation can be continued and evidence used in the judicial trial or the case should be dropped at this stage no matter the findings thereof. The investigative part of the proceeding may last no longer than 18 months. Therefore, if the prosecutor in charge of the case fails to indict a suspect before that term expires, the seizure of property must be waived as well. Such a course of action is particularly likely with respect to investigations into serious proceeds-generating transnational and cross-border crime involving complex laundering schemes, which would require more than 18 months to collect evidence sufficient to proceed with an indictment. This presents a risk to the overall effectiveness of the system.

259. Throughout the onsite visit, the AT was advised that the timing on pre-investigations in ML cases involving cross border money transfers or legal entities set up abroad is affected by the MLA requests directed to foreign jurisdiction whose execution might be excessively time consuming. That trend has been observed throughout the evaluation period.

260. As it may be observed from the statistical data provided by the authorities, 53 parallel financial investigations were launched along with the predicate offence investigations/pre-investigations during the period 2017-2022. These financial investigations resulted in very few ML prosecutions – vast majority of them are still in, what is de jure called, pre-investigation phase.

**Table 3.12: ML investigations, prosecutions and convictions**

Year	Total number of ML investigations	Total number of ML prosecutions	Total number of ML convictions
2021	4	5	8
2020	4	4	3
2019	9	3	2
2018	3	3	3
2017	4	4	3
<b>Total</b>	<b>24</b>	<b>19</b>	<b>19</b>

261. The table above presents the current state of ML related investigations, and prosecutions/convictions that followed. It also needs to be noted that the overall statistics for 2022 were not available, although one big case which includes ML charges and conviction has been finalised (please see the case 'Imperia', description of which is available under IO8). Although exact data on number of pre-investigations involving ML is not known, authorities advised that their number is substantially higher than the number of investigations launched. The authorities believe that most of these pre-investigations have promising trend and will bring more tangible results, demonstrating their capacities to properly deal with ML. In addition, they argued that the timing on pre-investigations in ML cases involving cross border money transfers or legal entities set up abroad is affected by the MLA requests directed to foreign jurisdiction whose execution might be excessively time consuming. Consequently, protracted pre-investigations result in limited number of investigations which fuel even fewer prosecutions and convictions.

262. Furthermore, the AT notes that the overall figures as presented and discussed during the on-site visit are modest, relative to the risks and context of the jurisdiction. Available statistics and actual ML cases cross checked against some key indicators, such as a volume of proceeds generating crimes in the country, further substantiate this finding. Whereas the statistics are incomplete and fragmented especially on actions and pre-investigations by different LEAs which target ML, case-law also indicates very few instances where sizable funds and complex ML schemes (i.e. large-scale ML involving funds deriving from high-risk predicates committed by e.g. organised criminal groups, politically exposed persons or legal entities, using the services of third parties (e.g. bankers, DNFBPs), often including cross border transactions) were subject to investigations/prosecution. The case-law also indicates that ML investigations rarely go without those targeting predicate offences whereas insufficient focus is on specific roles and actions of those who legalise/attempt to legalise criminally gained funds/assets.

263. Despite the efforts made by the FIU (see IO6) in providing financial analysis and supporting LEAs investigative actions with its expertise in financial matters, in vast majority of cases, pre-investigations last considerably long.

264. Whilst many of the actions undertaken by LEAs and the FIU in investigating ML are to be commended (please see cases in the boxes under IO.6 - core issue 6.1, IO.7 and IO.8) and whilst legal and institutional frameworks are in place (although the latter suffers from lack of human resources as a number of posts in LEAs and PPOs are yet to be filled), the AT is of the view that pro-active approach in tracing dirty money paths is still missing. As an example to support this finding, there is no established practice within the Financial Police to investigate the origin of the

benefits whose source cannot be determined based on available information on the owner. One of the cases presented to the AT as an example of ML investigation based on tax evasion did imply involvement of the tax administration in the investigation actions. Moreover, the tax evasion was detected as a follow-up to disclosure of false accounting rather than mismatching between officially declared income and the property owned by defendants. The AT is of the opinion that even if the absence of explicit standard demanding to launch ML investigation based on the mismatch between declared income and property owned by persons or entities in question, the enrichment not justified by the declared income should be considered as ML/predicate crime indicator and thus verified by the authorities through investigative measures. This may be even more important in corruption and drug trafficking related cases – a criminality that is recognised as a highest threat not only in the NRA but also in many other reliable sources.

265. In an environment where key LEAs still lack sufficient number of highly skilled officers in financial crimes, another factor that affects the effectiveness in investigating/prosecuting ML is a somewhat conservative approach by the judicial authorities with regard to the minimum of evidence needed to secure ML conviction. As discussed in more details under the Core Issue 7.2, the fact that judiciary has set up a very high threshold on evidence for predicate crime, taken together with other issues discussed above, suggest that substantial reforms in the overall spectrum of ML investigations/prosecutions/trials are needed.

266. Going back to the issue of statistics when juxtaposed with the total number of criminal offences reported in North Macedonia, it becomes apparent that only a nominal part of predicate crimes detected annually are addressed by ML investigations. This conclusion is also valid even if the overall number of these crimes is reduced by those offences which produce insignificant proceeds. Relatively high number of predicate crimes which have been considered as main threats to the state (trafficking in human beings; illicit trafficking in narcotic drugs and psychotropic substances; corruption and bribery, fraud, tax crimes) are not properly mirrored by ML investigations and prosecutions.

267. Another set of data that sheds some light on overall efficiency of ML investigations is the comparison of cases followed by a prosecution and cases terminated at a stage of investigation.

**Table 3.13: Statistics on cases terminated and cases prosecuted between 2017-2022**

Cases	2017	2018	2019	2020	2021	2022
Terminated	1	/	4	7	7	7
Prosecuted	4	3	3	4	6	/

268. The provided data demonstrate that since 2019 the number of terminated ML cases has been gradually growing and for the last 4 years it has exceeded the number of successful investigations. Whilst the reasons for such trend are manifold, the authorities advised that the key one is lack of evidence on predicate offence.

### ***3.3.2. Consistency of ML investigations and prosecutions with threats and risk profile, and national AML policies***

269. Throughout the onsite visit the representatives of the LEAs as well as the BPO OCC demonstrated satisfactory level of awareness as to the main country's threats and risks. This applies in particular to the abuse of authority (i.e. corruption), fraud crimes, migrant smuggling and drug trafficking. All the stakeholders participated in drafting of the NRA as well as of the

National AML/CFT Strategy and the Strategy on strengthening the capacities for financial investigations and assets confiscation. These strategic documents were not translated into guidelines addressing specificity of investigating predicate crimes posing the higher ML risks. Prosecutors met onsite argued that such guidelines are not necessary since the typologies of those predicate crimes and subsequent ML are well known within the BPO OCC and fuelled the NRA itself. During the onsite visit the authorities presented case-studies demonstrating ability to investigate ML deriving from high-risk predicate crimes. Some of the exemplary cases, at the time of the on-site visit, were at the stage of investigation and have not reached a trial stage.

270. Looking again at the statistical data and case law provided by North Macedonia, a conclusion can be made that the types of ML activities investigated and prosecuted so far are, to a large extent, in line with the country's risk profile. The exceptions to this are ML cases where tax crimes are predicates and cases against legal entities. The authorities are aware of the more cases should have been initiated targeting proceeds from tax crimes committed in the country. They also advised the AT that they were making efforts to improve their actions in the area, which would also include investigations against legal persons.

271. This fact that ML cases investigated and prosecuted so far mirror the risk profile of the jurisdiction should, however, be considered against several other factors. As already noted, there is a considerable discrepancy between the number of detected predicate crimes which pose the main threats of subsequent ML, and the number of investigations launched in respect thereof. There are even fewer cases that reached the stage of prosecution and conviction. This disparity can only to some extent be explained as an effect of the backlog of pre-investigations and hurdles existing in the criminal proceedings. The crucial factor in this respect seems to be the lack of established practice to address the ML aspect whenever the proceeds generating offences are investigated.

272. The case-studies provided under the Core Issue 7.3. address some of the predicate offences posing high risk to the jurisdiction. More specifically, the *RT* case identifies the abuse of office as predicate crime, whereas the *IA* case explores ML based on fraud and the *SH* case involves tax evasion committed abroad that predicated ML offence in North Macedonia. In addition, the *Imperia* case (see IO8) includes receiving a reward for illegal influence (i.e. corruption) and criminal association, as predicate offences. In addition, a case where an actual public official was investigated and then convicted for abuse of official position and, together with several other persons, for ML of approximately 88,000.00€, was finalised (at the first instance) shortly after the on-site. In this case, the authorities informed the AT that some issues with regard to the legality of evidence were challenged before the court and that is why all details of the prosecution were not shared during the on-site. Anyhow, it presents another example of ML prosecution where abuse of power was a predicate offence. The case of ML stemming from drug trafficking is discussed in the box below.

**Box 3.4. Case-study**  
**(production and trafficking of narcotic drugs, psychotropic substances, and precursors)**

The BPO OCC has been investigating the allegations that the family Sh. was involved in the production and trafficking of drugs and laundering of proceeds of the crime. The case was commenced based on intelligence collected by the Ministry of Interior indicating that Z.Sh. continues to be engaged in the illegal production and distribution of narcotic drugs, psychotropic substances, and precursors, together with members of his immediate family, i.e. his wife N.D., his son Al.Sh. and his daughter-in-law AnSh. As a part of the pre-investigation, special investigative measures were applied and several financial checks were performed regarding the immovable and movable property owned by Z.Sh. and his family members.

As the investigation was progressing, it turned out that Z.Sh. and his family members own real estate and movable property that do not correspond to their financial standing and official sources of income. All members of the family were unemployed and did not get profits from any other licit activity. Despite that, the financial analysis undertaken in the case determined that:

- Z.Sh. credited his bank account with 2,550 EUR and withdrew it in cash the next day,
- N.D. got several loans in the amount of between 3,500.00 and 5,000.00€ € from the banks and paid them off in cash
- N.D. deposited 1,200 EUR and 4,600 € in his bank accounts,
- N.D. paid his credit card bills amounting to 1,950 € with cash.

The Sh. family members regularly purchased the movable property with cash and used to resell them to other persons and family members, at a considerably lower price. Apart from that Z.Sh. purchased a family house and some other real estate in the name of his mother.

After the value assessment of real estate owned by Z.Sh. and members of his family, the competent court at the request of the PPO imposed a temporary ban on the alienation and encumbrance of the aforementioned property. Considering that Z.Sh and N.D. also held passports issued by the other country, the FIU addressed the FIU of the country that issued the passport. After receiving the data, it was determined that the persons Z.Sh. and ND have non-resident accounts to which they paid cash in significant amounts. Consequently, they were indicted and the trial has commenced.

### 3.3.3. Types of ML cases pursued

273. The current legal framework provides no impediment to prosecute different types of ML cases in North Macedonia. Whereas self-laundering cases do not pose any problems in prosecutorial and judicial practice as commission of predicate crime is proven through a conviction achieved simultaneously in the same case, an issue occurred as regards third party and stand-alone ML prosecutions. This is also reflected by general statistics concerning number of convictions for each, specific type of ML.

Cases	(a) Total number of ML convictions	(b) Number of convictions for self-laundering	(c) Number of convictions for third party laundering*	(d) Number of convictions for laundering proceeds of crime committed abroad
2021	8	6	1	1
2020	3	2	1	
2019	2	2		
2018	3	1	1	1
2017	3	2		1
Total <sup>23</sup>	19	13	3	3

<sup>23</sup> As noted, full statistics for 2022 was not available at the time of the on-site, but the reader needs to take into account that an important case for both IOs 7 and 8 was finalised in June 2022 – please see the case box ‘Imperia’ provided under IO8.

274. Based on information provided by prosecutors and judges met on-site, the commission of the predicate offence must be admittedly demonstrated with a remarkable level of certainty to pursue ML. In other words, it is not sufficient to prove that the laundered property is proceeds of some criminal activity – the court decision on this matter is needed to confirm the existence of a predicate offence. That, in turns, results in a small number of third-party laundering cases and a total absence of stand-alone ML prosecutions.

275. It needs to be noted that the evidentiary standard regarding predicate offences in respect of third-party ML presents the prevailing understanding on this issue by North Macedonia's judiciary. This standard has not been determined by a specific Supreme Court decision which would then be considered as a legal interpretation by a highest judicial authority in the country, and then followed by other court instances. By contrast, it is the way ML offence is understood by judiciary and thus there is a reluctance among prosecutors to bring cases before the court where this threshold of evidence on predicate criminality would not be available.

276. The respective provision of the CC that criminalized ML offence also provided for the possibility to draw inferences from the objective, factual circumstances and establish specific features of ML offence whenever *factual or legal obstacles* for confirming a predicate crime and prosecuting its offender occur. The interviews carried out with the judicial authorities and prosecutors met on-site confirmed that the courts are rather hesitant to apply this clause in practice. Such approach is mostly driven by diverse interpretation of the terms *factual and legal obstacles* where, in courts' view. establishing only factual and objective circumstances cannot substitute the evidence on predicate crime.

277. In practice, that reasoning results in courts' expectation to secure the conviction for a predicate offence prior or at least in parallel to prosecuting for third-party laundering. Such approach applies both to foreign and domestic predicate offences and, so far, has excluded the possibility to prosecute for stand-alone money laundering.

### **Box 3.5. Case-study 'RT' (Self laundering)**

The BPO OCC conducted an investigation regarding the abuse of an official position by K.J., the Public Prosecutor, and influence peddling committed by B.J.

Under the findings of the investigation, in the period between November 2018 and April 2019 in Skopje, B.J. persuaded J.K. that he maintained friendly relations with K.J. who was in charge of the criminal investigation against J.K.

B.J. assured J.K. that his position in that investigation might have been mitigated by lifting the detention measure and imposing a milder house arrest. Moreover, J.K. was promised to be granted the status of a protected witness and the case against him concluded with a plea bargain agreement. As a result of that agreement, J.K. would pay an insignificant amount of damages and regain his passports that had been seized. For carrying out the promise, B.J. solicited a reward of 1,500,000 EUR which J.K. and his wife A.K. handed over to him in cash.

In April 2019 in the court's proceedings against J.K., K.J. submitted written consent to issue a temporary passport for J.K. As it was established, in exchange for that action she acquired property benefits i.e. pieces of furniture worth 4,800 € and cash in the amount of 50,000 EUR.

The criminal investigation also covered money laundering, so financial inquiries were made and several expert examinations were conducted. As it was established, B.J., from December 2018 to July 2019 put the proceeds of crime into circulation using purchasing luxury furniture, clothes and footwear and spending the funds for staying in luxury resorts outside the territory of North Macedonia.

The Basic Criminal Court in Skopje passed a judgment of 18.06.2020, which was sustained by the Court of Appeals in Skopje in the judgment of 05.07.2021.

B.J. was found guilty of receiving a reward for illegal influence (Article 359 paragraph (1) and (7) CC) and of money laundering (Article 273 paragraph 1 CC) and sentenced to 9 years of imprisonment.

K.J. was found guilty of abuse of official position and authority (Article 353 paragraph (1) and (3) CC) and sentenced to 7 years of imprisonment.

The Basic Criminal Court in Skopje also adjudicated confiscation of instrumentalities of crime as well as direct and indirect proceeds thereof and confiscation of property of equivalent value. In respect of B.J. under Articles 97, 97-a, 98 CC, 100-a CC and Article 273 paragraph 13 of the CC, the following property items were confiscated: (i) 12 585 EUR and 100 USD in cash, (ii) property purchased with the proceeds of crime such as paintings, jewellery and watches, IT equipment, pieces of furniture and clothes, as well as (iii) the assets stored on Tax-Free fiscal accounts used as instrumentalities of the crime.

Regarding K.J., the court confiscated: direct and indirect property benefits from crime, including cash in the amount of approximately 50,000 EUR and movable property (a Louis Vuitton leather wallet and pieces of furniture). The instrumentalities of crime were also confiscated, such as mobile phones, and laptops.

The court's judgment stated that if the confiscation of the direct and indirect property benefit, which consists of money, was not possible from the perpetrators, the property of the corresponding value would be confiscated, including property transferred to the third parties. In addition, the property benefit will also be confiscated from family members of the perpetrators to whom it was transferred if it is obvious that they did not pay compensation corresponding to the value of the acquired property benefit or from third parties if they do not prove that they paid compensation for the case corresponding to the value of the acquired property benefit.

278. As regards third-party ML, the authorities of North Macedonia shared a case-study of the investigation into laundering of proceeds of fraud committed by an offender presiding an association who perpetrated frauds and then used his accomplices to launder the proceeds.

### **Box 3.6. Case-study 'IA' (Third party laundering)**

The BPO OCC investigated a case of fraud and subsequent money laundering committed by B.J. acting as the president of the International Association – a North Macedonia's NGO. On July 08, 2017, the International Association adopted an action plan that envisaged the construction of the European Centre for the Elderly (ECE).

On July 14, 2017, B.J. acting within the capacity of the president of the association rendered a decision on the implementation of the project and formed a project team that included L.T. an elderly infirm lady and J.E. who were responsible for the design of the ECE. When the alleged project of the ECE was designed B.J. concluded a cooperation agreement with L.T. and acquired the copyrights of the project. The fee for the project was to be paid by a strategic partner who was to be found at that moment.

To this end B.J. acting as the president of the association IA signed a Memorandum of Cooperation with one of the municipalities in Skopje and the municipality of Bitola, and thus made the impression that the ECE is supported by the state authorities which would finance its construction. In October 2017, B.J. met A.A. representing the DB construction company and solicited 350,000 EUR in exchange for being involved in the construction of the ECE. The money was paid to B.J. in cash which was followed by concluding the agreement for strategic partnership and business cooperation between the association IA and the DB company.

On December 13, 2017, B.J. on behalf of the association IA signed the preliminary agreement for strategic partnership and business cooperation with the construction company P represented by SM. After signing the agreement, the P company paid an instalment of the fee for the ECE project and credited L.T.'s bank account with 726 160 EUR. The rest of the fee was paid by the DB company to J.E. the co-author of the ECE project. Payments were made to her banking account in four instalments.

L.T. and J.E. withdrew the money in cash and handed it over to B.J. either directly or through H.B. acting as an intermediary.

Afterwards, some of the proceeds of fraud (208 000 EUR) were returned to J.E. by B.J. as donations and loans. J.E. deposited them on her bank account and then transferred to the accounts of BMG company and the TV station owned by B.J.

The same modus operandi was applied in respect to M.J. - a father of B.J., who received 220 000 EUR in cash, deposited the money on his bank account and transferred them to the BMG company and aforementioned TV station.

On April 07, 2022, the Criminal Court of First Instance Skopje passed a verdict by which the defendant B.J. was sentenced to 9 years of imprisonment for the commission of fraud (Article 247 (1) and (4) CC) and money laundering (Article 273 (1) CC). J.E. was sentenced to 4 years of imprisonment for the commission of fraud (Article 247 (1) and (4) CC) and money laundering (Article 273 (1) CC). H.B. was sentenced to 1 year of imprisonment for the commission of fraud (Article 247 (1) and (4) CC) and money laundering (Article 273 (1) CC). M.J. was sentenced to 2 years of probation for the commission of money laundering under Article 273 (1) CC. The International Association Skopje was fined 16,300 for the commission of fraud.

279. During the on-site visit the authorities presented two cases case where predicate crime was committed abroad. The first one, started in 2018 with an STR submitted to the FIU by one of Macedonia's bank, involved citizens of the neighbouring country who opened and used bank accounts in Macedonia's banks for natural persons and legal entities to transfer money derived from drug trafficking committed abroad. Although the appropriate evidence was secured in North Macedonia and laundered property was seized, the authorities did not proceed with prosecution of perpetrators – instead they requested the neighbouring country to take over the criminal investigation due to nationality of perpetrators. The request however has not been yet accepted.

### **Box 3.7. Case-study 'SH' (Foreign predicate offence – tax evasion abroad)**

The case was initiated by the STR submitted to the FIU by one of North Macedonia's banks.

The STR informed that some legal entities from countries A and B, through non-resident accounts opened in the bank, transferred significant amounts of money, to the bank accounts of legal entities domiciled in countries A, B and C, on the basis of invoices for rendered services. The funds were withdrawn by authorised persons in cash without any logical and economic justification. Additional data and information regarding the mentioned persons were requested by the FIU, and a financial analysis was conducted. Pursuant to the data on crossing the state border, it was determined that the authorized persons of the legal entities frequently arrive in North Macedonia through the border with country A, on the dates when the funds are withdrawn in cash from the accounts. The FIU submitted requests to other FIUs of several countries and obtained data on the ownership and structure of legal entities owning bank accounts in North Macedonia. The analysis of the transactions performed on the bank accounts in North Macedonia indicated that they had been credited by the inflows from the country C whereas the debits on the accounts had been mostly card payments in several countries and ATM withdrawals. Payments of current liabilities were not observed.

The BPO OCC upon the FIU's request filed the competent court with a motion to impose a temporary suspension of a transaction on a bank account of the non-resident legal entity MR based in the capital of the country A. The motion was approved and at the moment of its implementation the account was credited with 110,825.56 EUR.

During the pre-investigation procedure, the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption through international legal cooperation with - authorities of the country A established that R.T. acting in concert with as a responsible person manager and owner of the legal entity MR evaded paying income tax and violated Serbian Law on Foreign Exchange Operations by transferring 949,933.05 EUR of undeclared income to the bank account opened in North Macedonia.

Given the foreign nationality of the perpetrator as well as registered office of the MR company in the country A, the BPO OCC filed a request to transfer the case to the Higher Public Prosecutor's Office in the country A for criminal prosecution and trial. The response of the Public Prosecutor's Office of A has still been awaited.

280. The second case investigated by North Macedonia is a part of the international inquiry into a large-scale match-fixing, tax evasion and subsequent money laundering. The proceedings were launched in 2017 and are still at the pre-investigative stage. As a part of this case the BPO OCC executed incoming MLA request and seized the benefits of crime transferred to North Macedonia. No other investigative actions seem to have been taken.

281. The presented case-law shows that the competent authorities managed to achieve prosecutions and convictions for self and third-party laundering. Whereas this is to be complemented, limitations in carrying out ML prosecutions in relation to evidence of predicate offences are evident. Whereas this may often be justified by objective reasons and circumstances, judicial authorities need to reconsider some aspects of their understanding of ML offence and align it with what is a broadly accepted international practice in this field.

#### *3.3.4. Effectiveness, proportionality and dissuasiveness of sanctions*

282. The range of punishment as set out in the Criminal Code seems to be adequately dissuasive, in relation both to basic and aggravated forms of ML. In practice, average penalties imposed for ML in North Macedonia imply that dissuasive penalties (over 60 months) are rare whereas criminal sanctions inflicted for ML are ranging from 12 to 60 months and a certain number of convictions result is suspended sentences.

283. In the absence of comprehensive statistics, some numeric data were presented to the AT. They demonstrate that the duration of imprisonment in 2021 ranged from 6 to 60 months whereas in 2020 it was imposed for 12 months, in 2019 for 60 months, in 2018 for 12 months and in 2017 for 12-39 months. Imprisonment sanctions were also accompanied by confiscation of benefits of crime, instrumentalities or their substitute value. Apart from the fact that the highest sentences of imprisonment amounting to 60 months seem to be exceptional, the AT was not provided with respective data indicating the ratio of custodial and suspended imprisonments, and precise information whether the harshest sanctions were imposed solely for ML offence or rather as a combined punishment for ML and accompanying predicate offences tried in the same case. Thus, even if some custodial sentences were generally proportionate to the gravity of the prosecuted ML and imposed in a dissuasive manner, the overall dissuasiveness of sanctioning regime could not be fully assessed. In respect of non-custodial sentences, the numeric data imply that the average duration of suspended imprisonment is stable and amounts to 24 months. The probation period ranges for 24 to 60 months. As regards other penal measures, the authorities

indicated only expulsion of a foreigner from North Macedonia adjudicated in 2021. Throughout the last 5 years no fines were imposed as a penalty for ML.

284. In the AT view another factor that limits the possibility to fully assess and analyse sanctioning policy is the fact that majority of ML offences is committed in concurrence with predicate crimes. The CC provides that if the offender, by one or more actions, has committed several crimes being tried for simultaneously, the court shall prior to that determine the sentences for each crime separately, and further on pronounce a single sentence only. This rule applies to imprisonment and fines and whenever the court imposes imprisonment for crimes in concurrence, the single punishment must be greater than each individual sentence, but it may not reach the sum of the determined sentences, nor may it exceed 20 years of imprisonment.

285. Based on available statistics and on-site interviews with prosecutors and judges, whenever the concurrence of crimes comes up, the penalties imposed for money laundering do not play a significant role in calculating the final sentence. In respect of third-party ML, the authorities have not provided examples of custodial sentences, so the sanctions imposed in these cases could not be considered as effective, proportionate and dissuasive.

286. The prosecutors met onsite advised that the gravity of penalties requested at the court and subsequently adjudicated depend on factual circumstances established in the case. Prosecutors met onsite deemed those rules as sufficient to guide them when demanding penalties and did not express a need of more precise guidelines. Whereas this may be the case when considering sentencing policy in general, in case of ML and particularities of cases presented to the AT (most of ML are concurrent offences penalties of which are determined together with those for predicates), the AT is of the view that ML has to be punished with harsher and sentences more proportional to its gravity.

287. Given that there was no conviction against legal persons during the period under review, effectiveness, dissuasiveness and proportionality of sanctions imposed against legal persons could not be assessed.

### *3.3.5. Use of alternative measures*

288. As discussed in preceding Core Issues of this IO, there are no legal impediments or hindrances which make it difficult to achieve convictions in ML cases by North Macedonia judiciary. On the other hand, problems related with regard to evidence on predicate crime may slow down and sometimes cause dropping of charges in ML cases.

289. Alternative measure that can be applied in cases where a ML investigation has been pursued but where it is not possible, for justifiable reasons, to secure a conviction is non-conviction-based confiscation under Article 97(3) CC and Article 540 CPC, North Macedonia's authorities have not yet applied this tool in practice. Consequently, the conclusion is that, despite proper legal framework on this matter, effective use of alternative measures to disrupt ML where conviction cannot be achieved for justifiable reasons, has not yet been observed.

### *Overall conclusions on IO.7*

290. Although the legal framework for the criminalization of ML indicates only minor loopholes in comparison to the standards, North Macedonia has a robust structure of the LEAs and the PPO, to investigate and prosecute ML. This has not, however, been followed by adequate allocation of resources to these institutions.

291. Although the number of pre-investigations for ML are on the rise, the results in terms of effective ML investigations and prosecutions remain modest. Reasons for this are manifold and

range from inconsistent approach by different LEAs in pursuing ML activities to quite conservative interpretation of the judicial authorities on evidence needed for predicate offence. Some specific procedural constraints (such as limited duration of investigation) also contribute to ML pre-investigations being protracted and lasting considerably long. As a result, a number of predicate crimes detected have not been translated into adequate sum of ML investigations, prosecutions and convictions.

292. In general, the ML offences investigated and prosecuted are commensurate with the identified ML risks of the country. Most of the ML cases are related to proceeds of abuse of power and frauds while there is still a limited number of cases involving proceeds of tax offences and abuse of legal entities for ML.

293. Based on the concept of punishing the offences in concurrence, the criminal sanctions imposed for ML in self laundering cases do not add an appropriate value to the final sentence, whose gravity hinges mostly on penalties adjudicated for predicate crime. Even if convictions for the third-party laundering are achieved, most often suspended imprisonment is imposed, accompanied by fines. Apart from that North Macedonia's authorities have not secured any convictions of legal persons.

294. **North Macedonia is rated as having a moderate level of effectiveness for IO.7**

### **3.4. Immediate Outcome 8 (Confiscation)**

#### ***3.4.1. Confiscation of proceeds, instrumentalities and property of equivalent value as a policy objective***

295. Confiscation of criminal proceeds, instrumentalities and property of equivalent values is considered as one of the policy objectives in North Macedonia. In particular, the National Strategy for Fight against Money Laundering and Terrorism Financing for 2021 – 2024, includes a strategic objective 11 which explicitly declares that illegally acquired income and instruments are to be confiscated. In respect of confiscation, the Strategy expects that the property subject to confiscation will be identified and secured in a timely manner. Apart from that, it assumes that the efficient management of frozen and confiscated property will be achieved. This strategic document was translated into a more specific and detailed Strategy for strengthening the capacities for conducting financial investigations and confiscation of property which was adopted in May 2021 and defined the measures to be taken in the years 2021- 2023. That strategy continues the efforts outlined in the previous strategy enforced in the period of 2018-2020.

296. The latest strategy identified a number of shortcomings, which include: (i) practical problems with application of the interim measures (ii); lack of systematic approach to conducting a financial investigation; (iii) insufficient functionality of investigation centres in the PPOs which, to a limited extent, contribute to financial investigations; (iv) inability to demonstrate efficiency of interim measures and confiscation due to lack of comprehensive and consistent statistical data; (v) limited use of interoperability platform among authorities participating in financial investigations; (vi) dissatisfactory results of confiscation of assets and proceeds which are located abroad, despite the employment of specific measures such as setting up the Asset Recovery Office (ARO).

297. To rectify these deficiencies, the Action Plan delineated measures to be undertaken. In general, the planned actions were to be taken within the areas of: (i) legal framework, (ii) material and technical equipment, (ii) staff capacities and institutional development, (iv) access to

databases and interoperability (v) interagency coordination and cooperation. In respect of the listed areas, specific actions were outlined with regard to individual state authorities.

298. The AT team considers these documents as well structured and very useful in informing the necessary reforms in the area. Measures foreseen and applied so far clearly indicate the authorities' commitment to provide more resources and thus to enhance the capacities of LEAs and PPO so that they can achieve more tangible results.

299. The Action Plan implementation paved the way for establishing of the Asset Recovery Office (ARO) and strengthening of the Agency for Management of Seized and Confiscated Assets. The ARO is a national central contact point established in line with EU Council Decision 2007/845/JHA with the aim to exchange information with the EU members and other countries' counterparts. At the time of the on-site visit the ARO was still at the level of development in terms of staffing and yet in the preparatory phase for carrying out concrete operational actions. Contrary to that, the Asset Management Office is operational and helps the authorities in estimating and preserving the value of assets concerned as well as in executing confiscation decisions brought by courts.

300. Further to the obvious progress in setting up an appropriate institutional framework, North Macedonia also introduced non-conviction and extended<sup>24</sup> confiscation regimes.

301. Although the enforcement of the Strategy is scheduled to be completed in 2023, the legal framework for seizure and confiscation, some shortcomings are still in place in the criminal legislation of the country and may adversely affect the country's capacity to seize and subsequently confiscate property (see Rec.4).

302. Taking into account all the factors discussed above, the AT is of the view that confiscation has been declared as a policy objective by all competent authorities. Numerous steps were taken, including high level policy documents adoption, setting up of new offices (ARO) and other actions implementation in line with the goals identified in these documents. Nonetheless, some important issues with regard to the legal framework have not yet been addressed. Whilst the authorities are to be commended for putting confiscation very high in their agenda and for identifying a number of issues in the current system which need to be addressed, the reforms are still underway and yet to be bring more tangible results.

#### ***3.4.2. Confiscation of proceeds from foreign and domestic predicates, and proceeds located abroad***

303. The assessment on effectiveness under this Core Issue is based on several factors and information available to the AT. As already noted, lack of comprehensive statistics at the state level on seizures and confiscation created certain difficulties in assessing the overall effectiveness of the system. In absence of such data, major cases, in conjunction with statistics kept by some of the competent authorities, as well as the interviews and information solicited on-site, created basis for the analysis and conclusion on the extent to which the confiscation regime in North Macedonia is effective.

304. To establish how well a jurisdiction identifies proceeds of crime, information is generally needed on the overall numbers of detected proceeds-generating offences, and the numbers of parallel financial investigations opened in such cases, for comparison. Such comparison, however, have been difficult to be made in a jurisdiction where large number of proceeds generating

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<sup>24</sup> 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.

offences produced insignificant funds – in most of such cases parallel financial investigations were not necessary given the fact that the damage caused to victims was easy to be established and, in majority of such cases, goods/assets were returned to them at the early stages of the proceedings. On the other hand, it is noticeable that a number of cases which involve serious offences and more significant funds, are still in pre-investigative phases and authorities could not put together information on the overall number of financial investigations neither the overall amounts of funds and/or other assets frozen/seized so far. From the information made available to the AT, it would appear that pro-active parallel financial investigations are yet to be fully developed and pursued persistently over the high risk and other offences.

305. As far as the legal framework is concerned, there are still certain issues that may impede the effectiveness of the system. For example, the forfeiture of instrumentalities used in, or intended for use in, money laundering or predicate offences, is dependant upon establishing if that is in “interest of general safety, human health and moral reasons”. Another condition that these objects may be reused to commit another crime. These make the confiscation of instrumentalities being discretionary in its nature. As regards the effectiveness in confiscation of instrumentalities, the authorities demonstrated good results in restraining those used for migrants smuggling and drug trafficking – significant number of cars (counting to more than thousands) were restrained and this practice is routinely applied when investigating these crimes. In other instances, limited application of confiscation of instrumentalities was observed.

306. The legislation also makes a distinction between two categories of third parties, i.e. family members of the perpetrator and other third parties. Depending on which category the third party falls into, there are diversified prerequisites for confiscation. In the case of family members of the perpetrator, the confiscation is excluded whenever the family members demonstrate that they have provided compensation for the criminal benefit transferred to them. Other third parties, however, are required to show that they have paid such compensation for an object or property which corresponds to the value of the obtained benefit. These rules are uniform for ordinary confiscation as well as extended confiscation and are excluded only in the case of objects declared as cultural heritage and natural rarities, as well as those to which the damaged party is personally attached to. Under such circumstances, the objects are confiscated from third parties, regardless of whether they have been transferred to the third parties with or without an appropriate compensation. Given very limited application of confiscation from third parties in practice, it is not possible to establish an exact impact of this shortcoming to the overall effectiveness of the system.

307. Procedural details on how and by whom financial investigations are carried out are provided under IO7. Specific tools used to identify and then secure assets may be applied at any time in the course of the proceedings. Freezing/seizing measure, as foreseen by the relevant criminal legislation, needs approval by a court upon the request by the PPO. Evidentiary standard required for obtaining such a measure is not high – in general, collected evidence should underpin a mere suspicion that the seized property or the objects originate from a criminal offense. Although the decision to seize the property has to be made by the court, there’s also a possibility that LEAs temporarily seize assets or objects and the PPO subsequently, but not later than next 72 hours, needs to submit a request for approval of freezing/seizure to a competent judge.

308. The authorities met onsite did not indicate any problems with obtaining court’s rulings on seizure/freezing of property. On the other hand, the problems that occurred were induced by the stringent timing of provisional measures. More specifically, with respect to temporary measures applied at the pre-investigative stage of criminal proceedings, the legislation reads that they are to be cancelled ex-officio if the investigative procedure does not begin within 3 months

from the day when the decision establishing these measures was rendered. In practice, the time frame of 3 months is usually not sufficient to collect evidence against a certain suspect and proceed with the next stage of criminal inquiry i.e. investigation. As a result, the seized property must be released. The AT is of the opinion that this measure creates a risk of dissipation of assets and may ultimately create a significant gap between the assets confiscated (i.e. assets for which confiscation was approved by a court) and those actually repatriated. Given the problems in obtaining comprehensive statistics on assets seized/frozen, confiscated and then finally repatriated, the AT is not in a position to conclude to what extent this legal lacunae affects the overall effectiveness in repatriating confiscated assets.

309. As discussed in IO.7, the length of investigative part of the proceeding may last no longer than 18 months. Therefore, if the prosecutor in charge of the case fails to indict a suspect before that term expires, the seizure of property must be waived as well. This presents a risk of criminal assets fleeing before the cases are finalised before the court.

310. In respect of asset recovery and the pursuance of parallel financial investigations, the LEAs follow the Standard Operational Procedures. These procedures appear rather general in their nature and thus cannot be considered as a specific and thorough guidance on various aspects of financial investigations. This has, to some extent, been confirmed in the Strategy for Strengthening the Capacities for Conducting Financial Investigations and Confiscation of Property (2021- 2023) which indicates the lack of a systematic approach to conducting a financial investigation. On the other hand, a number of efforts were made to equip LEAs with knowledge and skills on how to carry out financial investigations targeting criminal assets. These efforts were materialised through numerous trainings provided through technical assistance projects carried out by international partners.

311. As regards seizure and confiscation of virtual assets, the prosecutors interviewed on-site advised that methodology and measures to seize virtual assets and more specifically cryptocurrencies, are yet in a development phase. Both LEAs and the BPO OCC were aware of potential usage of virtual assets for criminal purposes.

312. As noted above, only fragmented statistics was provided to the AT and it concerns cases dealt by the BPO OCC. Other PPOs mostly held details of objects of crime restrained (such as quantities of narcotic drugs, weapons, etc.) and instrumentalities (cars, computers, etc.). Turning back to the most important set of data provided – statistics from the BPO OCC – in total, since 2017, the funds confiscated amount to approximately 30 million Euros. Given the risk and context of the jurisdiction, this amount appears proportionate and even high if looking horizontally on jurisdictions with similar population size and economic parameters. This notwithstanding, approximately 85% of these funds derive from one major confiscation case with the proceeds originating of what can broadly be considered as a large-scale corruption. Finalisation of this case took place shortly before the on-site visit. Its details are provided below.

#### **Box 3.8. Case 'Imperia'**

In 2006, the accused S.M together with the persons J.K, N.J and A.I established a legal entity A in North Macedonia. In order to conceal their ownership in the Central Register different legal entities were made owners (instead of the accused S.M it was offshore company from Belize; instead of J.K an offshore company from the USA). In order to conceal the beneficial owners, the accused SM with the help of J.K and N.J made many changes in the ownership structure of the domestic legal entity changing the founders and registering offshore companies as owners so that finally on 02.07.2011 they registered A.I as beneficial owner, although the beneficial owners of the legal entity were the accused S.M with 46% of the share, J.K with 33% and A.I with 21% of the share.

In May 2011, J.K sold the offshore company from the USA (which was part of the ownership structure of the domestic legal entity A) to another offshore company from Switzerland, which beneficial owner was the wife of the defendant SM, so the domestic legal entity A and his property was transferred to the ownership of a legal entity whose owner was the wife of the accused S.M.

On June 18, 2015, the accused S.M as an official person contrary to the legal duty of art. 33 paragraph 2 of the Law on the Prevention of Corruption, with the intention of concealing the property acquired by him and his family members, while performing his duties, which largely exceeds his legal income, after termination of his position as director, gave incomplete information about the property owned by him and his family members to the State Commission for the Prevention of Corruption. In the questionnaire he did not report the property that was registered to the legal entity A whose founder and owner in North Macedonia was the legal entity from Switzerland for which the beneficial owner was his wife and property that was registered to the legal entity which represents 46% of the ownership of legal entity A.

During the investigation, the public prosecutor requested international legal assistance, with which provided data on the beneficial owners of the legal entities registered in other countries.

These beneficial owners are domestic natural persons as referred above. The data obtained were of importance and were used in court proceedings to prove the connection of the persons and their intention.

In July, 2022, the court brought a verdict convicting the defendant S.M for the crime of "Receiving a reward for illegal influence" under Article 359 of the Criminal Code and for the criminal offense of "Criminal Association" under Article 394 of the Criminal Code. Another person in this case, is convicted for the crime "Money laundering and other proceeds of crime" under Article 273 of the Criminal Code.

With the conviction, the following property was confiscated from the legal entities:

Funds in amount of 6, 2 million €, securities in value of 340,000.00€, business premises in value of 2,799,241 EUR, land in value of 7,201,032 EUR, 29 apartments in value of 4,143,840 EUR. The amount of 5,2 million€ was confiscated from physical person. The overall value/amount of assets confiscated in this particular case is approximately 27 million Euros.

313. The case described above demonstrates that competent authorities are skilled and capable of carrying out complex investigations leading to a confiscation of significant amounts of proceeds, including the property of equivalent value. Apart from this and two other cases carried out in 2021 and 2022 (discussed under IO7 which include *ML* and *Accepting a reward for unlawful influence* (Art 359 CC) as crimes) other cases concerned rather insignificant funds/assets being confiscated.

314. Another measure which facilitates freezing and ultimately confiscation is the FIU's transaction suspension order. Written postponement order issued by the FIU is directed to the OE to put transaction on hold or freeze the assets for 72 hours whenever suspicion of ML/predicate offence occurs. Such measure then needs to be followed by pre-investigative actions of LEAs and PPO which, upon gathering sufficient evidence, then submit a request to a judge to approve freezing of funds.

315. For the purposes of this Core Issue, statistics provided by the FIU are helpful to ascertain the amounts frozen further to application of their suspension order. In total, for the period under review, this measure was applied in 25 cases. In 5 of these cases funds were subsequently unfrozen due to lack of evidence that they derive from crime. The amount of assets which are still frozen and where either pre-investigation, investigation or court proceedings are on-going, is approximately 14 million €. Both LEAs and prosecutors find that the suspension power by the

FIU is a valuable tool which allow them additional time to gather evidence and thus obtain judicial freezing/seizing order. Inter-institutional cooperation when dealing with this matter is smooth.

316. Little information has been provided to effective application of non-conviction-based confiscation and confiscation from third parties. Undoubtedly these confiscation mechanisms are not frequently used in practice and have not brought satisfactory results. Reasons for this could be manifold, however the authorities could not clearly explain why these mechanisms remain only a possibility given by the law with no practical application. In respect to confiscation of assets from predicate offences committed abroad, only one case (see “SH” case under IO7) clearly manifests the ability of the authorities to seize property moved abroad. Whilst the features of this case prove that competent authorities have capabilities to trace assets held abroad, assets moved abroad have rarely been targeted and by their side thus confiscation and repatriation of such assets did not achieve tangible results. Consequently, proactive approach and more efforts need to be invested to engage partners through asset recovery networks, such as the INTERPOL or CARIN.

317. The legislation of North Macedonia provides for procedures regarding managing and/or disposing of property subject of temporary measures in a criminal procedure. The management of seized and confiscated property lies in the remit of the Agency for Management of Seized and Confiscated Property. The law provides for a variety of measures regarding handling of temporarily and permanently confiscated property which take into consideration specific nature of the confiscated assets. As a principle the confiscated property after having been assessed by a professional appraiser is sold through a public bidding. In case of real estate, the Government may decide to assign its management to another state body without compensation.

318. The Agency for Management of Seized and Confiscated Property which is primarily responsible for giving effect to rulings on confiscation presented to the AT some statistics for 2019-2021. It indicates 1505 confiscation judgments to be executed in 2019 and 971 in 2020. This scant data does not distinguish between the rulings on confiscation passed in criminal cases and in the misdemeanour procedures. According to the data provided by the Agency for Management of Seized and Confiscated Property, over the years 2019-2020 estimated value of confiscated real estate amounted to 7.593.242EUR and value of confiscated vehicles to 948.660 EUR. Further to what has been discussed in other parts of this IO, these statistics concerns only the assets handed over to the Agency and not many of those that were directly repatriated to the state budget and did not require specific management measures (e.g. funds).

319. Apart from managing seized and confiscated assets, the Agency plays an important role whenever the convicts refuse to voluntarily pay off the benefits or amount of money equivalent to confiscated property. In such situations, the Agency has to trace the property of a corresponding value by requesting information from banks, the Real Estate Cadastre, Central Registry and the Central Depository for securities. The AT was informed that certain number of judgments on confiscation regarding property benefits or property of equivalent value are handed out despite the lack of any assets seized at the investigative phase of the proceedings. Although such practice does not contravene the respective legal provisions, it results in shifting the burden of financial investigation to the Agency for Management of Seized and Confiscated Property which has not been equipped with any investigative powers. Consequently, execution of some of the confiscation judgments can be significantly protracted.

### *3.4.3. Confiscation of falsely or undeclared cross-border transaction of currency/BNI*

320. As regards physical cross-border transportation of currency and bearer negotiable instruments, North Macedonia applies declaration system which requires residents and non-residents to declare when crossing the borders, to the competent customs bodies, the amount of domestic or foreign currency, cheques and monetary gold that exceeds the amount of 10,000.00 €. When leaving the country, residents are also obliged to declare the amounts in foreign currency and cheques of values between €2,000 and €10,000. The amount which non-residents may take out on leaving the state cannot exceed the amount declared at the entrance.

321. As noted under Rec.32 not all BNIs as prescribed in the General Glossary to the FATF Recommendation are covered by this requirement. The Customs Administration is in position to inspect all postal items and other objects whenever there is a suspicion of violating the provisions of the Customs Law or other Laws for the implementation of which the Customs Administration is responsible.

322. Detection of the illegal physical transport of cash takes most often place at the borders with Serbia (Tabanovce crossing point), Greece (Bogorodica crossing point) and at the Skopje Airport. Control measures are performed by the Customs Administration which, to some extent, applies risk analysis and targets selected individuals representing the risk. The profiling of the persons that may potentially breach the rules on transporting the money through the state borders is made against indicators such as the non-residential status of a traveller; withdrawal of cash from a bank account opened in North Macedonia's bank; and the itinerary of the person. More specifically, the Customs Administration targets citizens of North Macedonia that live and work in the EU states and travel to the country to enter the cash into the banking system. On a regular basis, illegal transport of cash is detected with help of the FIU that alerts the Custom Administration on opening a bank account by a non-resident. The case studies # 2 - 3 outlined in the box below demonstrate good practice applied by the competent authorities further to the detection of cash at the state borders of North Macedonia. Customs, FIU and PPO also demonstrate a good inter-agency cooperation and communication.

323. According to the statistics provided and information conveyed onsite, in the period 2017-2021, a total of 123 cases of funds not being declared were recorded at the border crossings, out of which 39 were at the entrance to and 84 were at the exit from the country.

324. In total, funds in the amount of EUR 1,578,307.71 have been seized during the period 2017-2021 (EUR 487,571.96 at the entry to the country and EUR 1.080735.75 at the exit from the country). The statistics also implies that over the last 5 years the number of detections and subsequent misdemeanour procedures launched by the Customs Administration dropped from 50 cash transports detected in 2017 to 10 such transports detected in 2021. Reason for this the authorities see in the fact that transactions are more and more done via bank transfers. In the same period of time no BNIs were detected at the state borders.

325. Upon detection of cash not declared at the state borders, the Customs Administration applies freezing of assets for a period of 15 days and decides upon launching the procedure before the Misdemeanour Authority at the Customs Administration. The procedure results in the imposition of a fine which may amount up to 3000 EUR. Whilst this fine, *per se*, cannot be considered as effective and proportionate, a confiscation of detected cash may be adjudicated in the same proceedings. It covers detected cash which is considered either as the instrumentality to commit a misdemeanour or the proceeds thereof. The Law on the Foreign Exchange Operations also provides a possibility to confiscate 20 % of seized cash "*if the motives or other circumstances*

*under which the misdemeanour has been committed indicate that it is not justified the object to be fully confiscated".*

326. Further to the misdemeanour procedures, the following amounts were ultimately restrained: 459 000 € in 2017; 190 000 € in 2018; 130 000 € in 2019; 60 000 € in 2020 and 108 000€ in 2021 – total of 947 000 €. Given the figures of undeclared cash detected, these figures appear substantial. Authorities have therefore demonstrated that they effective used of this tool in restraining cash smuggling across borders.

327. Further to this and based on information provided, the AT concluded that the number of the financial investigation resulting from detection of undeclared/falsely declared cash is nominal. The Customs Administration investigated 7 cases in 2019-2021 and one of them (Case study #1) covered some aspects of ML, along with those in relation to predicate offences. Despite a certain level of awareness within the Custom Administration that cash restrained at state borders may have been used as a part of an ML scheme, the AT was not convinced that the Customs routinely explore that aspect when undeclared or falsely declared cash is detected.

#### **Box 3.9. Case # 1**

On August 7, 2022, at Tabanovce crossing point, during the control of a bus with Macedonia's license plates that travels from Croatia to North Macedonia, the customs officials found gold jewellery and gold tiles with a total weight of 13304 grams hidden in the roof structure of the bus. As a result of the personal search of the bus driver, EUR 30,000 were found. The money was seized and the Customs Administration filed a request against the bus driver to the competent court for initiation of a misdemeanour proceedings. Subsequently the Customs Administration submitted a criminal report to the Public Prosecutor's Office indicating the reasonable suspicion of smuggling offence under Article 278 paragraphs 1 and 3 of the Criminal Code. Also the FIU was informed about the circumstances of the case.

Further on, the Financial Investigations Service at the Customs Administration acting on the order issued by the Public Prosecutor's Office conducted a financial investigation which included checking the suspect (the bus driver) records in the Central Register of the North Macedonia, the databases of the Employment Agency, Agency for Cadastre and Real Estate Central Securities Depository as well as data regarding ownership of motor vehicles and bank accounts. Also the crossings of the state borders by the suspect were checked. As a result of financial investigation the real estate belonging to the bus driver was seized. On October 21, 2022, the competent court passed a judgment for the predicate offense of smuggling under Article 278 paragraph 3 in relation to paragraph 1 of the Criminal Code. The bus driver was sentenced for 3 years of imprisonment and fined in the amount of EUR 2500.

328. In 2022, the Customs notified the PPO on 4 cases of seizure of foreign currency where there were suspicions of ML/predicate offence. In two cases financial investigations were carried out whilst for the other two information was sent to the FIU with the view of having them carrying out the financial analysis. It was not made clear to the AT if there were further developments in these cases.

#### **Box 3.10. Case study # 2**

A suspicious transactions report from a bank was submitted to the FIU, which referred to a non-resident natural person who owned some bank accounts in North Macedonia. The persons authorized to access the accounts were the owner's daughter and son (foreign nationals). Inflows from legal entities from another country had credited the accounts on the basis of "funds of other residents, receipts of deposits-remittances and pro-invoices". After accumulating a certain balance on the account, the funds were withdrawn in cash by non-residents.

On receipt of information regarding the withdrawals, the FIU notified the Custom Administration whereupon the customs officials performed the inspection of the people in the vehicle who turned out to be the owner of the bank account and his son. Asked by the customs officer they denied having anything to declare to the Customs Administration. After the customs control, EUR 157,000.00 and USD 5,000.00 were found with the son. Out of those amounts, EUR 16,000.00 and USD 5,000.00 were returned to them, while EUR 141,000.00 was temporarily confiscated and a misdemeanour proceeding was initiated before the Department for Misdemeanour Proceedings - Offense Decision Commission, at the Customs Administration.

The customs officers, conducted an official interview with the son who stated that his father is the owner of a company for the production of machinery for food industry registered in their country. The son explained that he withdrew the amount of EUR 157,000.00 and USD 5,000.00 from his father account, that was previously transferred several times by a business partner from a bank from another country. They didn't provide correct information because the funds were transferred from a bank from different country. Although, they have not worked in Macedonia so far, they were considering an investment opportunity in the market, for which they had contacted a person with whom they exchanged information regarding the conditions for investing in Macedonia. They also explained that they had arrived in Macedonia by plane, withdrew the mentioned funds, rented a car and directed to visit a neighbouring country. Their plans were to invest a collected funds in the neighbouring country where they headed for.

Beside the seizure of these funds, the inflows to the account of the non-resident natural person continued. The FIU submitted to the bank an Order for temporary retention and/or ban on transactions and at the same time a Request for submission of a proposal for the determination of temporary measures was submitted to the PPO for prosecution of organized crime and corruption, after which a decision was made by the competent Court to determine temporary measures. The investigation is pending.

### **Box 3.11. Case study # 3**

In 2020 a bank submitted the STR to the FIU with the information on the account own by a non-residential legal entity registered in an off-shore destination. Also, a beneficial owner and an authorized person to the accounts were non-residents. The inflows exhibited on the account indicated a significant amount of money sent from Chinese bank account owned by a local legal entity. The inflows on the account were made on the basis of a contract concluded between an off-shore company and the Chinese legal entity and it contained elements implying a potential corruption. The major part of the assets from the bank were being withdrawn in cash by the authorized person by a large number of transactions amounting to 30-40.000,00 EUR.

An order for monitoring the business relation was sent to the banks and according to the order the FIU was informed about each transaction executed on the accounts owned by the legal entity. Moreover, based on the data received by the Customs Administration it was established that the person authorised to withdraw money has not submitted any declaration when crossing the state border.

In the course of monitoring the business relation the bank informed the FIU that the authorized person had intended to withdraw money in the amount of 100.000,00 EUR. The FIU shared information with Customs Administration, through NCC. Based on the information Customs performed a control over the person and his vehicle. With the control it was determined that the person is traveling with another person, and after the search on the persons it was found that

bout persons have 10.000,00 EUR each. Additionally, another 25.000,00 EUR were found hidden in the vehicle that were not declared and were seized.

Based on the received information and financial analysis the report on money laundering was send to the BPO OCC. In parallel with the report, a warrant for keeping and seizing of the assets was sent to the PPO. The warrant was accepted and the Basic Court Skopje issued the decision for seizure of the assets.

#### *3.4.4. Consistency of confiscation results with ML/TF risks and national AML/CFT policies and priorities*

329. The confiscation results achieved so far are, to some extent, consistent with the level of ML/TF threat present in the country and national AML/CFT policies and priorities. The table below presents the major confiscation cases illustrating also to what extent the offences from which the assets derive are in line with the threats identified in the NRA.

<b>Conviction-based confiscation</b>			
<b>Year</b>	<b>Number of cases in which confiscation was adjudicated</b>	<b>Offences investigated and prosecuted</b>	<b>Threat level as per the NRA</b>
<b>2021</b>	9	Money laundering (8 cases) Corruption and bribery (1 case),	High
<b>2020</b>	2	Money laundering (1 case) Corruption and bribery (1 case),	High
<b>2019</b>	1	Money laundering (1 case)	n/a
<b>2018</b>	4	Participation in an organized criminal group and racketeering (1 case), Trafficking in human beings and migrant smuggling (3 cases),	High
<b>2017</b>	3	Money laundering (1 case), Participation in an organized criminal group and racketeering (2 cases),	High

330. The table above clearly shows consistency of the confiscation decisions made by the courts with some of the high-risk predicates. This, however, needs to be put against not only the number of confiscation judgements/decisions but also amounts confiscated so far. Against that background, the three major confiscation cases include some of the corruption related offences ('Receiving a reward for illegal influence'), criminal association and ML. Further to these, confiscation was applied to a limited extent also in respect of trafficking in human beings and migrant smuggling. There were no tangible results achieved with regard to tax related offences. data however lack any further explanation as to the source (domestic or foreign) of proceeds confiscated.

331. Outcomes of the border controls resulted in some concrete results (i.e. amounts of fines and administrative confiscation of cash). Although these controls triggered criminal investigations at several occasions, in vast majority of cases an opportunity to further explore the origin of cash which would then lead to opening of a criminal case, was not pursued.

#### *Overall conclusions on IO.8*

332. Despite some technical deficiencies North Macedonia has developed a robust system of confiscation and provisional measures which potentially can ensure the effective deprivation of proceeds of crime. Confiscation is considered to be a policy objective and number of actions were undertaken to meet this objective.

333. Practical application of the measures aimed at seizure and confiscation of proceeds of crime unveiled some shortcomings which pose a risk of dissipation of assets at the early stages of the (pre-trial) proceedings.

334. Overall results, i.e. amounts of funds and assets confiscated so far are notable, given the contextual factors of the jurisdictions. Although these amounts derive from complex cases, there have been only few such cases during the period covered by this report. This suggests that financial investigations and measures against proceed generating offences are not systematically enforced. Confiscation of property of equivalent value is regularly applied in practice, which is not the case with confiscation from third parties and non-conviction-based confiscation. Authorities rarely seek and locate assets moved abroad.

335. Implementation of the cross-border cash/BNIs control regime brought tangible results in confiscating of cash smuggled in administrative proceedings. Limited number of ML/predicate offence investigations follow detection of undeclared cash. In cases where such investigations are launched, appropriate inter-agency cooperation is then assured.

336. Efforts taken by the authorities, leads to a conclusion that the confiscation results reflect the identified ML risks to some extent.

337. **North Macedonia is rated as having a moderate level of effectiveness for IO.8.**

## 4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION

### 4.1. Key Findings and Recommended Actions

#### **Key Findings**

##### **Immediate Outcome 9**

- a) Authorities have generally good understanding of TF-related risks. Having said that, numerous cases of foreign terrorist fighters (FTFs) and some recent developments where returnees from Syria attempted to commit terrorist attacks in North Macedonia, call for reconsideration of the TF risk level and whether moderate-low is still justified.
- b) So far, one TF case (against two individuals) was subject to prosecution. The conviction was obtained for the offence of 'funding of participation in a foreign army or paramilitary forces'. One prosecution/conviction is considered to not fully correspond to the country's risk profile and its threats environment. In addition, there are certain considerations with regard to the criminalisation of TF which may impact the effectiveness of TF investigations and prosecutions.
- c) Financial investigations are a part of investigations targeting terrorism related offences. The practice showed that these parallel financial investigations last longer and are more complex than those targeting terrorism. Whilst the results of a number of such investigations (in majority of cases pre-investigations) are yet to be seen, it could be concluded that the competent authorities have good understanding of actions which need to be carried out in TF related investigations. Whilst human resources need reinforcement, tools and mechanisms to identify specific roles played by terrorist financiers are in place;
- d) TF component is integrated in the National Counterterrorism Strategy (2018-2022). Its Action Plan foresees a number of measures to be applied in TF suppression and prevention.
- e) One prosecution/conviction resulted in a proportionate and dissuasive criminal sanction. Although one conviction appears insufficient to conclude what would be the general sanctioning policy in TF cases, the competent authorities are aware of the threat posed by TF and are determined to sanction any such activity dissuasively and proportionally.
- f) Other than prosecuting TF, the authorities are in position to apply other measures to disrupt it. Most notably, the authorities may ban the entry of persons to North Macedonia's territory if, *inter alia*, they are suspected of promoting terrorism, extremism or religious radicalism. Whilst this measure has been applied on several occasions, TF suspicion was a key factor in listing several individuals in the national list of terrorists in line with the UNSC Resolution 1373. More precisely, out of 15 individuals listed in September 2022, two of them were placed there in part due to specific TF-related suspicions.

##### **Immediate Outcome 10**

- a) TFS obligations for 1267/1989, 1988 and UN 1373 sanctions listings are given immediate legal effect. Some issues have been observed in giving legal effect to UN resolutions more generally. TFS measures for TF (and PF) only apply to OEs as defined

by the AML/CFT law (and the Land Registry) and there are moderate technical deficiencies (see R.6).

- b) A recent automatic notification tool linked to an FIU Consolidated list on its “Restricted Website” is generally well used and useful to quickly inform OEs of changes to UN TFS sanctions lists, which is important for practical implementation purposes. Some competent authorities noted that they do not have access to the list.<sup>25</sup>
- c) North Macedonia has not proposed or made any designations pursuant to UNSCR 1267. No 1373 requests have been made to other countries or proposed at the UN. On 19 September 2022, 15 individuals (2 of which on TF suspicion), have been designated at a national level pursuant to UNSCR 1373. Regarding implementation of these 15 designations, there were several instances where OEs were notified with delays of more than 24 hours. Deficiencies in the listing process were also identified, such as a lack of accurate record keeping, no standardised approach to submissions from competent authorities and no consideration given to making requests to other jurisdictions. Whilst authorities have not received a TFS exemption request, the process in place is unclear and does not align with UN processes and procedures (such as no-objection procedures of the UN Sanctions Committee).
- d) The authorities have conducted an NPO risk assessment and undertaken multiple initiatives taken since 2021 to provide guidance and conduct outreach. This work has informed parts of the sector of potential TF risks although more vulnerable NPOs have been targeted to a limited extent. Overall TF risk understanding in relation to NPOs is not homogenous across sectors including banking.
- e) There is no risk-based supervision or monitoring of NPOs for TF purposes with authorities being in the introductory stages of setting this up. Financial due diligence measures, including sanctions checks, are applied unevenly by NPOs. Checks are performed by those working with institutional donors or relying on banks or other DNFBPs. There is very limited awareness of recent domestic 1373 listings across the sector. Self-regulatory initiatives are immaterial and recently emerging.
- f) Given the domestic designations, the country’s exposure to sanctions evasion has also increased and might prompt a further review of the TF risk exposure. Whilst there are measures to mitigate risks of OEs being exploited for sanctions circumvention, in practice it is generally only the most material sectors that are taking sufficient action. The 15, 1373 designations in relation to the number of FTFs is viewed as considerable.

### ***Immediate Outcome 11***

- a) The measures in place aimed at implementation of PF related TFS are identical to the ones related to TF TFS with similar positives and shortcomings. The legal effect of TFS obligations is immediate. There have been no identified cases of: (i) suspected or confirmed matches to UN PF TFS designations, and (ii) the freezing of funds. Banks and insurance companies generally possess robust screening tools and would likely be able to freeze assets, even if understanding of TFS obligations is uneven across sectors.
- b) Positive measures have been taken such as the establishment of a cross-government PF coordination body and a recent PF strategic analysis, although the latter is impacted

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<sup>25</sup> Since the completion of the onsite visit most competent authorities have been given access to the “Restricted Website” and can therefore subscribe to the consolidated list. A version of the list has also been made publicly available.

by inaccurate data provided by the Customs Authority. Discussions with competent revealed uneven understanding regarding potential sanctions circumvention and how PF TFS obligations can relate to trade sanctions. Despite this, the Commission for the Export of Dual-use Goods and Technologies can and has rejected licences based on PF suspicions. The Commission has sound processes in place to analyse applications and co-operate with other jurisdictions in cases where there might be PF concerns.

- c) Efforts have been undertaken to promote awareness of TFS obligations including the creation of guidelines in 2018 and a series of outreach events from 2021. Nevertheless, it is also noted that TFS guidance products are not reviewed once published and there has been less tailored messaging to those sectors that have lower understanding.
- d) No suspected breaches of TFS have been identified. Monitoring is limited to seeing if OEs are aware and have accessed the consolidated list on the “Restricted Website”. Supervisors do not generally distinguish between TF and PF TFS in their checks, financial supervisors have more robust approaches than others whose checks are mainly focused on the existence of screening tools and access to the “Restricted Website” rather than how checks are carried out in practice.
- e) There have been few remedial measures taken, including sanctions or recommendations by competent authorities, in relation to any TFS breaches (and non-have been identified) or deficiencies in systems, controls and governance processes. There is not enough information to take a concrete view on whether this is sufficient.

### ***Recommended Actions***

#### ***Immediate Outcome 9***

- a) The authorities should rectify the remaining deficiencies in criminalising TF (see Rec.5).
- b) Judicial authorities should, in the way they deem appropriate (e.g. through providing a legal interpretation or issuing any guidance) elaborate key principles for harmonised and unified application of relevant legislation (i.e. the application of Article 322(a) of the CC), across all judicial and prosecutorial authorities. These principles should build upon the jurisprudence already established.
- c) Prosecutorial authorities should introduce guidance which would include the range of circumstances and sources of information which should trigger investigations in relation to TF.
- d) Authorities should make use of the existing inter-agencies platforms and/or relevant coordination/ cooperation mechanism to identify ways to improve the identification of TF cases. Consideration can be given to developing guidelines for FIU/LEAs on (the identification of) TF threats /indicators /methods. This could also include the development of training material and training curricula to enable effective TF investigation and prosecution.
- e) Resources should be strengthened – vacant positions in the agencies dealing with TF identification, investigation and prosecutions should be filled in as foreseen by their organigrammes.

**Immediate Outcome 10**

- a) The MFA should take steps to ensure publication of new UN Resolutions immediately without delay on its website. TFS obligations should be extended to all legal and natural persons and not just OEs and the Land Registry (R.6).
- b) The FIU should make a copy of the consolidated list accessible to all legal and natural persons in North Macedonia (including all competent authorities) and ensure the automatic check of the UN list takes place more than once a day. The FIU should take steps to communicate domestic 1373 designations to all natural and legal persons in a timely manner by updating the consolidated list.
- c) The authorities should, during the process of 1373 listing proposals, actively consider making UN proposals or requests to other countries. They should take steps to ensure proposals from different competent authorities are considered in a consistent way.
- d) With regards to making funds or economic resources available to designated persons through granting authorisations, authorities should review the existing process as well as ensure the relevant UN processes, including relevant UN no-objection procedures, would be followed. Guidelines should be updated accordingly.
- e) The authorities should take steps to ensure TFS guidance is reviewed on an ongoing basis and that tailored outreach regarding TFS obligations and sanctions circumvention typologies is undertaken to those with less understanding, including NPOs at greater risk of TF abuse. The authorities should strengthen outreach efforts to the specific subset of NPOs at higher risk of TF abuse.
- f) The authorities should take steps to ensure there is risk-based supervision or monitoring of the NPO sector at higher risk of TF abuse, without hampering legitimate NPO activity. They should also consider refreshing the NPO risk assessment to further strengthen their understanding of those NPOs at higher risk of TF abuse and ensure that proportionate measures are applied.

**Immediate Outcome 11**

- a) As with the case of TF related TFS, the authorities should invest further efforts to address the technical deficiencies of the legal framework and TFS shortcomings detailed under IO10.
- b) The authorities should take steps to ensure that TFS for PF is embedded in cross-government PF coordination policies and discussions. They should also take additional steps to further increase PF related TFS awareness amongst competent authorities.
- c) Competent authorities should collaborate to ensure appropriate training on TFS is delivered to all supervisors and that a consistent, and tailored approach to TFS supervision is undertaken in all sectors.
- d) Competent authorities should consider specific PF TFS-related guidance and engagement to raise awareness amongst those sectors with less understanding of the obligations, sanctions circumvention and typologies.

338. The relevant IOs considered and assessed in this chapter are IO.9-11. The Recommendations relevant for the assessment of effectiveness under this section are R. 1, 4, 5-8, 30, 31 and 39, and elements of R.2, 14, 15, 16, 32, 37, 38 and 40.

## 4.2. Immediate Outcome 9 (TF investigation and prosecution)

### 4.2.1. Prosecution/conviction of types of TF activity consistent with the country's risk-profile

339. The criminalisation of TF has been improved since the adoption of the previous MER (2014). Whilst the TF offence now complies to a greater extent with the standards, some important components such as financing an individual terrorist or a terrorist group in the absence of a link to a specific terrorist act(s), are not a part of the TF offence (Article 394-c of the Criminal Code). This notwithstanding, the authorities are of the view that their Criminal Code (CC) is interpreted in such a way that it covers all situations foreseen by Rec.5. To support this argument, they emphasised a special provision (Article 322(a)) related to individuals that are North Macedonia's nationals who take part in foreign armies and paramilitary groups and anyone who, *inter alia*, supports them financially or by any other means. Consequently, this article is used to prosecute FTFs (individuals or groups) and anyone who finance them. In addition, Article 394(a) of the CC covers terrorist organisation – their establishing, participation in it, and provision of support to them (including their financing). The understanding of the PPO and the courts is that these articles, altogether, allow for prosecution and conviction against any person(s) who funds an individual terrorist or a terrorist group, of course if evidence is found. Further to the on-site interviews and in-dept discussions with the PPO, the FIU and the law enforcement authorities, the AT is of the opinion that these institutions are aware of the importance of understanding of terrorism financing in its entirety, and that the shortages in definition of the TF offence would not prevent them to investigate and prosecute financing of an individual terrorist or a terrorist group in the absence of a link to a specific terrorist act(s). On the other hand, only one case of FTFs' financing brought before the court, provides insufficient basis for a firm conclusion that any financing of a terrorist or a terrorist group would be interpreted by the courts in the same manner, thus allowing for a conviction if such case(s) occur(s).

340. By the time of the on-site visit there was one prosecution and conviction (against two individuals) for funding of FTFs – under Article 323(a) of the CC (see the description of the case in the box below). Whilst the authorities are to be commended for actions undertaken in this particular case, the AT is of the view that, in comparison with (i) *the risk and context of the jurisdiction*, (ii) *the number of FTFs identified*, (iii) *recent events when a terrorist group composed of returnees from Syrian warfare was identified and its members arrested for an attempt to commit terrorist offence in North Macedonia*, one prosecution for what could broadly be understood as TF, appears insufficient and not fully in line with the country's risk profile. The reasoning for such conclusion is further provided in the paragraphs below.

#### **Box 4.1. Case study – TF conviction**

During the period from September 2014 – July 2015, ten persons were actively participating in organization and preparation of participation of several persons from North Macedonia in paramilitary formations abroad. They collected and provided financial and material resources for this purpose, recruited and encouraged them to join paramilitary formations abroad, and carried out propaganda on this through social networks or other types of communication, hid the identity of those they recruited and themselves actively participated in paramilitary formations abroad.

Two of these ten persons were accused and then subsequently convicted for securing and collecting the financial means for the recruits to travel to the conflict zone (the then ISIL

controlled territory) along with the charges for participation in the foreign paramilitary formations.

Others were convicted for participation in foreign paramilitary formations.

The sentences are established for criminal offences committed by the two accused were as follows: 3 years of imprisonment for participation in a foreign paramilitary forces and 3 years for provision of financial support (article 322-a, paragraph 2) – the court combined the two sentences into one (cumulative) sentence – 4 years and one month of imprisonment for one, and 4 years and 6 months of imprisonment for other defendant.

These sentences are final.

341. North Macedonia has generally good understanding of its TF risks, which is assessed as low-medium. Whilst some considerations on the TF risk level are discussed under IO1, the NRA provides a comprehensive overview of the terrorism threat and includes details on individuals prosecuted and convicted for creating, participating in, or supporting terrorist organisation, terrorism and for participation in foreign military or paramilitary structures. According to the NRA and data it used, more than 120 persons left to Syria to fight for ISIL since 2014. 21 of these individuals are still there, 62 have returned to North Macedonia, 37 of them lost their lives, whilst 3 persons have been arrested in Türkiye and are serving prison sentence there. The NRA findings are that FTFs raise most of their funds in cash from their own sources (salaries or social aid they receive) or are assisted by other group members or by like-minded persons from abroad. Some of them raised funds by committing criminal offences. As for the payment methods, apart from cash (which does not leave a financial fingerprint and thus is impossible to be traced), transfers to bank accounts and use of fast money transfer services are predominant. Majority of identified FTFs were unemployed – they received funds mostly from persons from Western Europe and Middle East regions. The NRA concluded that these funds were used for their preparation and for travel to battlefields. 12 FTFs had open bank accounts in North Macedonia, even though they were unemployed.

342. Overall, the findings and analysis carried out by the authorities indicate that terrorism and FTFs related threats derive mostly from radicalisation of individuals and from their ideological background, meaning that they are not driven by any financial benefits provided from third parties.

343. Whilst the number of FTFs is significant, the AT paid particular attention to some other important events that occurred meantime. As it was reported in open sources, eight persons were arrested on suspicion of "*creating a terrorist organisation, based on the ideological matrix of the terrorist organisation ISIS, for committing murders and destroying public buildings*". This arrest took place in December 2020 and these individuals, North Macedonia's nationals, are returnees from Syrian warfare. They were subsequently convicted for these offences, however, financial investigation (de jure a pre-investigation) on who financed this group of individuals, is still ongoing, without any indication of whether and when it will advance.

344. Against this background, it could be concluded that one TF investigation/prosecution does not fully correspond to the risk profile of the jurisdiction. Whilst the authorities argue that financial aspects with regard to FTFs are insignificant and that FTFs are mostly self-financed, there is also a statement in the NRA which emphasises difficulties in proving TF offence – and that is to prove the purposive element, i.e. that the funds provided aimed for TF. Furthermore, protracted pre-investigations which do not advance to further stages for considerable period of time, also indicate difficulties in (i) gathering sufficient and conclusive evidence in line with the standards required in court; (ii) converting intelligence into evidence; (iii) obtaining

assistance/evidence through international cooperation; and (iv) resourcing and insufficient specialisation of financial investigators on TF until comparatively recently.

#### *4.2.2. TF identification and investigation*

345. North Macedonia has a sound institutional framework for combating TF. The Counter-Terrorism Sector in the Ministry of Interior (MoI) focuses on identifying any activity related to TF. The Sector also performs preventive checks and financial analysis of NPOs identified as a higher risk (e.g. the manner they use the funds, if it is in line with their core businesses, etc.). The Sector carries out additional operational checks to obtain information on any criminal activity which might be connected to TF. Information is regularly exchanged with their international partners and liaison officers, with the single aim to assure that intelligence or data in relation to terrorism and TF is double checked abroad. Whenever the Sector investigated terrorism, relevant findings would be made available to the FIU so that it could make necessary checks on any financial aspects. These activities are also coordinated with the PPO who may provide additional guidance on how to obtain and gather evidence.

346. Important role in CFT efforts is also provided by the Agency for National Security (ANS). The Agency maintains and updates the list of all the FTFs and their family members, and this list is made available to the FIU. Consequently, the FIU met all the banks and MVTs suggesting them the measures they should take to monitor transactions on the FTFs' and the accounts of their family members. So far, these efforts did not result in any investigation on what would broadly be understood as TF.

347. Large number of pre-investigations were launched targeting financing of terrorism. In course of these pre-investigations, the authorities mostly focus on financial inflows and outflows these persons were benefiting from. However, the authorities face difficulties in finding evidence of TF. These difficulties mostly derive from the fact that the funding, observed through bank accounts or via fast money transfer services, are a kind of a regular support that the FTFs and their families have been receiving in a continuous manner, and the purposive element that these funds are to be used by a terrorist or terrorist organisation was difficult to be proved. In the course of these pre-investigations, the FIU also contacted and sent requests for information to many of their foreign counterparts. The requests concerned those persons who were sending money to FTFs and their families. Requests were also received from some countries – from US for example, 13 requests were received and answered on individuals from North Macedonia who were suspected of being affiliated to ISIL. These information exchanges have not yet resulted in any evidence which would warrant further steps in the procedures (i.e., official investigation/prosecution).

348. During the discussions on concrete cases of TF identifications and pre-investigations that followed, including the case where a group of terrorists was arrested and convicted for terrorism attempt (see CI 9.1), the authorities assured the AT that the level of inter-agency cooperation and commitment of those involved in TF identification and pre-investigations cast a positive light on the competent authorities' abilities to deal with different types of TF

349. As noted under Core Issue 9.1 numerous investigations and prosecutions were carried out in relation to terrorism related offences. These were followed by court proceedings which, in majority of cases, ended up in convictions. From the discussions held on-site, it may be concluded that almost all of the terrorism related offences, or at least those that took place after 2014, were followed by financial investigations (de jure these were pre-investigations, difference in between the two is explained in previous chapters of this report). At the moment, a large number of pre-investigations on TF are on-going, where one investigation has been confirmed. In this particular

case, the evidence gathered (from electronic devices and through financial analysis) indicate that the funds for the commissioning the terrorism related offences were obtained independently from personal sources. Some of these funds were obtained through fast money transfer services and were sent by natural persons from Western European countries. Consequently, the Sector initiated and held meetings with foreign counterparts and, with the support of Europol, obtained necessary information. As a result, the PPO gathered sufficient evidence to launch an investigation in this case. The investigation has not been finalised by the time of the on-site visit.

350. Interagency cooperation in combatting terrorism and TF, based on what has been observed on-site, presents a strong component of the overall CFT system in the country. Key platform for inter-agency cooperation on TF matters is the Committee for Fighting Terrorism and Violent Extremism. The Committee has a team of investigators and operational officer who are in charge to carry out rapid action in case terrorism or TF is detected. Each competent authority (PPO, FIU, MoI and any other if need be) has its dedicated representative in the Committee. The Committee's Special Operational Procedures (SOPs) were prepared by the time of the on-site visit but were not yet adopted. The SOPs foresee detailed courses of action under different scenarios of potential terrorism and/or its financing.

351. TF related STRs are always given the top priority by the FIU and they are acted upon immediately. An analyst is designated to deal with TF immediately upon receiving an STR or any other indication on TF. Banks and MVTs have also appointed duty officers to act as an FIU contact point in case TF suspicion is detected by their entity. When the FIU receives an STR or a spontaneous request for information from partner institutions they then provide data within 4 hours whilst the financial analysis on a particular case is delivered in the same day. As an example, the authorities put forward a case when, at the request of the Swiss FIU, in connection with a suspected TF, the FIU provided data, conducted a financial analysis and submitted a response to the Swiss FIU the very same day. As far as domestic TF related STRs are concerned, in the period 2017-2021 only 15 of them were submitted. These TF related STRs were duly analysed by the FIU and resulted in 4 reports and 11 notifications to the MoI. These 4 reports in which the FIU found suspicious for TF are still in the pre-investigative stage. Most of them are still confidential and could not be further elaborated in this report.

352. MoI/police and PPO also have their own SOPs on financial investigations (see also IO7&8). Both institutions confirmed that these SOPs would be applied in case of TF. This means that financial investigations in relation to TF would mirror those for proceed generating offences - tools, methods and mechanism would be almost identical. An example of TF investigation which also includes cooperation with foreign counterparts is provided below.

#### **Box 4.2. Case study: TF investigation**

Following the exchange of information through international police cooperation with Western European countries, the Counter Terrorism Sector conducted searches in internal databases in order to confirm the identity of several persons (North Macedonia's citizens with regulated permanent residence in those countries for which the partner services had operational knowledge that they transfer money to FTFs actively participating in the armed conflict in Syria). These individuals were also identified as previously being involved in some terrorism related activities. Further to the collection of relevant data, the Sector submitted a notification to the competent PPO which initiated pre-investigation procedure.

The PPO, in coordination with the Counter Terrorism Sector, submitted to the FIU an Initiative for conducting financial analysis on several persons suspected of being involved in committing TF. The analysis carried out by the FIU showed that in the period between 2015 and 2019,

persons using the official financial system (banking and fast money transfer services) performed financial transactions (in the amount between 50-500 EUR/Swiss Francs) to individuals who had opened bank accounts in North Macedonia. The money was withdrawn shortly after through ATMs in Cairo, Egypt, from where further tracking was not possible.

All information about these individuals was exchanged with partner authorities from the countries these individuals and their financiers had links with. The prosecution was initiated, and indictments were approved against them in their countries of residence.

353. Another case where legal entities were investigated for TF is presented in the case below.

#### **Box 4.3. Case study: LP**

The Financial Crimes Unit at the Department of Criminal Investigations in the Bureau of Public Security at the Ministry of Internal Affairs, acting on the Order of the BPO OCC, submitted to the FIU an initiative with suspicion in which a natural person with dual citizenship (United Arab Emirates and North Macedonia) founded a legal entity - Limited liability company (DOOEL), whose activity is the production of pharmaceutical preparations. The legal entity received funds on its account from legal entities from Saudi Arabia and Yemen (countries detected as high risk by the risk assessment) which funds were then further transferred to the legal entity's account.

The suspicions also referred to the fact that the legal entity imported medicines from Saudi Arabia, repackaged them, and then transferred them further to Syria via Bosnia and Herzegovina and Kosovo\*. Grounds for suspicions were based on the fact that the pharmacy products were intended for terrorists who fought in Syria and that the profit gained was further used to finance NGOs in the region, including religious organizations in North Macedonia.

The FIU requested also information through EGMONT channel from its foreign counterparts. For the specific case, the Ministry of Internal Affairs and the Customs Administration additionally acted within the framework and scope of their competences as investigative bodies led by a competent public prosecutor for the prosecution of organized crime and corruption. The grounds for suspicion for this legal entity were compounded additionally by a person (Macedonia's citizen) employed in the same legal entity who showed other employees photos and videos of people dressed in the uniforms of ISIS committing murders against prisoners of war. The FIU completed its analysis and sent notification was sent to the Ministry of Interior for their further action. BPO OCC is still collecting additional data and information.

The pre-investigation is still ongoing.

354. Apart from the case above, little information was provided on results of international communication and cooperation on TF matters. The FIU sent 6 information requests to their foreign counterparts on TF matters, and also received 11 such requests. No further details were made available to the AT on other authorities international cooperation in relation to TF matters.

355. Close cooperation between the investigative and prosecutorial departments as described above allows the work on terrorism-related cases to be carried out by specialists who have gained experience in this field. This also pertains to TF - although there are no investigators and prosecutors specialised only for TF, those dealing with such cases have undergone numerous TF related trainings in country and abroad. This notwithstanding, there are many vacant positions in these structures which are yet to be filled and this raises concerns whether the actual state of human resources is sufficient for effective and efficient investigation of TF. The authorities are aware of this problem and they acknowledge it, noting that any significant increase in number of cases they deal with would have immediate negative impact on their capability to investigate TF effectively.

356. Overall, the AT is of the view that North Macedonia's authorities have tools and mechanism, as well as the necessary knowledge to detect and investigate TF. Still, some issues remain. These are mostly related to complexity and long-lasting pre-investigations which are often a result of insufficient human resources in LEAs. Low number of STRs relative to the risk and context of the jurisdiction is another factor. Whilst this one, to some extent, can be explained by the fact that majority of FTFs do not use or even have bank accounts, key sectors such as banks and MVTs need to stay vigilant as their assistance is essential in detection and tracing of TF pathways.

#### ***4.2.3. TF investigation integrated with –and supportive of- national strategies***

357. Throughout the reporting period North Macedonia's authorities were proactive in developing and enacting AML/CFT strategies and policy documents. So far five national strategies have been adopted, two of which in last five years.

358. In October 2017, the National Strategy for Combating Money Laundering and Terrorist Financing was adopted. Its goals were to be achieved by implementation of 13 specific measures during the period from 2017 to 2020. The activities envisaged with regard to TF included completion of a TF risk assessment, as well as the development of typologies and indicators for recognition of suspicious transactions in relation to TF, including the information and data exchange between competent authorities. These actions were completed, although some of them appear general and not concrete enough. As an example, SOPs (for LEAs and PPOs) on financial investigations were not revised to include any specificity related to TF cases which would distinguish such investigations from other predicate offences' investigations. Whilst the AT is of the opinion that the understanding of these authorities on CFT matters is good, a revision of the SOPs in this context would still be useful. It should build up on existing experience and expertise and would also enable preservation of an institutional memory.

359. In August 2021, the new National Strategy for Combating Money Laundering and Financing of Terrorism was adopted. As a result, 15 specific measures are foreseen to be implemented in the period 2021-2024, by the supervisory authorities, the FIU, LEAs and PPOs.

360. Further to these overarching strategic documents, two separate National Strategy for Combating Terrorism and National Strategy for Prevention of Violent Extremism were adopted. Both strategies were prepared in line with the "four pillars" of the United Nations (UN) Global Strategies and EU strategies for Combatting Violent Extremism and for Combating Terrorism. Their strategic priorities include the fight against the financing of terrorism and specific actions on this component of the strategies have been fully implemented by the time of the on-site visit. As an example, the strategic goal 1.2 "TF prevention" of the National Strategy for Combating Terrorism which foresees identification of TF typologies and update of TF indicators, training for OEs and LEAs and raising awareness of NGO, has been implemented within the timeframe foreseen.

#### ***4.2.4. Effectiveness, proportionality and dissuasiveness of sanctions***

361. Since there has been only one prosecution/conviction for TF so far, basis for a firm conclusion on this Core Issue appear somewhat insufficient. On the other hand, the sanction imposed in this case (3 years of imprisonment), as described under CI 9.1, is dissuasive and proportionate. Given the sanctioning policy for the terrorism related cases and the understanding of the judiciary that TF cases should be sanctioned with the same dissuasiveness, the AT is of the view that the sanctioning regime in the country satisfies the requirements of effectiveness,

proportionality and dissuasiveness. In addition, the sanctions, as envisaged by the CC for TF related offences, are also proportionate and dissuasive.

#### *4.2.5. Alternative measures used where TF conviction is not possible (e.g. disruption)*

362. North Macedonia's authorities have been in a position to apply alternative measures in lieu of TF proceedings. As a matter of legislation, several such measures are available - expulsion of foreigners (Law on foreigners, Article 2), imposition of travel restrictions (Law on foreigners Article 153) and listing in line with the UN SCR 1373. The travel bans may be imposed to North Macedonia's citizens (to travel abroad) and may also include refusal to allow the entry of foreign citizens to North Macedonia. These measures were applied in a number of cases. The authorities referred to the situations when some of their nationals were not allowed to leave the country under suspicion that they were aiming at joining foreign military or paramilitary forces or at receiving military training. Given the number of FTFs from North Macedonia, proper implementation of this measure seems very important and the competent authorities demonstrated that they are well aware of it. Similarly, not allowing the entry in the country to some individuals who were suspected of promoting religious radicalism and potential TF, has also been applied in and the authorities also provided a number of cases which demonstrated their ability to properly implement this measure too. In addition, from the cases presented to the AT, it becomes apparent that the inter-agency cooperation works very well. One case of a foreign person who made false alarms on terrorism threat also showed that the authorities also engage immediately with their foreign counterparts to apply an appropriate alternative measure (in this case the expulsion of foreigner in cooperation with the police of the foreign country was executed).

363. All the cases referred above are included in the court registry of North Macedonia and this information is supplied to all border police units.

364. Overall, The AT is of the opinion that coordination, cooperation and frequency of application of the afore-mentioned measures present one of the strengths of the North Macedonia's system to disrupt terrorism and TF related activities when there is an absence of sufficient evidence to pursue prosecution.

365. Further to this, TF suspicion was a key factor in listing several individuals in the national list of terrorists, in line with the UNSC Resolution 1373. More precisely, out of fifteen individuals listed in September 2022, two of them were placed there in part due to specific TF-related suspicions. Whilst these suspicions were insufficient for indictment for TF, the authorities used this alternative way to disrupt potential TF activity by these individuals. Given the subject matter of IO10, details of these cases are further discussed therein.

#### *Overall conclusions on IO.9*

366. North Macedonia has made progress in criminalising TF, but some shortcomings in its compliance with requirements with Rec.5 are still in place. Whereas the authorities have a proper understanding of what constitutes TF, such legal loopholes may still influence effectiveness in investigating and prosecuting TF. One case where two individuals were charged with what is broadly considered as TF resulted in convictions and dissuasive criminal sanctions. Whilst this is to be commended, the threat environment, number of FTFs and other contextual elements still do not allow for a firm conclusion that number of prosecutions is in line with the country's risk profile.

367. Interagency cooperation and exchange of information in combatting terrorism and TF, presents a strong component of the overall CFT system in the country. Whilst the competent authorities possess tools and mechanisms to detect and investigate TF, the vast majority of pre-investigations initiated so far often last very long making it difficult to assess to which extent these tools and mechanisms are effectively used in practice. Priorities as envisaged by strategic documents include the fight against the financing of terrorism and specific actions on this have been fully implemented by the time of the on-site visit.

368. Coordination, cooperation and frequency of application of alternative measures present one of the strengths of the North Macedonia's system to disrupt terrorism and TF related activities.

369. **North Macedonia is rated as having a moderate level of effectiveness for IO.9.**

### 4.3. Immediate Outcome 10 (TF preventive measures and financial sanctions)

370. The authorities have taken positive action to identify resources that could be used to support terrorist activities and organisations, have used UNSCR 1373 tools to designate domestically, and have an automatic notification system to inform OEs of changes to UN sanctions lists. The overall system is however undermined by a legal framework with moderate technical deficiencies and there are areas where there are major improvements needed.

#### 4.3.1. Implementation of targeted financial sanctions for TF without delay

##### *Implementation of TFS 'without delay'*

371. As noted in R.6, TFS obligations for UN TF sanctions regimes are given legal effect immediately without delay under the LRM and are not dependent upon an additional mechanism. LRM freezing obligations do not apply to all persons and entities including NPOs and DPMS which undermines effectiveness of the system to some extent. All natural and legal persons are obliged to co-operate with competent authorities for the purposes of imposing the LRM but what this means in practice is unclear and undefined.

372. There was a more general effectiveness issue with implementing TF UNSCRs since 01 January 2018. The MFA has a critical role in publishing UN sanctions resolutions on its website to make them enforceable and has been publishing these resolutions with delays of more than a year. This only relates to UNSCRs after the introduction of the LRM ((S/RES/2610(2021); S/RES/2462(2019); S/RES/2615(2021); S/RES/2611(2021); S/RES/2557 (2020); S/RES/2501(2019))<sup>26</sup>. The reason is an accidental oversight on the part of authorities and an incomplete understanding of the requirements contained within the LRM. The UN resolutions that predate this (including the principal ones) remain in force. The deficiencies in delay of applying UNSCRs are not considered to be significant as TFS obligations are, and have been, given immediate legal effect. The analysis below focuses on the practical mechanisms that North Macedonia has in place to notify OEs of changes to UN TF TFS sanctions lists as this is important for freezing to take place in practice. There were delays to the practical implementation of domestic 1373 listings (varying across sectors) and this is considered separately to the non-domestic sanctions listings.

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<sup>26</sup> These post-2018 UNSCRs do not alter the sanctions lists and freezing obligations as adopted under previous resolutions.

373. The LRM provides the legal basis for the FIU to keep an up-to-date consolidated list and publish it on its “Restricted Website”. Only OEs can sign up to this platform and the FIU must approve new joiners. The consolidated list is linked to, and automatically updates once every 24 hours at 3am to align with UN sanctions lists. An automatic notification system to inform subscribers of changes is sent within seconds of the update taking place. It is therefore very unlikely that notifications will ever be sent after 24 hours of a change to the UN list except as a result of technical failure. The notification will not include details of the action OEs should take although this is covered in the guidelines.<sup>27</sup> Since 2021, there have been 300,000 views of the “Restricted Website”, there are also over 5000 subscribers (including all 13 banks) which is a relatively high number in comparison to the overall number of FIs and DNFBPs in the country. The FIU can view which entities have received the notification and whether they have opened it which is another strength of the system. In practice, the FIU has a process whereby if notifications are not opened, a warning will be sent to OEs stating that they will be categorised as a higher-risk entity unless they open the notifications. No information on how many warnings have been sent was provided. 45 entities have been added to the list of high-risk entities for failure to open FIU notifications. These include both FIs and DNFBPs (Money exchange offices, MVTs, real estate agents, accountants, lawyers, and notaries).

374. The process for implementing domestic UNSCR 1373 designations is slightly different. Once a decision to list, delist, or amend a designation has been made by a governmental vote, the decision is published in the official Gazette for North Macedonia. The Gazette will include details (including identifiers and reasons for designation), of the persons and entities subject to restrictive measures. Since 2022, only registered and paid subscribers to the official Gazette will be able to freely access new publications directly themselves. The obligations take legal effect the day after publication in the official Gazette. In practice, following publication in the Gazette, the FIU will put a public notice on its website detailing the decision, actions that must be taken by OEs, and include a link to a copy of the Gazette and FIU guidelines for the LRM. The authorities will also contact some supervisors directly to ask OEs to perform screening. The FIU will also manually update the consolidated list to include the domestic designations.

375. In terms of freezing, several representatives from the private sector stated that they would act upon receipt of an FIU notification following a change to the consolidated list. Deficiencies and strengths in the communication mechanism are therefore likely to have an impact on the practical implementation of TFS.<sup>28</sup> The tool is generally well used and useful for providing timely updates and could be improved further with the automatic check of the UN list taking place more than once a day. As analysed under IO11, one strength of the system is the use of generally robust automatic and real-time software by Banks and Insurance Companies.

376. With regards to recent domestic 1373 listings, there was a delay between the publication of the restrictions in the official Gazette (19 November) and change to the Consolidated List (27 September). The reasons for this are manifold and explored in the case study contained in Box 4.4.

#### *Designation*

377. The PPO, Ministry of Internal Affairs, Intelligence Agency, and the FIU are empowered under the LRM to propose designations to the Government (via the MFA) to vote on proposals. The MFA and the National Security Agency (established after adoption of the LRM in 2019) are

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<sup>27</sup> Since the completion of the onsite authorities note that they now send a monthly message to subscribers reminding them of their obligations and what to do when they receive a notification.

<sup>28</sup> Since the completion of the onsite visit most competent authorities have been given access to the “Restricted Website” and can therefore subscribe to the consolidated list. A version of the list has also been made publicly available.

not empowered to come up with designation proposals themselves, but they can be involved to support the process. North Macedonia has taken positive recent steps to improve coordination between competent authorities for the designation of persons under UNSCR 1373. They are co-signatories with the other competent authorities to an MOU (signed September 2022) that establishes coordination, cooperation, and information exchange mechanisms in accordance with the LRM. The MOU was created to correct previous misunderstandings on the roles and responsibilities of competent authorities.

378. Deficiencies in the way in which authorities propose designations in practice have been identified. Firstly, there has been an ineffective record keeping of meetings between competent authorities in relation to potential designations (e.g., minutes, numbers of meetings). These take place on an ad hoc basis after an authority wishes to make a designation proposal. Attendance at these meetings is also varied with not all competent authorities being present to discuss proposals. Whilst all competent authorities must and do feed in formal written views for designations, there is no clear process for resolving or weighting these in cases when there are differences. There is no template for submissions to the government with each competent authority taking a different approach, also authorities do not seek information, that might support listings, from other countries. Finally, there is no consideration of designation proposals being made to the UN or other jurisdictions.

379. North Macedonia has not received any request from a foreign jurisdiction to designate domestically under 1373 and has not made a request to another country. However, it has autonomously designated 15 persons. Details on this are provided for in the following case study:

**Box 4.4. Case Study of 15 domestic designations made under UNSCR 1373 on 13<sup>th</sup> September 2022**

A single competent authority led on the proposal to list 15 persons, all citizens of North Macedonia, using the tools provided for under UNSCR 1373 and the LRM.

The reasons for listing varied but, in all cases, there are reasonable grounds for suspicion that they are or were involved in activities of terrorism and its financing. Most of the listings state that the persons were participating or encouraging others to join paramilitary organisations in Syria. 2 of the designated persons were listed for providing financial resources in 2014-2015 to persons leaving to or being present in Syria for the purposes of participating in paramilitary organisations.

The Government of North Macedonia took the decision to designate the 15 persons on 13 September 2022. This decision was published in the official Gazette on 19 September and included the names of the 15 persons, their identifiers, reasons for listing, and the obligations of OEs (e.g., the requirement to freeze assets and report to the FIU). These obligations took legal effect the following day.

On 20 September, the FIU published a notice on the front-page of its public web platform that included a link to the Gazette. At the same time, the FIU also reached out to some supervisors on 20<sup>th</sup> (SEC, ISA) with a request that they contact their OEs directly (via email) and inform them of the notice. The National Bank reached out to OEs on 21<sup>st</sup>. On 27 September the FIU updated the consolidated list of those subject to restrictive measures to include the 15 persons and this resulted in an automatic notification being sent to all persons registered on the “Restricted Website”.

In terms of effects, on 20 September 1 bank reported to the FIU a positive match and on 21 September 3 banks reported positive matches to the FIU. The banks’ notifications contained

information that mentioned the existence of bank accounts held by designated persons but that these were inactive and empty.

380. Further to the case study above, discussions with OEs revealed that those from the most material sectors (e.g., banks and insurance companies) were mainly updated of the new restrictions by their supervisors directly by email on 20<sup>th</sup> or 21<sup>st</sup> and undertook sanctions checks over the following day or so. One bank noted that they were subscribed to the Gazette and were able to act more quickly. Most of the obliged DNFBPs (including notaries, accountants, and lawyers) that are subscribed to the “Restricted Website”, reported that they were unaware of new restrictions until the automatic FIU notification which informed them. Some OEs were unaware of the domestic listings as they had not seen the FIU notification. .

381. The authorities have had information available to support and have been considering potential listings since 2018. In the summer of 2022, competent authorities agreed that there were sufficient grounds to put forward the 15 names to the Government for a decision. A reason for this timeframe is the previous lack of clear processes and practical mechanisms for putting forward designations in accordance with the provisions in the LRM.

382. As seen in the case study, UNSCR 1373 designations were not fully communicated without delay, and this therefore increased the risks of asset flight. The authorities made several and commendable efforts to inform OEs of new obligations, but these were generally inconsistent. The effectiveness of these mechanisms was undermined by the lack of a clear processes being put in place ahead of the governmental decision on 13<sup>th</sup>, and resource pressures at the time of implementing the new designations. The extent of the delay was less in the more material sectors.

383. Positive efforts made by authorities to designate the 15 persons using legislative tools for the first time. Improvements should be made for future proposals and the recent experience has prompted authorities to take measures that will improve effectiveness. For example, the MOU now requires minutes and attendee lists to be kept.

#### *Implementation of TFS (assets frozen)*

384. There have been no confirmed matches with listings made under UNSCRs 1267 and 1373 that have led to the freezing of funds or economic assets (although there have been positive matches to 1373 designations). To a large extent North Macedonia has demonstrated that banks and insurance companies, that rely on automatic screening software, would take appropriate action in the case of a confirmed match. The authorities recently used 1373 tools to prevent future financial flows to finance terrorists by adding 15 persons to a domestic sanctions list.

385. The LRM provides for a Competent Court to make decisions on approving the use of payments that would otherwise be prohibited under the LRM. Whilst authorities have not received a TFS exemption request, the process has major deficiencies. At a technical level, the LRM does not contain all authorisation grounds set out in the UNSCR (see R.6(7)). Operationally, there is no public guidance informing potential requestors of how to apply for an exemption through the court and the types of payments that would be covered. The authorities have not considered whether they should have any policy input into the process and there has been no engagement with judicial authorities regarding the types of things that would be considered in a request. Finally, the current process does not comply with UN procedures in instances where there are UN pre-notification requirements to be complied with - following a decision, but before payments can be granted. Overall, the authorities have not yet considered the exemption process end-to-end and if there were a request, the authorities would likely face challenges in this area.

#### *Communication*

386. The “Restricted Website” is effective at informing OEs of changes to the UN TFS lists and the automatic notifications ensures that the subscribers are notified in a timely manner. There are no systems in place to inform the public of UN TFS designations although domestic 1373 listings are published on the FIU website that is freely accessible. As previously noted, the FIU can track which OEs open listing, delisting, and amendment notifications and actions have been taken to ensure they do so. In practice, the process for 1373 domestic listings includes an additional step where some supervisors will contact their OEs by email although this is inconsistent across all sectors.

387. In 2018, the FIU published guidelines relating to LRM obligations. These are reasonably sound covering obligations of OEs, the steps they should take when freezing assets and reporting to the FIU. Specific sections for the banking, real estate and insurance sectors are included to improve awareness of how obligations relate to certain activities. A helpful section on what procedures to follow in the case of positive alerts is included with OEs being able to waive alerts or seek guidance and confirmation from the FIU in cases where there is doubt (see IO4). The guidelines form a reasonable basis upon which effectiveness can be improved. However, the guidance has not been updated for 4 years even though there are areas for improvement (e.g., covering the exemption process, process of appealing designations, targeted sections for other FIs, DNFBPs and VASPs). Obligated entities regularly contact the FIU, via email or phone, with queries relating to LRM obligations and this led to the drafting of 20 FAQs being published on the FIU website, most of which relate to the general obligations of the LRM. The authorities have not yet investigated whether the FAQs have had the desired outcome and reduced the number of such queries.

388. Several outreach sessions have been conducted since the LRM came into force and these were primarily focused on explaining the regulations. A breakdown of sessions is provided below:

**Table 4.1: Outreach actions on the LRM**

Date period	Number and content of outreach sessions	Attendees
<b>21- 25 June 2021</b>	8 sessions in different regions covering TF risks, implementation of LRM obligations and presentation of new restrictive web platform of the FIU,	133 representatives from FIs and DNFBPs took part overall
<b>23 -24 February 2022</b>	Building capacities of the FIU two-day training focused on new TF risk indicators and TF and PF case studies.	30 representatives from banking association, MVTS, insurance companies, notary chamber, casinos, auditors, and supervisory authorities.
<b>27 - 29 April 2022</b>	Workshop dedicated to the efficiency in the implementation of restrictive measures, with experts from other countries.	Representatives from government institutions, banking association, notary chamber, and bar association

389. Positive feedback regarding the sessions was received and raised awareness of the obligations of those that were in attendance. Nevertheless, the queries the FIU receives and private sector discussions, reveal a continued lack of awareness of LRM obligations and TF typologies, particularly in some DNFBP sectors (including lawyers, notaries, and accountants). Overall, the authorities do not actively consider reviewing guidance products once issued and have no engagement strategy to target those riskier sectors where understanding remains at low levels. The current approach could therefore be improved. Further challenges to the effective implementation of TFS include a lack of awareness amongst FIs and DNFBPs of TFS typologies (see IO4 for more detail), and how beneficial ownership structures can be used to circumvent TFS.

### 4.3.2. Targeted approach, outreach and oversight of at-risk non-profit organisations

390. A TF risk assessment for the NPO sector of North Macedonia was concluded in a report published in April 2021. The analysis was focused around FATF methodology and based on data from a variety of primary and secondary sources (R. 8.1(a)) The report provides an overview of the sector in North Macedonia and covers it's i) composition, ii) legal framework, iii) NPO TF threats and risks, iv) mitigating measures for reducing NPO TF risks, and v) recommended actions to further mitigate risk. As of 2020, the authorities reported a total of 10,845 NPOs registered in North Macedonia although these are split into various types of organisations, some of which fall outside the scope of the FATF definition (see table below). In relation to materiality of the sector overall, it is very small in terms of financial footprint.

**Table 4.2: Statistics from the NRA report for NPOs with data covering the period up until March 2020<sup>29</sup>**

Type of organisation as per the Central Register	Number	FATF NPO
Social humanitarian association	354	Yes
Sports association	2,488	Partially
Cultural association	363	Yes
Professional (trade) association	340	No
Environmental association	106	Yes
Foundation	164	Yes
Other social organisations, foundations and civic associations	7,030	Yes
Total number of entities	10,845	

391. As noted previously, the LRM is only extended to OEs under the AML/CFT law and the Land registry, and not all natural and legal persons. The fact that there are no TFS obligations to NPOs is a major technical deficiency impacting the application of TFS to this sector due to the higher risk they are exposed to.

392. Most NPOs in North Macedonia fall into the category of association or foundation. The activities of such organisations are often diverse, some but not all support or undertake humanitarian-related work. The sources of funding for NPOs can vary from donations, membership fees, and other revenues from domestic and international partners. Weaknesses in Central Registry data and lack of a breakdown provided in annual financial reports hinders the ability of Competent authorities in assessing financial flows in this sector. The absence of robust quantitative data for the sector has also hindered competent authorities in their assessment of TF threats and risks.

393. The following issues may have a significant effect on the NPO sector in terms of TF abuse: i) lack of oversight or supervision of NPOs, ii) lack of a understanding of which NPOs are more at risk of TF abuse across all sectors, iii) NPOs not being subject to the LRM obligations directly, and iv) insufficient measures taken to address risks in higher risk NPOs. Discussions with some NPOs revealed an understanding of TF typologies for North Macedonia and potentially instances of NPO abuse that were not included in the NPO risk assessment. This demonstrates a misalignment of views and awareness of potential threats and vulnerabilities between NPOs and authorities. The NPOs at higher risk of TF that the AT met, do not implement measures to mitigate against the

<sup>29</sup> Please note that this data is different than that used in IO1 and IO5 which covers the period up until 2021. The data used for the NPO risk assessment excludes those NPOs that have not been re-registered in accordance with the new Law on associations and foundations from 2010 where there was a new requirement for preregistration. The authorities advise that this is on the basis that such NPOs are inactive (but cannot be stricken-off) and thus do not present AML/CFT risks.

risks. Even though they are not OEs under the LRM, none of NPOs met were aware of recent 1373 listings and have not performed screening checks.

394. The risk assessment includes possible TF typologies for abusing NPOs and defines the following criteria that would merit a higher risk categorisation: i) management expressing religious radical ideology, ii) registration of NPOs in geographical regions at higher risk of terrorism, iii) donations being sent to high-risk countries and conflict zones, and iv) lack of available financial and other information on NPO activities. Based on the information collected for the risk assessment, those NPOs with a i) social-humanitarian, ii) cultural-educational, and iii) religious nature are defined as being of higher risk. This equates to roughly 13% of the sector.

395. Several initiatives have been taken to publicise and involve NPOs in the NPO risk assessment through requesting their input or undertaking several engagement events following the conclusion of the report to raise awareness. Specifically, 14 events (both virtual and in-person) were organised with up to 350 representatives from the NPO sector being present. These sessions were tailored to improving AML and CFT awareness and 5 of these events were targeted towards geographical regions identified with higher TF risks (Tetovo, Gostivar and Kumanovo). Discussions with authorities and NPOs onsite revealed the existence of general challenges in securing attendance from higher-risk NPOs at events. Overall, the work of authorities has informed parts of the sector of potential TF risks although more vulnerable NPOs have been targeted to a more limited extent.

396. The NPO risk assessment is relatively up-to-date and wide-ranging resulting in a substantial list of recommended actions and measures for competent authorities, most of which are yet to be completed. Discussions with the NPO sector revealed that they generally agreed with the findings of the risk assessment. The survey conducted to inform the risk assessment noted the relatively rare use of cash, however, most of the NPOs that met the AT noted that cash is used, particular by smaller entities that do not depend on institutional donations, by way of payment of membership fees, Hawala, direct donations, and cash boxes. A couple of TF typologies were also identified by the NPOs at onsite that are not present in the risk assessment, one NPO noted that they would have liked to have fed into the risk assessment to take into account the activities of their organisation. In terms of risk understanding, during interviews the authorities considered the risk of NPOs being abused for TF as being medium-high, but the NPO risk assessment notes the inherent risk to be low to medium. This potentially suggests the appearance of initial knowledge gaps amongst the authorities that carried out the assessment.

397. There are generally few measures and policies in place within NPOs to mitigate TF risks of NPO abuse. This is particularly in those NPOs deemed to be higher risk. Those organisations with institutional donors have far greater reporting requirements and policies which reduces their TF exposure. Amongst smaller NPOs, and those at greater risk, there are wider deficiencies in the application of financial management, transparency and due diligence processes. The FIU has recognised these gaps and has implemented and supported some mitigation measures already over the past year, such as a detailed handbook for NPOs, self-regulatory initiatives (Trust Mark and Civil Society Code), and outreach and engagement.

398. Between 2017 – 21, the authorities noted that 12 STRs have been submitted that involved transactions with TF suspicions that involved NPO (please see breakdown below). The intelligence agencies also monitored 8 NPOs in relation to potential NPO abuse. Despite this, there have been no recorded investigations or cases in relation to TF abuse of NPOs.

**Table 4.3: STRs received by FIU on potential TF abuse of NPOs**

NPO Terrorist Financing STRs	
2021	4
2020	4
2017-2019	4

399. Additional efforts have been made regarding the STR indicators, namely they have been reviewed jointly with the banks, NPOs, the FIU and the National Bank to help detect potential abuse of NPOs.

*Licensing / registration*

400. In terms of registration, the Central Registry will review the articles of association to ensure that they are in accordance with the LAF, they do not routinely seek additional information to verify what has been provided. BO information is submitted as a part of the process and it is not verified by the registry, rather the registration agent (if they are involved) is responsible. No checks will be done in relation to sanctions lists as a part of the registration process and the authorities noted that a designated person would be able to register an NPO unless a registration agent is used and they themselves perform a check against the list. No registrations have been refused on grounds of TF suspicion and this is not something the Central Registry considers when exercising its function.

*Supervision and/or monitoring*

401. There is currently no risk-based supervision or monitoring of the NPO sector to minimise the risk of TF abuse, either the 87% of NPOs categorised as low risk or the subset of NPOs assessed as low-medium risk in the NPO report. The authorities are in the initial stages of setting this up. The PRO performs tax inspections of NPOs. Most NPOs do not file annual accounts with the Central Registry due to having a reported income of under 2,500 euros (as per the relevant legislation – see R. 8). Most, but not all, will file the necessary exemption although there are limited penalties for not doing so.

402. There is generally little oversight of the sector apart from some *ad hoc* tax inspections. The authorities highlight that the PRO has performed a total of 104 tax controls in the period under review and that some of these controls came at the request of LEAs investigating suspected TF. Such controls can assist LEAs in getting information, but they are not focused on TF. There is a lack of coordination as well. For example, LEA's may request the PRO to perform a tax inspection based on TF suspicions to try and gather additional data. However, the PRO is never made aware of the reason for performing the inspection and has received no training or guidance on TF and things to look out for that might assist investigators. Overall, there is no strategic approach or consideration to how higher-risk NPOs might be supervised or monitored except through active investigations. Special Recommendation 13 in the National AML-CFT strategy (2021-2023), does set out measures and activities to establish an approach, following the risk assessment, although authorities are at the beginning stages of this.

403. There are some parts of the sector that would welcome further oversight and formal supervision to help detect and prevent instances of NPO abuse, whilst others would prefer to develop the current system of self-regulation which is relatively emerging (5 entities are part of a trust mark scheme and 50 organisations have signed up to an NPO code of ethics).

### *Outreach and training activities*

404. NPOs in North Macedonia have been offered multiple training sessions over the past year. Several higher-risk NPOs have participated at such events although further and more specific targeting of this sub-group would be beneficial. The FIU, in collaboration with a local NPO and international donors, have put together a useful set of materials including a handbook and factsheet to inform the sector and highlight risks and measures to mitigate against them. The NPOs met onsite noted that the engagement events were beneficial although they demonstrated an uneven level of understanding of TF threats, vulnerabilities and likelihood of risks materialising, particularly across NPOs deemed to be more susceptible to abuse. This initiative began in 2021 and the NPOs met onsite noted that TF was an unknown matter to them before this although there have been earlier attempts by authorities to raise awareness in the sector. This engagement should be sustained going forwards.

405. Overall TF risk understanding in relation to NPOs is not homogenous between the sector and competent authorities, although authorities have made demonstrable progress in these areas. The authorities are at the beginning stages of establishing risk-based supervision or monitoring of NPOs and there is potential room for more targeted collaboration and resources to enable this. Financial due diligence measures, including sanctions checks, are applied unevenly by NPOs and not at all amongst some at higher risk (see also R. 6 and R.8). There is very limited awareness of recent domestic 1373 listings across the sector. Finally, further mechanisms are needed to detect and mitigate against risks that terrorist financiers can create, register, and operate NPOs to further their objectives.

#### ***4.3.3. Deprivation of TF assets and instrumentalities***

406. North Macedonia has a legal framework with several deficiencies in relation to the establishment of appropriate mechanisms for the freezing/confiscation of assets of persons involved in TFS (see R.6). Whilst no assets have been frozen under the sanctions regimes set out in UNSCRs 1267/1989, 1988 or 1373, the competent authorities have demonstrated their willingness to take action under other UNSCR sanctions regimes to freeze assets, funds and ensure prohibition of access to frozen funds.

407. Discussions with authorities revealed that TFS tools have generally been viewed as a last resort when other TF measures have been attempted. The statement of reasons for all 15 persons listed under 1373 reveals that authorities will likely consider a listing if there has been a previous criminal investigation in the first instance. There appeared to be a general lack of awareness across authorities around the potential role and preventive nature that asset freezing can do to stop financial flows. In general, authorities have previously considered there to be an either-or choice between convictions and listing and did not understand that both could be in place simultaneously, however this approach is evolving with the recent listing of the 15 persons. The authorities should continue to address knowledge gaps of the mechanisms and underpin their efforts with a more strategic approach.

#### **Box 4.5. Case Study of positive matches relating to sanctions designations**

Following the designation of X person/s under a TF-related UNSCR. The authorities were quickly informed by 4 Banks of 4 accounts that belong to designated person/s. Although no funds were contained within the accounts, the banks put markers on them to freeze any funds that arrive in those accounts. The FIs had performed sanctions screening following a notification by competent authorities, and following the appropriate procedures in the FIU guidelines, informed the FIU of the positive match. The FIU confirmed the matches and requested further information in relation

to the accounts. The investigation is ongoing and may result in the identification new TF typologies. The case demonstrates the ability of banks to screen their client lists for designated persons quickly and escalate positive matches to the authorities without delay. The authorities are also shown to be proactive in their approach to positive matches and undertake follow-up action.

408. The case study above is however an example of how UNSCR tools can lead to demonstrable effects in the private sector in pursuit of depriving TF assets, even if no funds are immediately available to be frozen. On-site interviews revealed that the view of TFS asset freezing as one way to prevent TF, amongst competent authorities, is changing and a useful tool.

409. The paragraphs above must also be situated in the context detailed within IO9 which covers the many efforts that North Macedonia has undertaken to address TF risks, including pursuing cases where either terrorist organisations or FTFs were or are expected to have been financed. Multiple Investigations and pre-investigations are ongoing and it is clear that North Macedonia actively seeks to deprive subjects or organisations of assets and instrumentalities related to TF activities using the tools (including asset freezing) it has available. They face several ongoing challenges in relation to securing TF convictions, but they have had successes in relation to those that provided financial support to FTFs (see IO9 case-study). There has been no case of a (non-conviction based) confiscation of TF assets, but the wider TF disruptive methods and strategies are also noted by the AT as a strength of the system.

#### *4.3.4. Consistency of measures with overall TF risk profile*

410. There have been multiple efforts by the North Macedonia's authorities to assess their TF risks. The 2016 NRA concluded that there is a medium risk of North Macedonia being misused for TF purposes, which was then downgraded to medium-low in the 2nd NRA in 2020, covering the period 2016-2018. In the 2<sup>nd</sup> NRA the authorities assessed the risk of terrorism to North Macedonia to be low, however noting the existence of high levels of religious radicalisation, military training, and connections with international terrorist organisations. When assessing risks, the authorities had an acute focus on the funding of FTFs outside of their jurisdiction.

411. As covered in IO1 and IO9, there is a generally good understanding of TF risk level amongst competent authorities and that multiple measures have been taken to address these risks. The 15, 1373 designations in relation to the number of FTFs is viewed as considerable and very positive. On the other hand, the application of these measures, in conjunction with an evolving threat environment merit further considerations of the risk level in the country.

412. Given the new domestic designations, the country's exposure to sanctions evasion has also increased and this seems incommensurate with the findings in latest NRA and might prompt a review. Whilst there are measures to mitigate risks that OEs are exploited for sanctions circumvention, in practice it is generally only the most material sectors that are taking sufficient action. Additional actions are therefore warranted to improve effectiveness in this area.

#### *Overall conclusions on IO.10*

413. North Macedonia's national legal framework does provide for immediate implementation of TFS obligations associated with listings, amendments, and de-listings, if the principle UNSCRs are in force. Since 2018 UNSCRs have been given legal effect with delays although this has not had a material impact on TF TFS obligations during the assessed period. Practical implementation is dependent on communication mechanisms of sanctions lists, and these are generally effective but recently introduced. These only involve the Land Registry and OEs and other legal and natural persons are not captured by the obligations or mechanisms which undermines effectiveness. TFS-

related engagement and guidance has been provided to OEs although this has not been sustained over the long-term. No TF TFS related assets have been frozen or confiscated so far although UNSCR 1373 tools have been recently used demonstrating willingness to improve effectiveness.

414. The country has identified the NPOs which fall under the FATF definition of NPO (and could be at risk of TF misuse) through a good risk assessment although it was affected in places by a general lack of robust data - a systemic issue across IOs. There is no risk-based monitoring or supervision for TF purposes, authorities being at the introductory stage of such an approach. Positive outreach and guidance has been provided to some NPOs although authorities have found it a challenge to reach higher-risk NPOs.

415. **North Macedonia is rated as having moderate level of effectiveness for IO.10.**

#### 4.4. Immediate Outcome 11 (PF financial sanctions)

416. North Macedonia is a producer, broker, and transit country for dual-use goods and technologies. A Commission within the Ministry of Finance, reviews and assesses export requests for such goods and technologies to other countries. From 2019 – 2021, 56 such requests were received.

417. According to data contained within a PF strategic analysis, there are trading relationships with Iran but not in dual-use goods and technologies<sup>30</sup>. The analysis observes that whilst trade is not substantial, there is a difference between the value of goods imported/ exported and any associated financial flows through North Macedonia's banks and MVTs. Authorities note that the associated financial flows may take place outside their jurisdiction or via intermediary countries, although no analysis on this has yet been undertaken specifically on this

##### *4.4.1. Implementation of targeted financial sanctions related to proliferation financing without delay*

###### *Implementation of TFS on PF*

418. The legal basis for the application of TFS under UNSCRs 1718 and 1737 and their successor resolutions is the same as for UN TFS related to TF. Implementation of TFS related to PF follows the same processes and procedures as with UN TF sanctions (see IO.10). TFS obligations to OEs (and the Land Registry), relating to changes in the PF UN sanctions lists, are, and have been given legal effect immediately without delay under the LRM (R.7). Some delays of North Macedonia giving legal effect to UN PF UNSCRs without delay have been observed. For example, the LRM only gives effect to UN PF resolutions (since 1 January 2018) following publication on the MFA website, however, there were delays of more than a year between the DPRK resolutions being adopted, and publication by the MFA. As with IO10, the UNSCRs that predate the 1 January 2018 are in force and following a review of the resolutions published with delay (S/RES/2407 (2018)); S/RES/2464 (2019); S/RES/2515 (2020); S/RES/2569 (2021); S/RES/2627 (2022)<sup>31</sup>, the deficiency in publication can be less heavily weighted as the principal ones are in force and this has ensured that listings have had immediate legal effect without delay.

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<sup>30</sup> The PF strategic analysis noted that there were 80 import declarations from North Korea between 2019-2021 to the value of 82,135,207.88 NMD and 5 export declarations to the value of 484,667.2 NMD. During the onsite, the authorities clarified that there had been human error during the recording of customs data and, whilst there is trade with South Korea, they confirmed that there is no trade with North Korea.

<sup>31</sup> These post-2018 UNSCRs do not alter the sanctions lists and freezing obligations as adopted under previous resolutions.

419. The same major technical deficiency in that not all legal and natural persons are required to freeze assets also applies (see R.7).

420. As with TF TFS, there is a relatively recent and good notification system in place for informing OEs of changes to UN PF lists through automatic notifications to subscribers of the “Restricted Website” and this is important for practical implementation purposes. There was an absence of an effective notification mechanism prior to the introduction of this in December 2021. Larger FIs with access to commercial databases would have been able to screen lists prior to this.

421. Many of the authorities involved in the implementation of TFS for PF are the same as those involved in implementation of TF TFS. The FIU plays a central role in the maintenance and publication of the consolidated list. Guidelines for the implementation of TF TFS measures are also equally applicable to PF TFS.

422. In terms of PF coordination, a Commission set up by the Ministry of Economy, Ministry of Defence, Ministry of Interior, MFA, Customs authorities and Government Secretariat meets on an *ad hoc* basis. The group also meets when export licensing requests for dual use goods and technologies are received; relevant competent authorities provide opinions and discuss before a recommendation is made to the Minister of Economy for a decision. In relation to PF coordination, the group has not discussed PF TFS or PF-related sanctions evasion – which potentially highlights a lack of awareness or prioritisation of these matters. There have also been some issues around accurate record keeping of meetings and minutes. The establishment of this body is a positive measure although there is a general lack of awareness amongst competent authorities of the interaction between trade and financial sanctions.

423. The LRM process for obtaining an exemption under UN PF TFS sanctions regimes is the same as that described under IO.10 - no such requests have been submitted. At a technical level, the LRM does not contain all authorisation grounds set out in the UNSCR (see R.7). Several operational deficiencies such as the lack of guidance were also identified and the current process would unlikely comply with UN procedures in instances where there are UN pre-notification requirements to be complied with. The authorities did not suggest the presence of any mechanisms or processes which would help safeguard the integrity of the sanctions regime following a determination by a court.

424. Communication from competent authorities regarding PF TF to FIs and DNFBPs is centralised through the “Restricted Website”. A list of multiple PF indicators is available on this site for OEs to access and 3 training sessions on this have been offered to private industry to LEAs, OEs and supervisors. Some FIs were aware of this document during onsite interviews but most private sector representatives were not. There has been no engagement with VASPs regarding PF TFS. There have also been very few instances where OEs have engaged competent authorities regarding PF TFS concerns. A case presented during the onsite involved a casino which blocked 2 customer transactions based on there being links to Iran – there was however no suspicion that there was any connection to persons on PF TFS lists and potentially illustrates a lack of PF TFS awareness.

#### ***4.4.2. Identification of assets and funds held by designated persons/entities and prohibitions***

425. During the period under review no funds or economic assets have been identified and needed to be frozen pursuant to UNSCRs related to PF TFS. There also has not been any case reported or investigated by competent authorities. Finally, the authorities have not identified any sanctions related STRs that might relate to PF.

426. 2 cases relating to other sanctions regimes that involved the rejection of trade licenses based on PF and dual-use good suspicions were presented by authorities. These case studies demonstrated the ability of the Commission to effectively investigate trade licence applications effectively, including co-operation with other countries, and reject applications due to PF concerns and potential evasion of sanctions.

**Box 4.6. Case Study of rejected trade licence applications relating to dual-use goods (non-UN sanctions)**

**Case 1:** The authorities received an application from a non-designated firm which stated they were looking to receive goods to facilitate production for civil purposes. Following investigation by the Commission, the firm was identified as a subsidiary with strong links to a designated firm on non-UN sanctions lists. The reason for the designation of the firm was in relation to PF. The North Macedonia's authorities engaged with other countries to confirm links and rationale for designation and, following correspondence with the applicant, found that the ultimate end-user and destination for the goods was unclear. A licence was therefore rejected.

**Case 2:** Similar to case 1, the authorities identified that the applicant for a trade license was a subsidiary of a company designated on non-UN sanctions lists. Investigation revealed that the firm produced both civil and military goods but following engagement with the firm and other jurisdictions, determined that the ultimate destination of the goods could not be confirmed. Due to the lack of assurance around PF concerns, the licence was rejected.

427. Despite the positive action that authorities have taken with regards to the processing of licence applications for dual-use goods, including international engagement; several shortcomings were identified in relation to PF TFS understanding, screening procedures, and the supervision in place (see IO3 and IO4). This has impacted the ability to confirm the effectiveness of the measures aimed at identifying the assets and funds held by designated persons/entities.

**4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations**

428. The AT considers that overall understanding of, and compliance with, PF- related TFS obligations is inconsistent amongst FIs, DNFBPs and VASPs.

*Understanding and compliance with obligations*

429. OEs subject to the LRM rely heavily on either IT screening tools or manual name checking against sanctions lists to identify potential PF cases. The entities met during the onsite did not differentiate between TF and PF related TFS and the level of understanding regarding obligations differs significantly across sectors. Banks have a higher level of awareness and most DNFBPs and other FIs rely on them for the freezing and reporting to competent authorities in the case of a match. Those met onsite were not clear on possible typologies for sanctions evasion despite a TF and PF typologies document being accessible on the FIU "Restricted Website".

430. Banks and insurance companies operating within the Republic of North Macedonia generally use robust automatic and real-time software (mostly Dow Jones) to screen existing and new clients as well as transactions against UN sanctions lists. This software is also used to screen data against EU and US sanctions lists. If a potential match is flagged, then the entity will conduct checks to confirm whether it is confirmed or not. The number of potential matches varies bank to bank quite significantly, and it is not necessarily correlated with their size. One medium-sized bank stated they averaged more than a 1000 potential TFS hits every month, a larger bank meanwhile stated they received about 10 (the FIs did not differentiate between PF and TF related

TFS). This is potentially an indicator of a lack of effective calibration of the screening software. The authorities confirmed there had been no cases where an FI had sought guidance from the FIU to confirm a potential match. This could be a result of the useful financial sanctions guidance that includes a dedicated section on alert processing and sanctions systems.

431. Clients of banks and insurance companies are checked against TFS lists both at the stage of establishing a business relationship and occasional transactions. Regular checks of the client base are conducted during the business relationship and for new entries. Banks screen their database weekly if not more often in accordance with group policies (daily). Amongst other FIs manual and automatic screening is performed after notification changes to the consolidated list and more generally on a periodic basis from weekly to yearly intervals. Some smaller DNFBPs screen their potential and existing clients against the UN lists manually upon receiving information from the FIU but the overall application of measures to DNFBPs is very inconsistent. With regards to casinos many use commercial systems which provide for UN designations, although some are reliant on manual name searches. Clients are checked at the entrance and in case of a match would be refused to entry to the premises, asset freezing would also take place for any clients that become designated and have an account with the casino. With regards to VASPs, there are no TFS sanctions checks performed except in cases where there is a linked-bank account to a client in which case the VASP will rely on the bank to perform due diligence.

#### *Outreach*

432. The OEs that are bound by the LRM understand and comply with obligations in the context of direct control/ownership, to some extent. This means that if there is a clear positive hit against a manual or automatic search, most OEs would likely take appropriate action and/or report to the FIU. Discussions with OEs revealed a more limited understanding of indirect control and ownership, in the context of TFS obligations, across FIs (excluding banks), DNFBPs, and VASPs. Discussions revealed several instances amongst DNFBPs (including accountants, lawyers, and notaries) and their supervisors, where there was little understanding of what action should be taken if there was a positive match. This was partly down to a view that TFS obligations do not really apply to their sector.

433. With regards to awareness raising and guidance provided to the private sector, this is the same as that in relation to the TF TFS. A list of PF indicators is available on the “Restricted Website” for OEs to access. As previously noted, 3 training sessions in relation to PF have been offered to LEAs, OEs and supervisors. Only banks were aware of the PF related material and actions undertaken by competent authorities during discussions suggesting a need for further engagement.

#### ***4.4.4. Competent authorities ensuring and monitoring compliance***

434. The competent authorities ensuring and monitoring compliance with PF related TFS include the FIU, ISA, National Bank, SEC, Bar Association, and Chamber of Notaries. The FIU implements PF TFS and monitors OEs and whether they access the consolidated list.

435. There is no difference in supervisory approaches to PF related TFS and TF related TFS. Supervisory authorities are entrusted with ensuring that OEs have robust systems, controls, and governance processes in place with regards to LRM obligations. Such supervision takes place through onsite and offsite inspections and in most cases the focus is on the ability of OEs to access the consolidated list on the “Restricted Website” rather than actions that have been taken following changes to the list, which undermines effectiveness and is an area for improvement (see IO4). The National Bank and SEC perform more comprehensive inspections where they will

review sanctions policies (if available), record keeping of sanctions checks that have taken place, and perform client testing in relation to TFS lists. The National Bank conducted a thematic TF/PF review of the banking sector and shared its findings with the OEs under its remit. No targeted PF related TFS supervision has been conducted, authorities note that National Bank, SEC, and ISA approaches already incorporate PF matters.

436. With regards to the Chamber of Notaries and Bar Association, supervisors will check access of the OE to the “Restricted Website”, they will also consider relevant internal policies. However, discussions revealed a lack of understanding of TFS typologies and there is no clear understanding of what supervisors would deem as more effective practices to improve TFS compliance with the LRM. Further improvements are needed in this regard. No targeted PF TFS supervision has been conducted.

437. The FIU will check to see if the consolidated list is accessed during its supervisory and semi-enforcement inspections e.g., of Casinos. Their procedures in relation to TFS supervision will focus on the checking the existence of screening mechanisms rather than on the efficacy of such tools. The authorities have not found breaches of TFS requirements in relation to existing monitoring and screening systems.

438. During the period under review, no warnings, sanctions, or penalties have been made or imposed for failure to comply with PF-related TFS obligations or deficiencies in sanctions controls or processes. There was 1 recommendation made by the SEC in relation to sanctions screening deficiencies and another to a brokerage house regarding improving controls around TFS-related documentation. The SEC expects a higher level of controls than most other supervisors. PF-related typologies have been made available on the FIU “Restricted Website” however supervisors have not considered whether they check understanding of them during inspections. Whilst no TFS breaches have been identified by competent authorities, there is not enough information to take a concrete view on whether the number of remedial measures is sufficient.

#### *Overall conclusions on IO.11*

439. As is the case with TF related TFS, the legal framework aimed at implementation of PF TFS without delay has several technical deficiencies although TFS obligations relating to TFS obligations have been given immediate legal effect without delay. The relatively recent automatic notification system is good at quickly informing OEs of changes to sanctions lists. The same TFS related positives and deficiencies examined under IO10 are applicable for IO11. Multiple trainings have been delivered by the FIU to persons subject to the LRM and PF typologies are provided to OEs. Despite this most OEs have a very limited understanding of sanctions evasion. Positive measures to improve PF coordination across government have been taken although awareness of PF related TFS remains uneven.

440. Those subject to the LRM generally do not have a good understanding of PF related TFS apart from banks and insurance companies. Challenges in relation to identifying indirect ownership and control were noted. Other FIs, and most DNFBs and VASPs had inconsistent and broadly limited understanding of LRM obligations and sanctions evasion red flags and typologies

441. Whilst TFS-related STRs have been submitted to authorities, there have been none in relation to PF TFS. No assets have been frozen under PF TFS regimes.

442. Across all supervisors, two recommendations have been made in relation to TFS improvements of an FI. The national bank and SEC have higher levels of awareness and capability for more effectively supervising PF-related TFS obligations. There is not enough information to take a firm view on whether the number of remedial measures is sufficient. **North Macedonia is rated as having a moderate level of effectiveness for IO11.**

## 5. PREVENTIVE MEASURES

### 5.1. Key Findings and Recommended Actions

#### **Key Findings**

#### **Immediate Outcome 4**

- a) All FIs and DNFBPs met on site perform risk assessments that are updated at least on an annual basis. OEs from banking and insurance sectors demonstrated good understanding of their ML/TF risks. Risk understanding of the majority of DNFBPs (besides casinos, lawyers and notaries) and some FIs, such as capital market entities and money and value transfer services (MVTs) providers was more formalistic and focused on compliance with legal obligations. FIs understand their AML/CFT obligations well which is not observed with certain smaller-sized casinos.
- b) No trust and company service providers (TCSPs) have been identified by the authorities. Despite this, the AT met some OEs which were also providing services such as registered offices for companies without applying specific risk mitigating measures. This discrepancy and lack of measures puts in question the ability of both the private sector and the supervisors to fully understand specific risks posed by these activities.
- c) The most material FIs conduct adequate ongoing monitoring based on customer risk profile and generally utilise analysis and crosschecks of various sources of data. This notwithstanding, exchange offices lack effective measures to identify linked transactions, which can be abused to bypass CDD. DNFBPs use less robust systems and rely on periodical manual checks, which are usually commensurate to their risks and the nature and complexity of their businesses.
- d) The EDD measures are mostly applied based on customer (or counterparty in case of correspondent banking) risk profiles and mainly consist of analysis of additional documents, external sources of information and more frequent review of high-risk clients. Banking and insurance sectors apply the most comprehensive EDD measures including various scenarios monitoring customer behaviour and transactions. However, when it comes to the application of enhanced measures in relation to wire transfers, not all aspects of the “travel rule” requirements are fully understood by the concerned OEs. DNFBPs rely mostly on manual EDD measures and often refuse business relationships with high-risk customers. Overall, observed risk appetite across all OEs is low.
- e) Regarding TFS screening mechanisms, OEs are generally aware of the “Restricted Website” hosting the FIU’s consolidated sanctions list, with banks, MVTs providers, insurance undertakings, as well as the largest casinos adequately screening their customers via electronic automated systems. Manual screening procedures put in place, as well as the frequency of screening, by some smaller FIs (leasing and financial companies (small credit providers)) and most DNFBPs are not sufficiently effective at timely identification of entities or individuals subjected to TFS. Even within sectors with good screening procedures (banks), a lack of a unified approach at detecting and managing matches leads to significantly different numbers of hits within similar OEs. Regarding other TFS obligations (freezing mechanisms), these are unevenly

understood across different sectors, with the banking sector performing the best due to having practical expertise on their application.

- f) The overall number of STRs is incommensurate to the risk, context, and size of the country, including the fact that entire sectors, such as investment firms or exchange offices, have filed no STRs throughout the assessed period. Another issue is the uneven distribution of STRs across OEs within specific sectors where few OEs appear to be responsible for the majority of STRs (banking sector, notaries).
- g) All OEs met have procedures to prevent tipping off adequate to their size. Some isolated cases of tipping off have been identified by the FIU in relation to lawyers, accountants and small credit providers. Some DNFBPs expressed concerns about confidentiality of STRs, which raises doubts about whether the practical safeguards to protect confidentiality of STR reporters are fully abided, in all instances, by all individuals involved in the pre-investigation, investigation and court proceedings.
- h) FIs and DNFBPs have put internal controls and procedures in place, commensurate to their size, complexity and risk profile. AML/CFT compliance functions are properly structured and resourced (especially in larger OEs, that are required by law to establish an independent AML/CFT department) and involve several layers of defence based on the size of the OE. International financial groups have procedures that enhance AML/CFT compliance by their domestic branches and subsidiaries.
- i) VASPs are OEs as of July 2022, however they will not have to comply with AML/CFT measures until April 2023 and, at the time of the onsite, there was a general absence of risk understanding, mitigation, implementation of preventive measures (besides basic CDD measures) and formal internal controls across the sector.

### ***Recommended Actions***

#### ***Immediate Outcome 4***

- a) The authorities should provide more sectoral guidance and training on sector specific ML/TF risks, trends and typologies, specially to DNFBPs, MVTs providers and exchange offices in order to increase risk understanding.
- b) The authorities should carry out an analysis to identify which entities are providing trust and company services described in R.22.1(e) and implement measures to ensure that these entities are properly acknowledging and managing risks.
- c) The authorities should introduce measures that would increase identification of linked transactions, especially by exchange offices.
- d) The authorities should provide more guidance on “travel rule” requirements in relation to wire transfers to the relevant OEs, including VASPs providing transfer services.
- e) The authorities should place more focus on TFS screening procedures of OEs during supervision, assess if such procedures are capable of identifying designated entities in a timely manner and promote a more unified approach at detecting potential matches. This adjustment to supervisory procedures should become standard practice and be reflected in respective methodologies governing supervisory activities.
- f) As a priority, the FIU should take measures to ensure adequate reporting by all sectors, especially in relation to the sectors with the lowest STRs volumes, most notably casinos

and exchange offices. These measures should include outreach to OEs to reassure them about the absolute confidentiality of the STR reporter.

- g) The information from STRs (parts which are confidential in relation to the origin of the STR) should be kept confidential throughout the pre-investigation, investigation and court proceedings by all competent authorities.
- h) The authorities should provide guidance to VASPs following the transitory period envisaged by article 199 of the AML/CFT Law to improve harmonisation of their procedures with legislative obligations.

443. The relevant IO considered and assessed in this chapter is IO.4. The Recommendations relevant for the assessment of effectiveness under this section are R.9-23, and elements of R.1, 6, 15 and 29.

## **5.2. Immediate Outcome 4 (Preventive Measures)**

444. Overall, all categories of OEs tend to provide traditional products and services, with low levels of complexity, sophistication and innovation, as well as limited risk appetite.

445. OEs have been classified on the basis of their relative importance, taking into account their respective materiality and level of ML/TF risks. The banking sector is considered as the most significant while casinos, MVTs providers and exchange offices are considered as being significant. Less significant are those OEs that fall within the wider category of other FIs (including management companies of mandatory and voluntary pension funds, the insurance sector, asset management companies, brokerage companies, and leasing and financial (small credit providers) companies), other DNFBPs (lawyers, notaries, accountants, tax advisors, auditors and real estate agents) and VASPs. Please refer to Chapter 1 for a more detailed analysis.

446. IO.4 conclusions are largely based on the interviews with a range of private sector representatives, supported by supervisory data (incl. examination findings), other information from the authorities (including the NRA) and internal AML/CFT procedures of the OEs.

### ***5.2.1. Understanding of ML/TF risks and AML/CFT obligations***

447. According to article 11 of the AML/CFT Law, all OEs are obliged to perform comprehensive ML/TF risk assessments and take into consideration risk factors related to: customer, geographical areas, products and services, transactions and distribution channels. Risk assessment has to be documented and regularly updated on a periodical basis (mostly annual in practice for all OEs) or whenever there is a significant change that may affect the AML/CFT measures.

448. Based on article 68 of the AML/CFT Law, all OEs employing more than 50 employees who are directly related to the activities for which they are obliged to implement AML/CFT measures and actions have to establish a special AML/CFT department with at least 4 employees (this number increases in line with the size of OE). This requirement has a positive effect on the overall understanding of risks and obligations in larger entities.

449. Generally, OEs' understanding of ML risks is based on various common risk factors, i.e., cash transactions, non-resident customers, high-risk industries (specifically the construction sector), PEPs or high-risk countries, without much thought being given to specific typologies applicable to each of their businesses.

450. TF risk understanding is centred mostly on screening of potential customers during onboarding and ongoing monitoring against consolidated TFS list published by the FIU. Given the country's TF risk profile and the designation of 15 domestic persons in September 2022, deeper understanding would seem appropriate, like, for example, developing specific TF risk scenarios to actively monitor.

451. Regarding AML/CFT obligations, OEs are generally familiar with them and are capable of articulating them in a comprehensive manner, with the exception of some smaller-sized DNFBPs, (e.g. within the casino sector), who demonstrate limited understanding of their obligations.

#### *FIs*

452. The banking sector is knowledgeable about ML/TF risks and AML/CFT obligations and the majority of banks benefit from the fact of belonging to international financial groups (mainly EU-based) and follow group policies in this area. All entities met on-site had written risk assessments in the terms established by the law. Analysis of all STRs and feedback on STRs from FIU, where available, were also part of risk assessments. Risk assessments are updated at least on an annual basis or whenever there is a significant change that may affect the AML/CFT measures. The NBRNM reviews and provides feedback on how to improve the risk assessments when having access to them as a result of its off-site supervision capabilities.

453. ML/TF risks identified by the banks were related mainly to cash-based products, non-resident customers, NPOs, PEPs or fast-money transfer services, even if in not all occasions these factors were relevant to their specific businesses. Banks tend to use IT risk-scoring systems that assign customers with one of the defined risk categories (typically low, medium and high risk or unacceptable) during onboarding process. The scoring is conducted based on analysis of information gathered from customers and from various databases (registers from the Central Register of the Republic of North Macedonia, including the BO Register, consolidated TFS list and commercial RegTech databases) during CDD. The assigned risk category influences the amount and types of mitigating measures applied to a specific customer. Risk categorisations are periodically reviewed, as well as the factors and scenarios to determine them, usually annually or sooner based on changes in customer behaviour identified by the ongoing CDD and transaction monitoring processes.

454. Understanding of ML/TF risks in insurance sector is at comparable level to banking sector, risk assessment is conducted in a similar way, AML/CFT obligations are well understood and most entities also benefit from belonging to EU-based international financial groups and implementing its policies and additional internal control measures.

455. MVTs providers demonstrated a rather limited understanding of ML/TF risks, which is a quite significant deficiency given their materiality and potential abuse for TF purposes, although this is, to an extent, mitigated by the fact that all non-bank MVTs providers belong to international financial groups and use electronic automated systems and procedures developed at group level. Despite that, overreliance on groups' systems and policies without comprehensive understanding of ML/TF risks and functioning of these systems present risks of their own as it, e.g., prevents MVTs providers from precise calibrations of their systems based on their own ML/TF risks and leads to a formalistic approach to AML/CFT.

456. Other FIs demonstrated a rather formalistic understanding of ML/TF risks that is mostly focused on compliance with their legal obligations. This formalistic approach is, in AT opinion, one of the main reasons why all of these OEs submitted only 4 STRs in the entire assessed period.

### *DNFBPs*

457. ML/TF risk understanding of DNFBPs greatly varies within specific sectors. This difference between the level of ML/TF risk understanding is much bigger than differences between sectors. For example, some casinos, notaries and lawyers demonstrated solid understanding of ML/TF risks while others displayed rather limited ML/TF risk understanding. Unlike FIs, level of understanding of ML/TF risk seems to be less correlated with size of the OE and more dependent on the level of importance that every entity or professional assigns to AML/CFT.

458. Entities met on site that also provided services to companies such as a registered office were not aware of ML/TF risks associated with these services.

### *VASPs*

459. The current level of ML/TF risks and AML/CFT obligations understanding by VASPs is very limited despite some efforts already taken by the authorities and the fact that it is expected from them to harmonise their procedures with requirements imposed by the AML/CFT Law during the transitory period provided by the said law. VASPs expected supervisors to clearly communicate their AML/CFT obligations to them and to guide them on how to develop and implement the measures from the AML/CFT Law.

### ***5.2.2. Application of risk mitigating measures***

460. Generally speaking, basic risk mitigating measures are applied in line with the assessment and identification of risks described in the previous section. The complexity and effectiveness of these mitigating measures strongly correlates with the risk assessment and understanding of each group of OEs. Therefore, the most comprehensive mitigating measures are implemented by the banking and insurance sectors. Furthermore, this strong correlation also explains why many of the mitigating measures are related to cash transactions, non-resident customers, high-risk industries (specifically the construction sector) and PEPs. CDD is conducted to various degrees by all OEs, based on the risk categorisation of their customers, with EDD measures being applied mostly to customers categorized as high risk. Based on formalistic ML/TF risk understanding in some sectors, i.e., capital market entities, MVTs providers, exchange offices, credit/leasing service providers and majority of DNFBPs, the OEs often classify a very low number of customers as high risk. This is caused by basing the high-risk customer category on risk factors that are very rarely applicable to their business, therefore mostly relying on factors for which EDD is mandatory based on AML/CFT Law. An increase in the number of high-risk customers that would better reflect the ML/TF risks of OEs could be achieved if categorization of high-risk customers would be based on criteria that are more relevant to these specific groups of OEs' businesses.

461. Overall, risk appetite across all OEs is rather low which acts as mitigating measure *sui generis*. This is also connected with the fact that based on their risk assessment, OEs define customers with whom they refuse to establish business relationship, e.g., the vast majority of banks refuses to establish business relationships with VASPs and some DNFBPs onboard only domestic customers.

462. Other measures used to mitigate risk detected across the vast majority of OEs include periodical training and raising of AML/CFT awareness and requirement for high-risk transactions or onboarding of high-risk customers to be approved by senior management.

## *FIs*

463. Banks and insurance companies use the most sophisticated automated electronic systems that monitor customers behaviour as well as their transactions and check if customer's behaviour or transactions are in line with their risk profile. MVTS providers also use automated electronic systems that monitor customer's behaviour and transactions, but these systems are less comprehensive and contain less risk scenarios.

464. Use of automated electronic systems for monitoring customer's behaviour and transactions in other FIs depends mostly on the size of entities therefore there is not a single trend in these sectors and complexity of automated electronic systems varies as well. With exception to those FIs belonging to international financial groups (some investment fund management and leasing companies), automated electronic systems with various risk scenarios, red flags and stricter/supplementary thresholds beyond legal requirements capable of additional risk mitigation are not used. This further support the previous conclusion that ML/TF risk understanding and approach to AML/CFT obligations by FIs other than banks and insurance undertakings is rather formalistic and mostly focused on compliance with their legal obligations.

465. The banking sector demonstrated the most comprehensive rules and a good cooperation within the banking association, which has led to the development of guidelines and documents uniformly accepted and adopted across the sector. Another widely adopted mitigating measure in case of large transactions, including loans, involves internal requirement to approve such transactions by the AML/CFT department or senior management (with exception of cases in which larger transactions are in line with customer's risk profile, i.e., larger corporations).

466. Some insurance companies introduced a requirement for every payout to be approved by the AML/CFT department.

467. Special mitigating measure applies to exchange offices that are required to undertake CDD measures in case of transactions larger than EUR 500. Even though the lower threshold for conducting CDD measures is commendable, the lack of effective measures to identify linked cash transactions diminishes the effectiveness of this lower threshold. No other measures relevant for exchange offices that would prevent currency conversions and structuring are applied. This is especially worrisome given that there was not a single STR submitted in the entire assessed period by the exchange offices.

## *DNFBPs*

468. With the exception of some casinos, DNFBPs rely only on manual monitoring of customer's behaviour and transactions, which is mostly in line with their size and complexity. Additionally, the national video lottery introduced measures to further lower the risk that customers use false identity and misuse its services to transfer funds into another person's bank account. Overall, risk mitigating measures tend to include additional information used for customer profiling being requested from customers, lower thresholds for conducting of CDD measures than required by the AML/CFT Law and approval of payments of prizes by the AML/CFT specialists.

469. North Macedonia's framework for purchase and sale of real-estate involves lawyers that prepare contracts and notaries that verify them. Real estate agents agreed that further regulation of their sector could be helpful in order to ensure a level playing field. While enhancing the regulation of the sector would be positive, it is questionable how much would such regulation mitigate the ML/TF risks related to real estate, given that a minority of transactions involving real-estate are intermediated by real estate agents.

470. In line with rather formalistic ML/TF risk understanding and approach to AML/CFT obligations, other DNFBPs focus on compliance with their legal obligations without application of some specific measures that would go beyond general measures depicted in the initial part of this section. This includes OEs who are also providing services to companies (registered offices), which are not implementing specific measures to mitigate the potential risks associated to these services.

#### *VASPs*

471. VASPs are not implementing any specific risk mitigating measures, but only limited CDD requirements, as detailed in the following section.

### **5.2.3. Application of CDD and record-keeping requirements**

472. Generally, FIs and DNFBPs apply control measures that include all the general elements of CDD and record-keeping requirements.

#### *FIs*

##### *Identification and verification of the customer*

473. Banks are providing services only to customers that undergo the CDD process during onboarding. Identification and verification of identity is, in the vast majority of cases, conducted face-to-face, as remote identification methods are very rare. At the time of on-site, the possibility of such remote identification methods (e.g., utilizing video identification) was being assessed and tested by some banks. In the context of North Macedonia, most FIs met on site classified remote identification methods such as video identification as new technologies. Reliance on face-to-face identification and insistence on physical presence of client during onboarding significantly reduces possibility of using false identity by customers. The most material FIs identify and verify their customers via ID documents while also checking various databases and open data sources. Third party RegTech solutions for identification and verification are widely used. Less material FIs rely mostly on ID documents and publicly available databases. Business relationships are not established in cases where the customer refuses to provide any documents required by the FIs during onboarding and, based on further assessment, they can be escalated to potential submission of an STR. Regarding the life insurance sector, the beneficiary of the policy is identified; verification of beneficiary's identity occurring, at the latest, at the time of the payout. In the case of exchange offices, CDD measures are not always undertaken for cash transactions below EUR 500 and there are no effective measures that could identify linked transactions. Overall, it can be concluded that FIs identification procedures are quite adequate in relation to the risks posed by their customers.

##### *Beneficial ownership*

474. FIs are familiar with their obligation to identify and verify the BO. Basic identification and verification of the identity of the BO is conducted through self-declarations, legal documents (articles of association, etc.) and checks via the BO Register. Third party RegTech solutions for identification and verification as well as open data sources are widely used by the most material FIs and, to a lesser extent, by other FIs, especially the larger ones. Several FIs, mostly from banking and insurance sector, met on site claimed to having repeatedly identified BOs that were different than those that were in the BO Register, although these statements clash with the much lower figures provided by the authorities, which allude to just 22 notifications from OEs between 2021 and 2022. While this does not necessarily impact the effectiveness of the procedures for BO identification and verification by the OEs, it points out at a potential difference of criteria between

them and the authorities. Control through other means was not fully understood (see I05), especially by some smaller FIs. Generally, customers with complex legal structures are classified as high risk and some FIs even refuse to establish business relationship with such customers.

*Source of funds/wealth (SoF/SoW), nature and purpose of the business relationship*

475. SoF/SoW and the nature and purpose of the business relationship is generally determined based on customer's statement in KYC questionnaires during onboarding and is further verified, especially in the case of the most material FIs, by relevant documents (account statements, sales agreement, document of title, etc.). The banking sector uses a SoF/SoW statement that was unified by the banking association. In case of domestic PEPs, SoF/SoW stated in the KYC questionnaire is checked against information about PEPs' assets/property publicly available via the website of the State Commission for prevention of corruption that is widely known and used across FIs.

*Ongoing CDD*

476. The most material FIs conduct adequate ongoing monitoring based on customer risk profile (typically on a daily basis) and generally utilise analysis and crosschecks of various sources of data. Ongoing monitoring in banks is performed by automated electronic systems that monitor the customers behaviour as well as their transactions and check if they are in line with their risk profiles. In case that the customer's behaviour or transactions trigger some risk scenario, the case is escalated and further investigated by the independent AML/CFT department. Less material FIs conduct ongoing monitoring (manually in the case of smaller entities) in lower frequencies and focus mostly on keeping customer's identification information up to date (e.g., requests to customer to provide new ID document once the registered ID document becomes invalid) and discovering fundamental changes relevant to the customer's risk profile.

*Record-keeping*

477. FIs are obliged to keep records for 10 years for all transactions after their execution as well as analyses of the customer and the BO, customer files and business correspondence and the results of any analyses of transactions. The ten-year period is calculated from the moment of the termination of the business relationship with the customer or from the date of execution of the occasional transaction. All FIs met on site were aware of this obligation. In reality, FIs often keep records for longer period and in some cases indefinitely. Records are kept in electronic databases by the most material FIs, often accompanied by some records being also kept as hard copy. Smaller size FIs usually keep less information in electronic databases and rely more on hard copies. No significant issues regarding record-keeping and delayed provision of information to supervisors were identified by the relevant supervisors.

*DNFBPs*

*Identification and verification of the customer*

478. Similarly to FIs, identification and verification is conducted mostly on a face-to-face basis and is comparable to the procedures of the less material FIs, exception being made for the national video lottery who, due to the very own nature of its business, relies on remote identification and verification.

*Beneficial ownership*

479. DNFBPs are familiar with their obligation to identify and verify the BO comparably to smaller FIs with incomplete understanding of control through other means. BO identification is mostly based on information from the customers, the trade register and the BO register, or

equivalents from abroad whenever foreign customers are involved, with third party RegTech solutions for identification and verification being used in very rare occasions (larger DNFBPs belonging to international groups). Customers with complex legal structures would be either classified as high risk or a business relationship would not be established, although their presence is less significant among DNFBPs.

#### *SoF/SoW, nature and purpose of business relationship*

480. Even though SoF/SoW and the nature and purpose of business relationship is generally determined based on customer's statements in the KYC questionnaire, similarly to FIs, such questionnaires are less comprehensive and more focused on the basic fulfilment of CDD obligations. Checks on the SoF/SoW are also much less present among DNFBPs in comparison to FIs, except from also using the information from the website of the State Commission for prevention of corruption in the case of domestic PEPs.

#### *Ongoing CDD*

481. Ongoing monitoring is carried out mostly manually in various frequencies based on the customer's risk profile, although given the fact that most categories of DNFBPs do not process transactions, ongoing CDD is mostly relegated to updating identification documents and other customer information once their validity expires.

#### *Record-keeping*

482. DNFBPs are aware of their record-keeping obligations comparably to FIs. Records are kept partly in electronic databases (basic registers of customer information), but mostly as hard copies, documentation of analyses also being less prominent. No significant issues regarding record-keeping and delayed provision of information to supervisors were identified by relevant supervisors, although the lack of informatization of the documents and information hampers the ability and scope of analyses on customers and transactions, as well as of risk assessment exercises.

#### *VASPs*

483. VASPs met on site conducted only limited CDD measures. With the exception of one operator providing advisory services and acting as an intermediary between customers and a foreign VASP, these CDD measures included obtaining the name, email address and phone number in order to verify the account, establishing certain thresholds and limitations to the amount and value of transactions that can be performed, which are monitored, or the screening of customers against third party legal solutions, although such measures are not systematically and uniformly applied, in the absence of formal controls and procedures, due to the reliance of the operators in authorities' inputs.

#### **5.2.4. Application of EDD measures**

484. The EDD measures are mostly applied based on customer (or counterparty in case of correspondent banking) risk profiles and mainly consist of analysis of additional documents, external sources of information and more frequent review of high-risk clients. Banking and insurance sectors apply the most comprehensive EDD measures including various scenarios to automatically monitor customers' behaviour and transactions. DNFBPs rely mostly on manually monitoring the business relationship as an EDD measure, although they often refuse business relationships with high-risk customers. VASPs are not really implementing enhanced preventive measures under any kind of risk scenario.

## *PEPs*

485. All OEs met on site demonstrated good awareness of their obligations vis-à-vis PEPs, applied specific measures to customers and BOs that are PEPs and mentioned them as a typical example of high-risk customers. The vast majority of OEs was also well aware that the PEP definition includes PEP family members and close associates.

486. Domestic PEPs are primarily identified by self-declaratory statements in KYC questionnaires. Furthermore, the majority of OEs, including the most material FIs, check their customers against information available via the website of the State Commission for prevention of corruption that contains information about all domestic PEPs including their assets and property statements. Foreign PEPs are identified mostly based on their PEP statements in KYC questionnaires, subject to civil and criminal liability. Additionally, the most material FIs (banking sector) and few DNFBPs (casinos and international accounting and auditing firms) also use RegTech databases for identification of domestic and foreign PEPs, while other OEs (DNFBPs and smaller FIs such as brokerage companies or exchange offices) rely mostly on publicly available information via web searches, which is in line with the size, complexity and risk profile of the sectors. When it comes to identification of PEP family members and close associates, OEs acknowledge the difficulties connected to such identification and also heavily rely on the customer's statement in the KYC questionnaire. Banks have very good awareness of the number of their PEP customers (hundreds of PEPs per bank on average), while other, less material, OEs (most DNFBPs besides casinos) have very low number of PEPs or no PEPs at all, due to applying de-risking policies and not establishing business relationships with PEPs.

487. Standard measures regarding PEPs include enhanced monitoring (higher frequency, lower thresholds for analysis by the AML/CFT department or specialists, etc.), more in-depth analysis of SoF/SoW and the requirement to approve the establishment of the business relationship or significant transactions by senior management.

## *Correspondent banking*

488. Banks apply EDD measures with respect to respondent banks such as considering the reputation of the counterparty as well as their country risks (most counterparties of banks are from EU countries) and require senior management approval for the establishment of correspondent relationships. MVTs providers operate exclusively within the framework of the international financial groups that they belong to, so they do not establish relationships analogous to correspondent banking.

489. VASPs met on site only acted as either very basic crypto-assets exchanges or as intermediaries whose relationship with other (foreign) VASPs was that of customers rather than counterparts. Therefore, there is no evidence of VASPs operating in the country providing any services comparable to wire transfers or engaging in relationships comparable to correspondent banking.

## *New technologies*

490. In the context of North Macedonia, new technologies are not widely used, nor OEs tend to be exposed to them through their customers (i.e. VASPs or VA-related customers), due to their limited risk appetite. Only some of the most material FIs (members of international financial groups) were undergoing, at the time of the onsite, ML/TF risk assessments for the future implementation of remote identification methods. The single on-line operator in the casino sector (national video lottery) that was already using remote identification and transaction methods had

priorly concluded an ML/TF risk assessment. A potential vulnerability consisting of persons trying to misuse the service in order to send money to someone else's bank account (thus effectively acting as wire transfers *sui generis*) was identified and, as a result, several mitigating measures were introduced. These include: (i) all deposits to customer's gambling account having to go through a payment card issued by a bank, deposits in gambling account having to be redeemed via bank account, the payment card and the bank account used for redemption having to belong to the same person that is registered as the customer; (ii) low-threshold redemptions that have to be approved by the AML/CFT department or; (iii) automated electronic systems containing risk scenarios based on the analysis of customer's behaviour.

#### *Wire transfer rules*

491. Wire transfers are subject to the transaction monitoring systems established by FIs. The destination of the majority of them are EU countries.

492. Distinction between wire transfers and other money transfer services does not seem to be fully clear either to the private sector or the supervisory authorities, as the term fast or quick transfer money services, which allegedly only covers money remittances/MVTS, is also used when referring to wire transfers, therefore impacting the application of specific enhanced measures in this area.

493. While banks are familiar with the requirements of article 50 of the AML/CFT Law, the requirements in relation to the information accompanying transfers of funds ("travel rule") do not seem to be fully understood. The banking sector seems to exclusively rely on the SWIFT system for the effective implementation of such requirements and have not established specific real-time or ex-post scenarios to ensure completeness and reasonability of the transfers' information.

494. MVTS providers offer only money remittance services and just operate within networks of their own international financial groups that control both the ordering and the beneficiary side, therefore the "travel rule" is not applicable in their case. Information on both sides of the transaction is considered when monitoring and analysing transactions and deciding to file STRs. Regarding VASPs, as stated, and given the lack of an authorisation regime at the time of the onsite, authorities were not in a position to determine whether any operators established in the country were providing virtual asset transfer services.

#### *Targeted financial sanctions relating to TF*

495. OEs are generally aware of the consolidated TFS list created by the FIU that is available via its new "Restricted Website". This consolidated list includes all UN TF and PF-related TFS, as well as others, and all OEs registered on "Restricted Website" receive a notification whenever the consolidated list was changed. Development of such contributes to enhance compliance with TFS requirements, especially by smaller OEs.

496. This notwithstanding, understanding of TFS obligations varies to different degrees between sectors. Banks, MVTS providers, insurance undertakings, some smaller FIs as well as some DNFBPs (casinos) screen all their potential customers including BOs during both the onboarding and the ongoing monitoring processes via electronic automated systems against the consolidated list of the FIU and other sanctions lists available through these systems, while the other OEs tend to rely more on manual checks. Ongoing screening in banks happens with highest frequency, often on daily basis and immediately in case of the lists being updated. The other OEs perform such screening with lower frequency and in some cases (smaller FIs and most DNFBPs) only when they receive notification that the consolidated list was updated.

497. Some of the banks claimed that they identified North Macedonia's citizens that were designated in September 2022 under UNSCR 1373 and notified the FIU. Although the accounts contained no funds and, as such, no asset freezing was possible, the entities applied restrictive measures, such as blocking the involved accounts, including the customers in internal lists of unacceptable clients and ensuring no future access to any services, including exchanging and MVTs. For more information, please see the case study of positive matches relating to sanctions designations in IO.10.

498. On the other hand, there are significant divergences on the number of false positives of screenings against sanctions lists, ranging from 10 to more than 1000 per month, hinting at potential issues in the calibration of the screening systems, a lack of a unified approach at detecting potential matches or a lack of distinction between potential matches with sanctions and other lists. All false positives are resolved by the banks themselves without assistance of FIU. In the cases where the amounts of false positives were the highest, this could put an excessive burden on the AML department dealing with their analysis and resolution. Furthermore, many screening procedures described by smaller FIs and most of DNFBPs that rely on manual screenings could be not sufficiently effective at timely identification of entities or individuals subjected to TFS.

#### *Higher-risk countries identified by the FATF*

499. Customers' relations with high-risk countries are to be considered as important risk factors by OEs, which leads to their categorisation as high-risk customers. OEs rely on the consolidated list of high-risk countries created by the FIU that is available via its new "Restricted Website". This consolidated list includes all high-risk countries identified by the FATF and is being updated accordingly in which case all OEs registered on "Restricted Website" receive notifications when there are changes to the list. Development of such tool by the FIU is very useful for enhancing compliance with requirements related to higher risk countries, especially by smaller OEs.

500. Customers related to high-risk countries are identified as such primarily by analysis of the information in KYC questionnaires and by checking if any country contained in consolidated list of high-risk countries is concerned. As stated, the banking sector and other FIs and DNFBPs belonging to international groups, rely on RegTech solutions that also help them to uncover and verify organizational structures of more complex legal entities and verify if higher risk countries are not involved in these structures, while the other OEs tend to rely more on manual checks of publicly available information via web searches. The number of customers from high-risk countries is generally very low, as the vast majority of OEs' customers are domestic natural or legal persons, and exposure to high-risk countries via transactions is equally deemed as low, with the exception of the real estate and casinos who tend to provide services to customers that are from or related to neighbouring countries rated as high-risk at the time of the onsite.

501. Standard measures in case of customers related to high-risk countries include enhanced monitoring (higher frequency, lower thresholds for analysis by AML/CFT department or specialists) and more in-depth analysis of transactions, including further analysis and justifications from the customer regarding the economic reasonability or the relationship with the counterpart of the transaction (for example, requesting invoices that could justify the commercial trade). In less frequent occasions, additional measures could include requiring redemptions to be done through a local bank account or prohibition to conduct the transaction if the country is part of an internal blacklist instead of being deemed as high risk. Some OEs within sectors such as investment fund management, insurance, MVTs, accounting or lawyers, also require approval of establishment of business relationships or significant transactions with such

customers by senior management. Some of the OEs belonging to MVTs providers, exchange offices, financial companies (small credit providers), lawyers or notaries apply a de-risking policy and do not establish business relationships with customers related to high-risk countries and/or do not facilitate transactions whenever such countries are involved (either notifying the FIU first and waiting for feedback or on their own initiative). However, some casinos met on site that mentioned that some of their customers come from higher risk countries could not state any additional specific measures taken for such customers.

#### ***5.2.5. Reporting obligations and tipping off***

502. Overall, OEs are aware of their obligation to submit STRs based on article 65 of the AML/CFT Law and in relevant cases also of their obligations to report cash transactions in the amount of EUR 15,000 or more, regardless whether it is a single transaction or several obviously linked transactions based on article 63 of the AML/CFT Law. Article 64 of the AML/CFT Law further specifies additional thresholds for some transactions that have to be reported. Despite good awareness, the overall reporting behaviour of the sectors is not fully commensurate to the risk, context, and size of the country, specially taking into account that entire sectors submitted no STRs in the entire assessed period. Insufficient actions have been taken to increase the volume of STRs.

503. Additionally, some DNFBPs expressed serious concerns whether the practical safeguards to protect confidentiality of STR reporters are effectively applied in practice by all competent authorities (i.e. throughout the course of criminal/administrative proceedings). This may partly explain the low number of STRs within the sector that the entities that expressed these concerns belong to, although other elements have to be taken into account, such as the level of risk understanding, the awareness of reported typologies or the approach, whether formalistic or not, adopted in relation to AML/CFT. The FIU has advised that they are fully confident in the safeguards they apply and that situations where confidentiality safeguards are not applied by all parties involved could only be explained by individual irresponsible acts. This notwithstanding, competent authorities should ensure that the safeguards are fully abided by all individuals involved in these proceedings. Following that, outreach to OEs and assurance of full confidentiality for STR reporters seems necessary.

#### ***FIs***

504. For the assessed period, STRs submitted by the banking sector represent approximately 80 % of all STRs submitted by all the OEs. The banking sector is the only one that submitted TF-related STRs in the assessed period. The quality of STRs submitted by the banking sector is considered to be the highest. Even though banks submitted by far the highest number of STRs, the conclusion that the number of STRs is incommensurate to the risk, context, and size of the country also partially applies to banking sector, given the uneven distribution of reports across entities (cases of banks with low-risk profiles filing 6 or less STRs per year and banks with significant amounts of assets reporting either less or slightly more than 20 per year).

505. MVTs providers submitted approximately 140 STRs in the assessed period. However, this number is disproportionate to the number of currency transaction reports submitted by MVTs providers (over 140,000 from 2018 to 2021). Furthermore, the most concerning fact is that no STRs concerning TF were submitted even though the NRA identified that some money transfers related to terrorism were made via MVTs providers.

506. When it comes to exchange offices, there were 0 STRs submitted by these OEs as well as a low number of currency transaction reports for the entire assessed period. This is a significant

deficiency, given the fact that cash transactions are considered to have a high ML/TF risk and it seems extremely unlikely that not a single transaction would be considered suspicious considering the number of entities in this sector and the length of assessed period. This can be explained by very limited implementation of measures that would be capable to reliably identify linked transactions and prevent structuring when cash transactions are divided into smaller amounts in order to avoid proper application of CDD measures.

507. Overall, the number of STRs for other FIs other than the banking sector and, to a lesser extent, MVTS providers, is extremely low and is not commensurate to the risk, context, and size of the country.

**Table 5.1: Number of STRs submitted by FIs to the FIU**

Year	2017		2018		2019		2020		2021		Total
	All	TF									
<b>STRs</b>											All
<b>Banks</b>	177	3	152	2	226	2	237	3	227	5	1019
<b>MVTS providers</b>	26	-	19	-	42	-	27	-	25	-	139
<b>Investment firms</b>	-	-	-	-	-	-	-	-	-	-	-
<b>Investment fund management companies</b>	-	-	1	-	-	-	-	-	-	-	1
<b>Life insurance companies</b>	-	-	-	-	2	-	1	-	2	-	5
<b>Life insurance intermediaries</b>	-	-	-	-	-	-	-	-	-	-	-
<b>Pension funds</b>	1	-	-	-	-	-	1	-	-	-	2
<b>Exchange offices</b>	-	-	-	-	-	-	-	-	-	-	-
<b>Leasing companies</b>	-	-	-	-	-	-	1	-	-	-	1
<b>Total</b>	<b>204</b>	<b>3</b>	<b>172</b>	<b>2</b>	<b>270</b>	<b>2</b>	<b>267</b>	<b>3</b>	<b>254</b>	<b>5</b>	<b>1167</b>

508. In terms of the content of the STRs, all FIs (including the banking sector) typically submit reports in cases when customers fail to provide sufficient information that would adequately prove legitimate SoF/SoW or justify a transaction that is not in line with customer's risk profile. This potentially points out at a reporting behaviour that is more inclined to being rule-based rather than risk-based. As entities tend to report those cases alerted by the transaction monitoring systems or those where sufficient information for analysis cannot be gathered, there is a widespread inability to spot the particular trends, typologies and types of schemes that are usually reported and to reflect on whether the reports are in line with the risk exposure of each of their businesses.

509. All FIs met on site that submitted STRs reported good cooperation with the FIU regarding submission of STRs, and in some cases the FIU requested further information that was provided without undue delay. The majority of these FIs also received feedback on the substance of STRs from FIU, although not on a systematic, case-by-case basis, but rather on an annual basis.

510. In addition to STRs, all OEs are also obliged to report cash transactions in the amount of EUR 15,000 or more, regardless of whether it is a single transaction or several obviously linked transactions. For detailed numbers of CTRs submitted by FIs to the FIU between 2018-2021, please see IO.6.

511. Banks reported over 90,000 of such transactions in 2021 alone (both single cash transactions and linked; linked cash transactions representing almost 50,000 of these reports), which shows good awareness and capability to identify linked transactions and report them.

512. Banks are also obliged to report loans in the amount of EUR 5,000 or more (approximately 53,000 reports in 2021) and credit in the amount of EUR 15,000 (approximately 35,000 reports in 2021). Typical measures in case of such loans/credits involves an internal requirement of the AML/CFT department or senior management having to approve such transactions (with exception of cases in which larger transactions are in line with customer's risk profile, i.e., larger corporations).

513. MVTs providers are obliged to report transactions in the amount of EUR 1,000 or more. Given that, e.g., in 2021 there were over 80,000 of such reports by the MVTs providers, it appears that the sector is fully aware of this obligation and complies with it.

514. Regarding exchange offices, numbers of CTRs show 101 reports on 2021. While a rising tendency is perceived, numbers still appear to be quite low, especially taking into account the exchanged amounts and the notion of divided cash transactions that are linked. This is probably caused by the fact that exchange offices rely on manual assessment, based on the memory of the employees, to identify transactions that are linked and the fact that CDD measures are generally not undertaken for cash transactions below EUR 500.

515. A similar obligation also exists for insurance undertakings for concluded life insurance policies in the amount equal or over EUR 15,000 and for every life insurance policy involving PEPs. There were on average approximately 1,000 of such reports in the assessed period per year, which does not seem inappropriate given the context of the assessed country.

516. Regarding tipping off, FIs have generally introduced sufficient procedures to prevent tipping off (training, limited access to information only to independent AML/CFT department, internal control, internal audit) and no case of tipping off has been detected during internal controls. No case of tipping off from the material sectors was identified by the supervisory authorities in the assessed period either, but they detected a single case of tipping off by a financial company (small credit provider).

#### *DNFBPs*

517. Notaries submitted comparable number of STRs to MVTs providers. Most of these reports are related to suspicious discrepancies between the negotiated price and the standard market price for various assets (real-estate, vehicles) that have to be sold through contracts verified by the notaries. Based on the NRA, the STRs submitted by the notaries are regarded to be of lower quality. However, given the fact that notaries often have limited information about verified contracts and that information about significant price discrepancy that does not make economic sense is quite straightforward, it is unclear why are STRs submitted by the notaries regarded as low quality when such STRs require basic information in order to be disseminated.

518. Other than notaries basically only lawyers submitted STRs in a more or less consistent manner throughout the assessed period even though the number of their submitted STRs is very low. Low numbers among other DNFBPs other than notaries are especially remarkable in the case of the casinos, when accounting for the risks and materiality associated to them.

519. Overall, the conclusion that the number of STRs is incommensurate to the risk, context, and size of the country also fully applies to DNFBPs. Notaries are the exception to a point but based on on-site interviews it is apparent that the majority of STRs submitted by notaries are in fact submitted only by a few notaries and not equally across the entire sector.

**Table 5.2: Number of STRs submitted by DNFBPs to the FIU**

Year	2017		2018		2019		2020		2021		Total
	All	TF									
Casinos	2	-	-	-	-	-	-	-	-	-	2
Notaries	23	-	22	-	17	-	21	-	54	-	137
Lawyers	1	-	-	-	6	-	3	-	7	-	17
Real estate agents	-	-	-	-	-	-	-	-	-	-	-
Accountants	-	-	-	-	-	-	-	-	-	-	-
Auditors	-	-	-	-	-	-	1	-	-	-	1
<b>Total</b>	<b>26</b>	<b>-</b>	<b>22</b>	<b>-</b>	<b>23</b>	<b>-</b>	<b>25</b>	<b>-</b>	<b>61</b>	<b>-</b>	<b>157</b>

520. All OEs are required to report cash transactions in the amount of EUR 15,000 or more, regardless of whether it is a single transaction or several obviously linked transactions. Additionally, casinos and notaries have specific thresholds. For detailed numbers of CTRs submitted by DNFBPs to the FIU between 2018-2021, please see IO.6.

521. Casinos have to report transactions of EUR 1,000 or more (deposits, buying of chips, payment of prizes, cashing in chips, etc.). Given that, e.g., in 2021 there were over 80,000 of such reports, it appears that this sector is fully aware of this obligation and comply with it.

522. Notaries are obliged to report instances when prepared notary documents and notarized certifications of signatures on contracts lead to acquisition of assets or rights equal or higher than EUR 15,000. Notaries are aware of this obligation as there were over 25,000 of such reports in 2021 alone. Furthermore, if reported transactions are also suspicious (for example, discrepancies between the negotiated price and the standard market price for the asset), notaries submit an STR in addition to the CTR.

523. Regarding tipping off, even if DNFBPs also tend to have procedures to prevent it (training, limited access to information only to AML/CFT department/specialists, internal control), the FIU has detected some isolated cases of tipping off during the course of its onsite supervision actions (a law firm and an accounting firm in 2019). Even in the cases where policies and procedures for the prevention of tipping off are in place and seem sufficient, given the fact that most DNFBPs have never submitted an STR, their effectiveness cannot be properly tested.

#### VASPs

524. Given their legal status, no VASPs submitted any reports during the assessed period.

#### **5.2.6. Internal controls and legal/regulatory requirements impending implementation**

525. Overall, OEs have AML/CFT internal controls and procedures in place. Compliance functions are properly structured and resourced, especially in larger OEs, and involve several layers of defence based on their size. No legal/regulatory requirements impending implementation of AML/CFT controls have been observed.

526. As previously stated, the AML/CFT Law requires OEs to appoint an authorized person, who is responsible for the implementation of AML/CFT policies and measures including internal controls, as well as, for OEs with more than 50 employees, a special AML/CFT department resourced in accordance with their size. This requirement has a positive effect on the overall compliance with AML/CFT obligations in larger entities in which such special AML/CFT

department usually serves as second line of defence and ensures adequate resources for all AML/CFT functions.

527. Additionally, all OEs have to train their relevant employees in AML/CFT obligations at least twice a year. This requirement is greatly observed across all sectors, and in some instances trainings are performed in even higher frequencies, there are training platforms that can be accessed at any time by employees or external agents (where applicable) or ad-hoc trainings are additionally conducted when the authorized person or the AML officer detects the need, as it is the case of some players within the banking, insurance, investment fund management and casino sectors.

528. Implementation of internal controls as well as all procedures and functioning of internal audit, where available, is further subjected to supervisory actions, especially in the case of the NBRNM and the FIU, which can lead to recommendations, even in cases where findings are not sufficient to initiate an administrative proceeding, which is definitely a good practice for further improvement of such controls.

#### *FIs*

529. Banks implement robust policies and procedures to ensure sufficient internal control. Internal control typically consists of a three lines of defence system. First line of defence is the front office, that receives AML/CFT training at least twice a year. Second line of defence is the special AML/CFT department that conducts more sophisticated AML/CFT analyses and activities and also carries out internal control of the front office. Third line of defence is internal audit that reviews activities of first and second line of defence at least on an annual basis. Furthermore, AML/CFT policies and procedures of the banks belonging to international financial groups are generally also subjected to reviews at group level.

530. Insurance undertakings also employ robust internal control policies and procedures. Most of the internal control procedures are carried out by the special AML/CFT department. Compliance with AML/CFT obligations as well as internal procedures (including policies of international financial groups) is conducted by the internal audit at least on an annual basis.

531. Arrangement of internal controls in other FIs depends mostly on the size of entity with some of the larger entities incorporating 3 lines of defence similarly to banks and insurance undertakings (e.g., some investment fund management companies). Internal controls in smaller FIs are not carried out by a special AML/CFT department but by AML/CFT specialists that are often members of the compliance department. Small FIs, e.g., with few employees, rely mostly on checks by the authorized person.

532. For FIs, internal controls regularly involve a selection of customers' files/transactions and check if all AML/CFT obligations were complied with.

533. It should also be noted that the requirements and standards of international financial groups into which many FIs belong have positive effect on compliance with AML/CFT requirements, as policies of these international financial groups are in some cases stricter than obligations arising from the national law. Also, FIs belonging to international financial groups are often subjected to group audits that effectively act as a fourth line of defence.

#### *DNFBPs and VASPs*

534. When it comes to DNFBPs, arrangement of their internal controls is based mostly on checks by the authorized person even though some larger DNFBPs have implemented internal controls similar to FIs of comparable size, e.g., some casinos and accounting and auditing firms. Regarding VASPs, besides the basic CDD procedures already discussed, no formal internal

controls and procedures seem to be in place, even if, according to the legal provisions, it is expected from them to harmonise their procedures with the requirements imposed by the AML/CFT Law during the transitory period provided by the said law.

#### *Overall conclusions on IO.4*

535. Understanding of ML/TF risks by the most material OEs (banking sector) is mostly adequate, but more formalistic for the rest of OEs (smaller FIs and the majority of DNFBPs), while provision of services to trusts and companies is neither well understood by the OEs nor by the supervisors. AML/CFT obligations are generally well understood across all sectors, except for some smaller-sized casinos. Although FIs and DNFBPs have mitigating measures in place, the degree and scope of these depend mostly on the level of importance that each OE assigns to AML/CFT. Implementation of CDD and EDD measures is generally in line with the legal requirements, while there is a limited understanding and implementation of specific controls in relation to wire transfer requirements. The overall number of STRs is incommensurate to the risk, context, and size of the country and some isolated cases of tipping off and concerns about the safeguards to protect reporters have been detected. Internal controls and procedures tend to be mostly in line with the size and complexity of each entity, with those OEs belonging to international groups benefiting from it. Despite the fact that it is expected from VASPs to harmonise their internal procedures to comply with the obligations of the AML/CFT Law during the transition period provided by the said law, there was a general absence of risk understanding, mitigation, implementation of preventive measures (besides basic CDD) and internal controls across the sector at the time of the onsite, therefore their effectiveness could not be properly assessed.

536. Taking into account all the above, **North Macedonia is rated as having a moderate level of effectiveness for IO.4.**

## 6. SUPERVISION

### 6.1. Key Findings and Recommended Actions

#### **Key Findings**

#### **Immediate Outcome 3**

- a) Market entry requirements and the level of scrutiny thereof varies across sectors. Authorities within the financial sector, in particular in relation to banks and capital market entities, are effectively monitoring whether individuals and entities continue to meet the conditions on the basis of which they were granted authorisation or consent. There are some issues with respect to monitoring for unlicensed activity, especially when it comes to exchange offices due to a lack of resources of the State Exchange Inspectorate. Regarding DNFBPs and the insurance sector, the focus is solely on whether one has been subject to a final unconditional conviction for not less than six months imprisonment. No information on the BOs is sought with respect to operators in the casino sector. No market entry requirements are applicable to real estate agents, DPMS and VASPs.
- b) The risk understanding of the authorities mandated to supervise FIs reflects the findings of the NRA. The supervisors of the most material FIs have the most sophisticated risk understanding of the sectors under their supervision. In particular, the National Bank of the Republic of North Macedonia (NBRNM) and the Insurance Supervision Agency (ISA) have recently finalised risk assessments of their respective sectors, while the Securities and Exchange Commission (SEC) adopted a risk assessment methodology after the onsite visit. With regards to DNFBPs, the main risk rating factor is annual turnover, which is insufficient on its own to assess the ML/TF risks, although the FIU is developing a methodology to risk assess accountants, auditors, financial companies (small credit providers), leasing companies and casinos.
- c) The outcome of supervisory examinations is uneven. FIU and financial supervisors' inspections have identified some breaches that result in remedial and enforcement actions, whilst supervision by self-regulatory bodies (SRBs) of notaries and lawyers lacks effectiveness. Notwithstanding that SRBs were designated as primary supervisors for a considerable period of time, they did not have the necessary powers to conduct effective supervision over the respective sectors and OEs. In addition, the PRO is only now starting to fulfil an active role as AML/CFT supervisor for real estate agents and casinos.
- d) Supervisors have a number of tools at their disposal to sanction OEs for non-compliance with their AML/CFT obligations, namely corrective and coercive actions, including pecuniary sanctions. In particular, the sanctioning regime of the AML/CFT Law provides for a range of possible misdemeanour penalties depending on the obligation concerned and the economic size of the OE. This notwithstanding, the mandatory application of the settlement process established in the Law of Misdemeanours, results in a 50% reduction of the amount of the penalty. This heavily impacts the dissuasiveness and effectiveness of pecuniary sanctions. Cases before the court tend to languish even though they should be determined within 6 months. In addition, the inability of the authorities to publish any information on the actions taken

absent a final determination of the case by the courts, limits the dissuasive value of any action undertaken. Due to these limitations, the overall number and amount of pecuniary sanctions imposed by supervisors is low. Additionally, financial supervisors lack procedures to ensure consistency in identifying and sanctioning breaches of a similar nature.

- e) Financial supervisors and the FIU have proactively provided guidelines on specific obligations, training and other outreach measures to their respective sectors. When it comes to the FIU, OEs find the new “Restricted Website” especially useful for the purposes of the implementation of their AML/CFT obligations. However, this can, in some instances, foster an overreliance on the risk indicators provided by supervisors instead of independent risk-based analysis.

### ***Recommended Actions***

#### ***Immediate Outcome 3***

- a) North Macedonia should revise market entry requirements for financial institutions to ensure uniformity across all the different sectors and eliminate all possible ambiguity as to what information licensing or registration authorities can act upon. Resources should be made available to the State Exchange Inspectorate to carry out its function. North Macedonia should strengthen market entry requirements with respect to DNFBPs, and especially include the examination of beneficial ownership from a fit and proper perspective for casinos. It should also introduce market entry requirements for real estate agents, DPMS and VASPs.
- b) Each supervisory authority should consider a more uniform approach to the risk assessment of the respective OEs falling within its supervisory remit and internally adopt as much as possible a single methodology. The assessment of the risks of the DNFBP sectors needs to be significantly revised and expanded, ensuring an harmonised approach between primary and secondary supervisors of these sectors.
- c) North Macedonia should consider what is limiting the ability of its supervisory authorities to exercise effective supervision across all sectors and address any identified issues, including enhancing supervisory powers. All authorities would benefit from additional resources dedicated to AML/CFT supervision, especially those in charge of supervising the most material sectors, namely the NBRNM and the FIU, and less focus on the carrying out of full scope and/or general examinations. The role of SRBs as supervisory authorities should be reassessed to determine whether they are actually the best placed to act as AML/CFT supervisors or if the said function should be reassigned to another body.
- d) North Macedonia should consider what changes are necessary to its sanctioning regime and implement them in order to ensure that sanctions imposed are proportionate, effective and dissuasive as well as imposed in a timely manner. Mandatory requirements which limit the discretion of authorities to tailor the sanction to the circumstances of the case should be reconsidered and any authority charged with responsibility for imposing the same should be provided with the necessary resources, both human and technical, to fulfil its mandate. More effort should also be put in ensuring consistency regarding the general approach as to the identification of findings and subsequent sanctioning of the same.

e) Supervisory authorities should adopt outreach initiatives to promote the implementation of a risk-based approach across OEs, especially in those cases where overreliance on mandatory risk indicators is observed. In addition, supervisory authorities should assess the positive effect of their actions on improving AML/CFT compliance of the entities under their supervision by adopting measures such as collecting statistics and case-studies.

537. The relevant IO considered and assessed in this chapter is IO.3. The Recommendations relevant for the assessment of effectiveness under this section are R.14, 15, 26-28, 34, 35 and elements of R.1 and 40.

## 6.2. Immediate Outcome 3 (Supervision)

538. OEs have been classified on the basis of their relative importance, taking into account their respective materiality and level of ML/TF risks. The banking sector is considered as the most significant while casinos, MVTS providers and exchange offices are considered as being significant. Less significant are those OEs that fall within the wider category of other FIs (including management companies of mandatory and voluntary pension funds, the insurance sector, asset management companies, brokerage companies, and leasing and financial (small credit providers) companies), other DNFBPs (lawyers, notaries, accountants, tax advisors, auditors and real estate agents) and VASPs. Please refer to Chapter 1 for a more detailed analysis.

### 6.2.1. Licensing, registration and controls preventing criminals and associates from entering the market

#### Financial Institutions

539. The NBRNM is responsible for licensing banks, saving houses and electronic money institutions. The AT was informed that currently there are no electronic money institutions licensed in North Macedonia. The NBRNM is also responsible for registering MVTS, micro-payment intermediaries and currency exchange service providers. MVTS consist of so-called 'fast money transfer service providers', which carry out money remittance services, and micro-payment intermediaries, of which there are none currently registered. It has assigned responsibility for carrying out the initial evaluation of the information provided by applicants to its Off-Site Supervision Department which, in 2021, comprised 19 officers, out of which 6.6 FTE are dedicated to the processing and scrutiny of licence and other applications.

**Table 6.1: Total applications received by the NBRNM**

	Banks <sup>32</sup>	Saving Houses	MVTS	Exchange Offices	Total
<b>Received (2017-2022)</b>	<b>370</b>	<b>0</b>	<b>2</b>	<b>62</b>	<b>434</b>
2017	55	0	0	14	69
2018	60	0	0	9	69
2019	74	0	0	15	89
2020	89	0	0	3	92
2021	70	0	1	10	81
2022	22 <sup>33</sup>	0	1 <sup>34</sup>	11 <sup>35</sup>	34

<sup>32</sup> Includes applications for acquiring a qualified holding in a bank or foreign bank, new financial activity, amendment of statutes, appointment of supervisory and management boards members and increase and reduction of capital instruments.

<sup>33</sup> As of 31.07.2022

<sup>34</sup> As of 27.10.2022

<sup>35</sup> As of 27.10.2022

540. The current staff compliment is quite satisfactory to handle the current workload. The AT was informed that there are plans to revise the legislation governing MVTS and exchange offices and align the requirements with those applicable to banks, especially when it comes to licensing. This may call for some increase in the current number of FTEs focusing on this particular aspect.

541. In processing these applications, the NBRNM applies a series of quite thorough checks and controls to establish the fitness and properness of the entities and individuals that (a) are applying for licensing; (b) fall to be considered as qualifying shareholders; and (c) hold key positions within the institution concerned. It considers criminal convictions, adverse information provided by other competent authorities as well as its counterpart authorities abroad, sanctions listings as well as publicly accessible adverse information. There are however some differences between the checks carried out with respect to the different institutions as well as some more general issues effecting the licensing process in general.

542. The licensing and authorisation process, applicable to banks and saving houses, is intended to establish whether one is of good repute to be granted a licence to operate as such institution and/or to carry out a given function or role within the institution. The concept of good repute, according to the legislation, refers to someone who is honest, competent, diligent and assures that will not endanger the bank's safety and soundness and that will not disrupt the bank's reputation and trust. The NBRNM has to establish whether one has been finally and unconditionally convicted for more than six months, as that is to be considered, under the Banking Law, as being un reputable.

543. The checks carried out by the NBRNM include assessing whether an applicant is an associate of a criminal, based on whether there is a close connection between the two. Despite that, the notion of associate is quite restrictive, as it is limited to whether two or more individuals share participation in or control over a legal entity, and it does not even find application with respect to anyone to be appointed to the supervisory body of one of the aforementioned institutions.

544. The NBRNM has indicated that in either case it relies on the wider definition of reputation to ensure that any adverse information is actually considered. It has in particular referred to 29 cases where one or more individuals were seeking authorisation to take on various roles within a bank (i.e. acquiring a qualifying shareholding or taking on a seat within the institution's management or supervisory body) and it used so-called 'soft measures' to have the said applications withdrawn, thus eliminating the risk that its outright rejection would be appealed from. In six of these cases there were issues with the applicant's reputation whereas in three there were issues with the source of funds provided. The following are two such cases:

#### **Box 6.1. Case studies on withdrawal of applications by banks**

##### **Case 1**

An application was filed for the appointment of Individual 'X' to the Supervisory Board of a bank. In the course of screening the said individual, the NBRNM obtained information from the Public Prosecution Office for Organised Crime that an investigation had been opened on the said individual on the suspicion that he had been committed a series of criminal offences, including being part of a criminal association and having defrauded creditors. The NBRNM did not want to go further with the said application. It spoke with the bank in question and the application was subsequently withdrawn.

##### **Case 2**

An application was filed for the appointment of Individual 'Y' to the Supervisory Board of a bank. In the course of screening the said individual, the NBRNM received information from the

lawcourts that a company on which the said Individual 'Y' used to sit as director had been found guilty of having committed one or more crimes. The NBRNM therefore spoke with the bank in question, who withdrew the application in question.

545. Despite these cases, this exercise of “soft powers” may eventually lead to unintended consequences due to a lack of a formal rejection decision accessible by other authorities.

546. The NBRNM also considers adverse information obtained from its own foreign counterparts. In this regard, the NBRNM did make reference to at least one instance where it actively sought information from a foreign counterpart and the ECB following the mention of a qualifying shareholder in the Pandora Papers. The intention in this case was to align actions taken to see if the said shareholder was still considered to be fit and proper by the NBRNM's foreign counterpart and the ECB. The results of such inquiries concluded that there was no information that would confirm such allegations.

547. Applicants must provide evidence of the source of funds that are to finance the operations. It has to be remarked that these checks may not necessarily result in a determination of the legitimacy of the said funds. Examples provided by the NBRNM pointed more at checks that seek to determine whether one has actual access or possession of the funds or assets to be used as against ascertaining whether they were obtained through legitimate means.

548. The NBRNM has indicated that there are certain safeguards in-built within the system that would not allow changes within an OE's corporate structure without its prior consent. Any change in shareholding would need to be registered with the CSD and changes to an OE's board would need to be notified to the Central Register. When faced with such applications, the CSD and the Central Register check if the NBRNM has authorised the said changes and would not go-ahead with their registration pending positive confirmation by the NBRNM. In the event that any changes in the corporate structure of an OE without the prior consent from the NBRNM materialise, the NBRNM could ask for the removal and replacement of the said individual or, in the case of qualifying shareholding, block the exercise of any rights associated therewith or even order their sale.

549. In addition to the above, the NBRNM also carries out periodical checks to ensure that qualified shareholders and members of the management and supervisory boards still meet the fit and proper criteria. The process can take between 2 to 4 years and the NBRNM re-checks all the information and documentation submitted as part of the authorisation process. Additionally, the NBRNM advises that its daily monitoring process of online media would alert it immediately of any adverse information that may surface in the period pending the review of one's status.

550. Unlike in the case of those institutions subject to a licensing process, the registration process applied to MVTS providers and exchange offices is far more limited in scope<sup>36</sup>. In these cases, the NBRNM limits its checks to the responsible person thereof and to the employees or officers who are actually providing the service. No checks are carried out with respect to any qualifying shareholder nor on the beneficial owner/s thereof. The NBRNM justifies this approach on the assumption that all such OEs are small operations where the responsible person is also the beneficial owner, and while this may be accurate for the vast majority of the operators in these sectors, it leaves out of the scope any other situations. Neither are any checks carried out on the entities' source of wealth, reason being that most of these OEs would already be registered the Trade Register when applying for registration with the NBRNM and may very well be carrying out other activities. No indication was given as to whether the NBRNM at least seeks to look at

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<sup>36</sup> The AT was informed that amendments on the Law on payment services and payment systems aimed at expanding the scope of the fit and proper criteria for MVTS came into force in January 2023.

the financial statements of the entity and it has to be borne in mind that registration with the Trade Register does not imply that any checks would have been carried out on the individuals involved.

551. The authority responsible for monitoring whether unlicensed exchange offices are being conducted is the State Exchange Inspectorate. In the event that the NBRNM becomes aware of any such unlicensed activity being conducted, it communicates the said information to the State Exchange Inspectorate for action on its part. The AT was informed that the said body does not have sufficient resources to carry out its functions adequately as evidenced by the complete absence of any inspections by the same during the period under review. In practice there are therefore no controls to ensure that such unlicensed activity is not conducted.

552. The NBRNM has the power to suspend, restrict or withdraw an already granted licence or registration to an OE. While there were never any such instances with respect to MVTs, there were two cases in which this took place with regards to exchange offices in 2020. The entity in question and its owners are barred by law from being allowed a similar registration for the next 10 years. In addition, there was one case in which the NBRNM revoked a banking licence though this was due to the institution being bankrupt. Equally the NBRNM has the power to direct an OE to replace key personnel, which has been used to have 3 banks change their MLRO following serious shortcomings identified through supervisory activity.

553. The SEC is responsible for licensing brokerage houses, fund management companies and funds. It is also responsible for registering private fund management companies and private funds. It has currently a team of 10 officers responsible for the processing of applications which do not seem to be that many as can be seen from the following table:

**Table 6.2: Total Applications received by the SEC**

	2017	2018	2019	2020	2021	2022
Brokerage Houses	3	1	0	0	0	1
Investment Fund Management Companies	0	0	0	1	1	1
Private Fund Management Companies	0	0	0	0	0	0
<b>Total</b>	<b>3</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>2</b>

554. Its checks are in particular focused on qualifying shareholders and directors of OEs, with any prospective such individual having to demonstrate that it has not been subject to criminal convictions or that it is not currently undergoing any criminal proceedings, that it has not been subject to any misdemeanour or administrative ban from the carrying out of given activities or professions, that it has not concluded any out of court settlement in relation to accusations of bribe or corruption, etc. In so doing, the SEC makes use of a series of questionnaires and it then seeks to confirm the information provided through other sources such as the court registries.

555. In addition, in examining applications it seeks to obtain information from other competent authorities, like the PPO and the FIU. Indeed, in this regard there do not seem to be many differences between the licensing and registration process as in both instances the SEC has had occasions to refuse applications on the basis of adverse information on the applicant.

**Box 6.2. Case study on refusal of an application based on information obtained from the PPO**

The SEC received an application to register a private fund and while processing the same, it received a request for information from the PPO on Individual 'A'. The said individual was being investigated for a number of crimes including fraudulent bankruptcy and ML. The SEC noted that Individual 'A' had featured as a manager within the management company responsible for the private fund, only to be removed just prior to the submission of the relative application. In

addition, the wife of Individual 'A' was herself involved with the fund management company, entailing that she could be an indirect means for Individual 'A' to continue exercising control over both the management company and the private funds managed by the same. Therefore, on the basis of this information and assessment, the SEC decided not only to inform the PPO about this application but also to refuse it.

556. In addition, the SEC also seeks information from its foreign counterparts which it has done in at least six occasions, and on the basis of which it also takes action as can be seen from the case-study hereunder:

**Box 6.3. Case study on refusal of an application based on information obtained from a foreign counterpart**

The SEC received an application for a company to be authorised to trade as a brokerage house, for its founders to be authorised to hold a qualifying shareholding and for an individual to be appointed as its director. Given that the individuals in question were from Bulgaria, the SEC sent a request for information to its counterpart in that country to obtain information on the account of the individuals that were seeking authorisation to hold a qualifying shareholding as well as appointment as director. The counterpart authority replied back and informed the SEC that it had had to withdraw the licence of a brokerage house run and owned by the said individuals due to a series of regulatory breaches. These same individuals had then continued to trade even if unlicensed at that point. On the basis of the said information, the SEC decided to reject the application for a brokerage house licence as it considered that it did not have a good reputation, which indicates a high-risk tendency, and which may jeopardize the safe and stable operation of the brokerage house.

557. No change in a qualifying shareholding is possible without the SEC's prior approval as the transfer would not be processed by the Central Securities Depository, which it would not do without proof of the SEC's approval. The SEC also carries out checks to ensure that qualified shareholders still meet the conditions on the basis of which it had granted its earlier authorisation over a 2-to-3-year cycle. At the time of the on-site visit the SEC had just concluded a revision of the qualifying shareholders for fund management companies, on the basis of which it informed the AT that it had also withdrawn one authorisation for qualifying shareholding due to the individual no longer being considered as fit and proper. No additional information was provided in this regard. This notwithstanding, there is no process to review and re-assess qualifying shareholding where new information surfaces outside the said review cycle.

558. On the other hand, checks with respect to key function holders are not as extensive. It is only with respect to those individuals sitting on the Board of Directors that checks are carried out. None take place with respect to other key function holders and there is no periodical review of the same, the SEC having adopted a praxis to check the same either during on-site examinations or otherwise once adverse information reaches it.

559. The ISA is responsible for licensing insurance companies, insurance agents and insurance brokers. It has 5 FTE officers dedicated to the said task, with ISA having received a total of 21 applications during the period under review. The checks it carries out are very similar to those carried out by the SEC, even though convictions are only considered if they are final unconditional convictions and information is not sought from the FIU or the PPO. No monitoring is carried out on authorised qualified shareholders to ensure that they still meet the conditions on the basis of which the authorisation was granted. In addition, checks are only carried out with respect to the Board members of insurance companies (including ongoing checks and the possibility of authorisation withdrawal), but not to those of insurance agents or brokers.

560. Companies managing voluntary or mandatory pension funds need to be licensed by MAPAS and in the period under review it has received and approved two such applications. MAPAS carries out fit and proper testing on the entity and its qualifying shareholders, although it has to be remarked that with respect to individuals sitting on an entity's management and supervisory board, the only checks carried out relate to one's expertise in the area of pensions. No checks are carried out with respect to other key personnel.

561. The Ministry of Finance is responsible for licensing financial and leasing companies. It has had 3 FTE employees dealing with the processing of licence applications as of 2017.

**Table 6.3: Licence Applications processed by the Ministry of Finance**

Year	Issued	Rejected	Revoked
2017	4	0	1
2018	4	0	1
2019	6	0	1
2020	4	0	1
2021	4	0	2
<b>Total</b>	<b>22</b>	<b>0</b>	<b>6</b>

562. As part of the licensing process, a very restricted element of fit and proper checks is also carried out revolving around whether the qualifying shareholder has been subject to a criminal conviction or otherwise. Checks are also carried out to ensure that founders and their manager are not subject to any prohibition to carry out a profession, activity or duty. However, these checks are not considered as being sufficiently comprehensive. No regard is given to possible criminal associations or other adverse information nor are managers, with the exception of those of leasing companies, screened to determine whether they have been subject to criminal convictions. As can be seen from the above, the Ministry of Finance can also withdraw any licence previously granted, though in the cases referred to above none of the revocations were due to AML/CFT issues but rather to situations where the licence holder did not commence activities within six months from being granted the said licence.

#### *DNFBPs*

563. Licensing of casinos is also the responsibility of the Ministry of Finance. Licences are issued for a period of 6 months, exception being made for smaller-sized casinos providing betting services, where licenses are issued for a period of 3 months. While there are market entry requirements in place, these do not extend to consider whether the beneficial owner/s of an applicant or a licence-holder is in good standing or otherwise.

564. Applicants must provide evidence of the source of funds that are to finance the operations, which do not involve determining the legitimacy of the said funds but only ensuring that one has actual access or possession of the funds or assets.

565. In the event that, in the course of the licensing process the Ministry for Finance has any suspicion that there may be ML involved, it can request the applicant to disclose the beneficial owner and it can also report the case to the FIU. The AT was informed that there is currently one such case underway with respect to an applicant for an online casino, with the procedure having been interrupted and the case referred to the FIU. Having said so, no checks are carried out to establish whether the individual/s so disclosed are the actual beneficial owner/s or otherwise.

566. There is no on-going process to ensure that the conditions for the granting of a licence are continuously met by the licence-holder or with respect to whether there are changes within the licence-holder's structure warranting the application afresh of what market entry requirements

are in place. It is only in the case where the license-holder informs about an increase in share capital or a change in the ownership structure that the Ministry of Finance carries out the aforementioned checks afresh. In addition, the Ministry of Finance has indicated that it can revoke a licence even prior to the expiry of its term, including where the licence-holder is being investigated for ML. The said power was never exercised in the period under consideration.

567. The Bar Association is responsible for admitting candidates and therefore to exercise the legal profession. While there are market entry requirements in place, the emphasis with respect to the fit and proper tests applied is mostly on one's education and knowledge. Checks are carried out by a team of 3 active lawyers on behalf of the Bar Association to ensure that a candidate has not been the subject of a criminal conviction or that there are no criminal procedures against the candidate underway, even if there is no requirement to consider criminal convictions under the Law on Advocates. No other check is carried out to ensure the good-standing of the candidate even though the Law on Advocates mandates the Bar Association to establish candidates' good repute.

568. Where the Bar Association is notified that there are issues with a lawyer which may bring discredit to the profession, it can undertake disciplinary proceedings which may result in a lawyer being unable to exercise the legal profession, either temporarily or permanently. This could involve instances where the lawyer has been the subject of a criminal conviction as indicated in the preceding paragraph.

569. However, there is no on-going process to monitor that lawyers still meet the conditions for admission to the bar, with the Bar Association depending on members of the general public to report any such lawyer. Neither is there a process to ensure that only individuals or firms admitted to the bar actively exercise the legal profession.

570. The Ministry of Justice is responsible for granting warrants for the exercise of the notarial profession. The said warrant is granted after the candidate meets a series of requirements, including whether one has not been the subject of a final conviction for more than 6 months or otherwise or to a ban prohibiting one from exercising an activity, business or trade. Though disciplinary procedures are in place, which may ensure the temporary or permanent suspension of the notary from the profession, there is no active mechanism to monitor whether the said requirements are still being met. From the information provided, the last time that disciplinary proceedings were undertaken resulting in the ban of a notary was in 2006.

571. As is the case with lawyers and notaries, accountants and auditors market entry requirements also focus on one's education and knowledge as well as on not having been the subject of criminal procedures or prohibitions to exercise the profession.

572. In the particular case of audit services, those can be provided either by an individual auditor or through a firm. An audit firm needs not be owned or managed in its totality by auditors as it is only necessary that one or more auditors hold the majority of its ownership and that not more than 75% of the management body is composed of auditors. No checks are carried out on anyone who is not an auditor. Even in the latter case, these are just limited to ensuring the suitability to perform the activity and whether one has been the subject of criminal procedures, including a possible ban to carry out the particular profession.

573. No market entry requirements are applicable with respect to real estate agents or DPMS. With respect to DPMS, it has to be remarked that the fact that they are not considered as OEs does not mean that there can be no market entry requirements applicable thereto.

## VASPs

574. As of July 2022, the AML/CFT Law requires that anyone falling within the definition of a 'virtual asset service provider' be registered with the FIU within 30 days of either being registered in the Trade Register or of providing said services within North Macedonia. No registrations have been effected so far as the registration process requires secondary legislation to be in place. The provisions of the AML/CFT Law as they stand do not envisage any form of market entry requirements.

575. Similarly, no kind of supervision was in place for VASPs at the time of the onsite visit. As a result, VASPs will not be covered in the subsequent sections of this chapter, except from 6.2.6.

### *6.2.2. Supervisors' understanding and identification of ML/TF risks*

#### *Financial institutions*

576. The NBRNM has a good understanding of the ML/TF risks faced by the sectors and entities subject to its supervisory remit in line with the NRA, in which it participated. It considers cash, non-resident customers, corporate customers with complex structures and NPOs as representing those customer segments that present the highest ML/TF risks in general for the banking sector. Equally, it regards correspondent banking as being a particularly high-risk service. Acting on the basis of this risk understanding, it has issued guidance to banks to consider non-resident customers as presenting a high risk of ML/TF and what mitigating measures to apply with respect to the same. The said document directs banks to, as a minimum, collect source of funds information and/or information on the purpose of the transaction for each incoming payment of EUR10,000 or more, with directions to return the said funds to sender should the said information not be provided within 15 days. While it is possible for a bank to consider a non-resident customer to present a lower risk of ML/TF, on the basis of a customer risk assessment, the said customer must be from a specific geographic location as in the case of customers residing in the EU.

577. Conscious of the fact that banks, especially through their payment and transfer services, are exposed to the risk of TF and PF, the NBRNM has carried out a thematic review of the sector and has shared its findings and recommendations with the OEs. Overall, the said thematic review reflects the conclusions of the NRA with respect to the overall risk of TF in North Macedonia and in the banking sector. While this conclusion is based on some viable criteria, including a low number of NPOs, non-resident customers and funds sent to conflict zones, the said risk assessment does not consider that there may be domestic TF and that payments may be still funding terrorism even in the absence of direct or indirect links to war-torn countries. It did however highlight shortcomings with respect to the OEs' risk assessment and how TF is either not considered or otherwise inadequately taken into account. The NBRNM is now set to carry out a similar exercise with respect to non-resident customers.

578. Additionally, in September 2022 the NBRNM published a sectoral risk assessment of the banking, MVTS and currency exchange sectors, which resulted in the banking and MVTS sectors having a medium inherent level of risk and the currency exchange sector having a medium-low level of risk. It has to be pointed out that the conclusions reached in this sector-specific risk assessment are somewhat wanting in terms of data as it draws its conclusions from other documents and analyses made by the NBRNM. Instead, it focuses more on describing the controls applied by the entities and the possible risk factors that may result if any vulnerabilities are exploited, and does not contain an assessment *per se* of cross-sector risk elements or of the quality of the controls put in place.

579. When it comes to risk understanding and assessment of entities at an individual level, the NBRNM was until recently basing itself on the SREP methodology to also risk assess banks and saving houses for ML/TF purposes. This exercise was carried out on an annual basis. The risk score assigned to each OE could be changed pending the revision of its existing risk score, should any new relevant information come to light within the 1-year bracket. While the said methodology does present an ML/TF component in the determination of risk, it is admittedly not specifically intended to risk assess this element on its own but as part of the wider operational risk and could therefore have negative effects on the proper application of a risk-based approach to the supervision of the relevant sectors.

580. The NBRNM has access to considerable information to risk assess the MVTs and exchange offices, including volume of transactions and currencies involved, as well as, in the case of MVTs, the country of origin and that of remittance. Though there was no formal system of risk assessing these OEs, those having the highest volume of transactions, number of customers falling to be considered as PEPs, customers that are non-resident and STRs filed were especially focused upon. The value of these transactions would not be taken into consideration. In this context, the uniform risk classification of all operators within this particular area was questionable at best.

581. The NBRNM has adopted in April 2022 a new standalone ML/TF methodology which it is in the process of implementing. It has circulated a first questionnaire and, on the basis of the same, has risk rated the different entities under its supervisory remit. The said questionnaire is intended to be circulated on a half year basis and to provide a more focused and correct ML/TF risk score. While this new questionnaire allows the NBRNM to collect some information on the transactions carried out by the individual bank, the questions on clients, services and products provided are insufficient to allow a proper risk assessment of these two elements and of the possible geographical risks that may arise therefrom. From the documentation provided it is not apparent how the different risk factors are weighted and contribute to the calculation of the individual bank's risk score.

582. Should new and relevant information come to the NBRNM's attention between one iteration of the questionnaire and the other, the risk score for the OE is not revised but, in the case of banks is factored into the assessment that is to follow, while for MVTs and exchange offices, it is likely that it will lead to an ad hoc examination to confirm the information. Information from other competent authorities or other sources is not taken into account as part of the risk assessment process, but rather during the planning of an onsite inspection. The NBRNM has so far not noticed any significant changes in terms of the risk ratings assigned to the individual OEs since the adoption of the new risk assessment methodology.

**Table 6.4. Institutions under the supervision of the NBRNM classified on the basis of risk**

	Total				High				Medium				Low			
	B	SH	MT	EO	B	SH	MT	EO	B	SH	MT	EO	B	SH	MT	EO
2019	15	2	9	244	1	0	0	0	11	0	9	0	1	2	0	244
2020	14	2	9	242	1	0	0	0	12	0	9	0	1	2	0	242
2021	13	2	8	243	1	0	0	0	11	0	8	0	1	2	0	244
2022	13	2	9	243	2	0	0	0	10	0	9	0	1	2	0	243

*B – Banks MT – MVTs SH – Savings houses EO – Exchange offices*

583. The SEC was also involved in the carrying out of the NRA. As such it is quite conversant with the results thereof and has further supplemented and confirmed the results of the NRA with a more recent sectorial analysis. In particular, the analysis allowed the SEC to notice that there was an increase in securities' trading, even though this remained largely domestic, and a decrease in customers deemed to be high risk. Trading activity by the funds also seemed to have increased.

584. The SEC also makes use of a considerable volume of information that brokerage houses and funds have to provide it with to risk assess on an annual basis the OEs under its supervisory remit.

**Table 6.5. Capital Market Participants classified on the basis of risk**

	Total			High			Medium			Low		
	BH	IMC	PF	BH	IMC	PF	BH	IMC	PF	BH	IMC	PF
2020	10	5	16	3	1	16	3	3	0	4	1	0
2021	10	5	19	4	1	19	2	2	0	4	1	0
2022	10	5	3 <sup>37</sup>	4	1	3	2	3	0	4	1	0

*BH – Brokerage houses and banks providing securities services*

*PF – Private/investment funds*

*IMC – Investment funds management companies*

585. However, the SEC only takes into consideration some of the data points available to it which may not be sufficiently detailed to accurately risk assess the particular OE. Data points taken into account for risk assessment purposes include trading data, information from financial statements, the number of employees that each OE has as well as the OE's previous supervisory record. The type of customers serviced by the OE is also taken into account, but it does not seem that there is a sufficient consideration thereof.

586. In addition, while the SEC has a risk assessment methodology, this has still to be formally adopted<sup>38</sup> and is left to individual supervisory officers to apply without any assistance from automated solutions to ensure a consistent implementation. A copy of the proposed methodology was provided, setting out what is the sectoral risk understanding for its different categories of OEs – low risk for the Stock Exchange Depository, medium-low for investment fund management companies, medium high for brokerage services and high for private funds. The said methodology also makes reference to the use of a questionnaire to collect information for risk assessing OEs at an individual level, which was distributed by the SEC to all market participants in 2022. The answers, alongside additional information available to the Commission, were used to feed into a risk matrix to obtain a score for every FI under its supervision.

587. One element that is missing from the SEC's risk understanding, however, is the risk posed by omnibus accounts. While it did explain that these accounts are not very common and there was a decline in their use by brokerage houses, their possible impact from the ML/TF point of view cannot be discounted. Even if limited, usage of such accounts by brokerage houses implies a greater difficulty in carrying out checks and controls with respect to the funds flowing through the said accounts, as they provide a further layer of anonymity between the OE and the actual investor.

588. With respect to ISA, its risk understanding has so far been shaped by the evolution of gross written premia as evidenced by its Supervisory Strategy for 2021 – 2023. Reliance on gross written premia on its own is not considered as sufficient to lead to a correct determination of risk as no consideration was being given, for example, to the nature and volume of customers.

589. However, as of 2022, it has started circulating a more detailed self-assessment questionnaire having 52 questions focusing on both internal controls adopted by the OEs and their ML/TF risks to obtain more granular and relevant information from the different OEs under its supervisory remit in order to risk-rate them for AML/CFT purposes. Indeed, this revised questionnaire takes into account a wider array of factors as it poses questions related to

<sup>37</sup> The significant decrease in the number of private funds in 2022 is explained by the SEC withdrawing the registration for private funds that no longer were able to prove that they were meeting the conditions prescribed in the law on investment funds.

<sup>38</sup> Authorities advised that the methodology was formally adopted after the onsite, in particular on the 14<sup>th</sup> of November, 2022

customers, products, and services, highlighting those that are considered as the most high-risk factors in the process. In addition, a substantial volume of questions is included as a form of self-assessment on the controls and mitigating measures that the OE has adopted. It therefore presents a significant improvement on the method used to carry out the earlier risk assessment.

590. It is interesting to note that the outcome of the two risk assessment methodologies has been diametrically opposed with regards to insurance companies. Whereas until 2021 all 5 insurance companies have been rated as high risk, as of 2022 they have been rated as low risk.

591. MAPAS has equally been involved in the drawing up of the NRA. It also carries out its own risk assessment of the entities under its remit, but this is not solely focused on ML/TF risks. Due to the limited possibilities in terms of contributions and surrenders of pension products, the sector is rightfully considered by MAPAS to present a low risk of ML/TF.

#### *DNFBPs*

592. The Public Revenue Office (PRO), the Notarial Chamber and the Bar Association are responsible for supervising most of the DNFBP sectors, as the PRO is responsible for supervising casinos and real estate agents, the Notarial Chamber supervises notaries and the Bar Association supervises lawyers. The three bodies demonstrated, to varying degrees, a lack of ML/TF risk understanding of the OEs under their supervisory remit notwithstanding that all three were involved in the NRA, which puts into question the suitability of appointment of SRBs as primary AML/CFT supervisors for their sectors.

593. In line with the NRA, the PRO considers that the main ML/TF risks with respect to casinos are non-resident customers and wagering in cash. It also hinted at the possible ML/TF risks with respect to those games which allow collusion to take place, but it did not provide a very thorough explanation of the same. While the focus of the PRO seems to be mostly placed in tax obligations and tax avoidance risks, which is the primary mandate of the authority, it has taken a number of steps to enhance its ML/TF risk understanding capabilities and is in the process of carrying out a sectoral and individual risk assessment in an effort to obtain a better understanding of the overall materiality of casinos as well as of the ML/TF risks presented by the individual OEs. The said risk assessment will also, eventually, be taken into consideration in their supervisory process.

594. The same can be said with respect to the PRO's risk understanding of the real estate sector, though the PRO put greater emphasis here on the absence of any market entry requirements as the main risk factor. It is interesting to note that no such reference was made with respect to casinos and the absence of any controls on the beneficial owner/s of licensees. Given the small nature of operations, the prevalence of real estate sales taking place without the intermediation of real estate agents, and the legal prohibition to carry out cash transactions above EUR 3,000, the PRO does not consider this sector to be of any particular materiality. Indeed, sample selection for supervisory purposes is mostly based on an annual turnover threshold of EUR 60,000 and the residency of customers. This is based on the presumption that the higher the turnover, the higher the number of customers, but this ignores the actual quality of the customers themselves and the kind of immovable properties marketed to and sold thanks to the intermediation services of real estate agents. This notwithstanding, a sectorial and individual risk assessment exercise is also underway for real estate agents.

595. On the other hand, neither the Notarial Chamber nor the Bar Association could set out in clear terms what threats and/or vulnerabilities the respective professions presented. And with respect to the risks posed by each of the entities and/or professionals, the two bodies consider that these can be effectively assessed on the basis of the individual OEs' turnover without considering the nature of the services they provide or the kind of customers they service. Indeed,

in the case of the Bar Association the issue is further complicated by the fact that authorities are convinced that no lawyers act as TCSPs, even though there is no empirical evidence to that effect.

596. The FIU has demonstrated an especially better risk understanding of the DNFBP sectors than that shown by the primary supervisory bodies. By way of example, it did point out that lawyers can be abused for ML through their role as registration agents. With respect to accountants and auditors, the FIU did point out that they can be abused through their role in preparing annual financial statements for submission to the Trade Register. In both instances, the possibility of having non-resident customers, or customers owned by non-resident individuals or entities was referred to as a further risk factor.

597. Notwithstanding the above, it is relevant to point out that the FIU has so far been limitedly risk rating OEs on the basis of annual turnover, the number of employees, the number of customers and the number of STRs submitted, without taking into account any other risk factors. It has now embarked on a project to risk rate those OEs for which it acts as the primary supervisor on the basis of a dedicated questionnaire which takes into account a bigger number of and more relevant data points. The following are the latest risk segmentation of OEs falling within the FIU's main supervisory remit:

**Table 6.6. Risk Rating of OEs under FIU Supervisory Remit**

	High	Medium	Low	Total
Accounting firms	18	65	1900	1983
Auditing companies	0	6	33	39
Financial companies (small credit providers)	2	10	20	32
Leasing companies	0	1	6	7

598. The FIU has made available the self-assessment questionnaire it has drafted for leasing companies, real estate agents and casinos. The questions asked should allow it to better understand the actual risk posed by individual OEs within this sector. There are questions focusing on the nature of the customers serviced (e.g. whether one is a PEP or otherwise, whether one is resident in North Macedonia or otherwise, whether in the case of legal persons they have a complex corporate structure etc.), the value of the individual transaction/s carried out and internal controls, among others. The use of these questionnaires should allow for a more holistic understanding of the actual risks posed by operators. Despite the FIU not being the primary supervisor for casinos and real estate agents, it still has produced such questionnaires for risk assessment purposes.

### ***6.2.3. Risk-based supervision of compliance with AML/CFT requirements***

#### *Financial institutions*

599. The NBRNM's supervisory model is quite comprehensive though it does put considerable stress on its resources. It has two departments dedicated to supervision, one focusing on off-site supervision (and licensing) and the other focusing on on-site supervision. In 2021, these two departments had a staff complement of 19 and 23 officers respectively. This notwithstanding, the said two departments are not dedicated AML/CFT supervisory teams but need to supervise the different sectors under the NBRNM's supervisory remit from all aspects and, in the case of the off-site supervision department, handle licensing, authorisation and registration applications. Indeed, it is not unusual for the NBRNM to carry out all-encompassing supervisory examinations

rather than dedicated AML/CFT ones, which hinders the capacity to detect relevant AML/CFT-related breaches.

**Table 6.7. Number of on-site examinations on banks by the NBRNM**

	2017	2018	2019	2020	2021
No of OEs	15	15	15	14	13
No of On-Site Examinations	10	5	7	5	8
No of examinations having identified AML/CFT breaches	3	5	7	5	6

600. The NBRNM makes use of both off-site and on-site supervisory tools, with its supervisory cycle providing that it is to carry out on-site examinations on high-risk institutions at least once every year and on medium risk institutions at least once every 24 months. Banks with a low-risk score are to be subject to onsite examination cycles that can last 30 months. On-site examinations are quite extensive as they necessarily cover all the aspects of an institution’s operations and may range from 4 to 7 weeks.

601. OEs are requested to submit a considerable volume of documentation prior to the actual examination itself so as to allow the NBRNM to better understand the particular institution and where it should put its focus upon. In particular, extensive data is requested on the OE’s customer base, including the number of customers under each risk classification, number of customers that are non-residents or owned by non-residents, the number of customers that fall to be considered as PEPs, lists of NPOs and of legal persons, drawing a distinction between those that registered in North Macedonia and those that are not etc. In addition, information is also requested with regards to transactions carried out, especially on transactions carried out with offshore jurisdictions, transactions involving cash, transactions related to MVTs, transactions related to electronic money and those related to borrowings.

602. The said information assists the NBRNM in selecting an adequate file sample. This is intended to reflect as much as possible the business profile of the particular bank, with the sample significantly focused on high-risk customers and transactions (anything between 70% - 100%). Customers or transactions linked to high risk or prohibited jurisdictions are included as part of the sample as are PEPs chosen on the basis of the number and value of transactions carried out as are other customers on whom the bank would or should have carried out EDD measures. Extensive checks are carried out on the systems and procedures adopted by the particular OE, including interviews with the MLRO and his deputy. This was very well represented in a sanitised inspection report provided to the AT.

603. As regards to off-site supervision this is mostly done through a questionnaire circulated to the different institutions and the follow-up process on remedial actions imposed to previously inspected OEs. The submission of the questionnaire used to be done on an annual basis but the recent change to the NBRNM’s risk methodology entails that it is now taking place on a semi-annual basis.

604. What is noticeable with respect to the NBRNM is that it does not make use of thematic on-site examinations, but it only carries out these as off-site examinations. It has carried out at least one such examination focusing on CFT measures that identified a number of shortcomings, on the basis of which it provided banks with a series of recommendations on how to improve their controls in this area. In addition, through the submission of the banks’ business risk assessment, it carried out a further review and provided additional guidance on how to improve the same.

605. As regards to the MVTS sector, it seeks to carry out annual on-site examinations on all such OEs registered with it. As can be seen from the table hereunder this has never been achieved and, in the absence of a proper risk-based supervisory model, it can be questionable whether the MVTS providers examined in any given year were those that presented the higher ML/TF risks. Even on the basis of a sanitised inspection report to an MVTS operator that has been provided to the AT, it is not clear, in that case, what led to the selection of the transactions examined. It has to also be remarked that the findings present in the report do not allow a proper understanding of the issues identified as there is only reference to a failure to obtain sufficient information to ensure that the source of the funds transferred was adequately understood. And while the findings of the report referred to the involvement of a jurisdiction that may be considered as high risk, there was no consideration of other elements, such as the actual amounts involved.

606. As regards exchange offices, although some risk elements (annual turnover and geographical location) are present in the selection process of entities to inspect, this still leads to the NBRNM targeting between 65 and 85% of the sector on an annual basis (except for 2020-2021), and with an inspection frequency being determined by the period of the year instead of the risk profile of the entity. Therefore, it cannot be concluded that the approach for this sector is fully risk-based.

**Table 6.8. No of On-Site Examinations on MVTS and Exchange Offices by the NBRNM**

	No of MVTS	No of MVTS Subagents	No of Exchange Offices	No of On-Site Examinations		No of examinations having identified breaches
				MVTS	Exchange offices	
2017	9	182	242	22	156	0
2018	9	200	243	11	168	0
2019	9	220	244	2	209	0
2020	9	232	242	3	13	0
2021	8	242	243	5	106	4 (exchange offices)

607. Notwithstanding the number of examinations, their results are debateable, given the very low number of cases where these examinations result in the identification of any breaches, as seen in the table above. Given also what has been stated in the immediately preceding paragraphs, there may therefore be the need on the part of the NBRNM to rethink its current supervisory model for MVTS and exchange offices as it is taxing the resources it has available for AML/CFT supervision, leading to results that are not of particular relevance from an AML/CFT perspective.

608. The SEC also has a good supervisory process in place which combines elements of on-site and off-site supervision together. With respect to its supervisory cycle, all high and medium risk OEs need to be covered in intervals of 1.5 years and the low risk within 3 years. Annual supervisory plans are to include 1-2 high risk OEs, 3-4 medium risk OEs and 1 low risk OE. All on-site examinations look at all the obligations of the OE concerned and are not focused specifically on AML/CFT. Emphasis is put on high-risk elements, with lower risk elements considered through off-site supervisory actions like questionnaires.

609. Considering that each examination takes between 1.5 months and 4 months, and it usually covers all aspects of the regulatory framework not just AML/CFT, this can lead to considerable stress on the few resources available to the SEC for supervisory purposes. Its FTE officers assigned to on-site supervision is currently 7 and was for most of the period under review set at 6. On-site thematic examinations are not carried out. Indeed, from data provided the supervisory coverage seems to be fine for those OEs providing brokerage services but not for the other OEs falling within the SEC's supervisory remit. Only one 1 examination was carried out on an investment fund management company classified as low risk over the period 2020 – 2022 (until

October, 2022) whereas in the same period of time there was at least one other fund management company that had been rated as high risk. The same can be said with respect to the number of inspections carried out in relation to private funds being lower than those rated as high-risk by the SEC (all of them).

610. The ISA has 12 officers focusing on the supervision of the insurance sector from all aspects, out of which, 2 of them<sup>39</sup> focus on AML/CFT. It also accounts for a supervisory strategy that considers all insurance companies to be supervised off-site by means of annual questionnaires and to be subject to on-site supervision once every 5 years. Additionally, entities that are rated as critical or high risk during the off-site scoring are to be inspected the subsequent year. Notwithstanding the small sector, its low-risk exposure to ML/TF and an overall adequate AML/CFT performance from it, it is quite clear that the said staff and frequency of supervision could be further reinforced.

611. MAPAS also has 2 officers who are dedicated to AML/CFT supervision which, considering the size of the sector, is more than adequate and allows it to examine the same on an annual basis even though the OEs it supervises are classified as low risk on the basis of its own risk understanding of the sector. Examinations are all encompassing and not only focused on AML/CFT.

#### *DNFBPs*

612. In the case of the PRO, it has just commenced taking steps to exercise its supervisory remit in the area of AML/CFT. In 2022, it has carried out 2 on-site supervisory examinations jointly with the FIU so as to start understanding what is expected of it as an AML/CFT supervisor as well as how to conduct an on-site examination. Indeed, prior to 2022, the only examinations carried out on real estate agents and casinos were carried out by the FIU. As regards the Notarial Chamber and the Bar Association, who are the primary AML/CFT supervisors for the notarial and legal professions respectively, the quality and intensity of their supervisory activity is doubtful at most regarding their capacity to effectively identify breaches. No information was provided as to their supervisory strategy or how they effectively implement the risk-based approach when it comes to exercising their supervisory remit, if at all. It is relevant to point out that the Bar Association only circulates a questionnaire to select groups of its members each year but does not go through data, information or documentation for specific customers and/or transactions that would have led to the application of AML/CFT requirements. It did not until recently have any powers to carry out supervisory examinations and, while recent changes to the AML/CFT Law suggest that the powers granted to the FIU have extended to all primary supervisors, no indication was given that the Bar Association intends to make use of the same.

613. The FIU is the primary supervisor for specific sectors, i.e. accountants, auditors and financial and leasing companies. As already referred to, it also carries out so-called extraordinary supervision over all OEs. Extraordinary supervision involves checking specific customer/s and/or transaction/s that either the FIU itself or some other authority would have flagged. It currently has a staff complement of 6 focusing on AML/CFT supervision which have to carry out supervision over 1,983 accountants, 39 auditors and 39 financial and leasing companies apart from potential extraordinary supervision over more than 3,100 other OEs. Even taking into account what is set out in the following paragraphs, there is a clear disproportion between the number of OEs supervised by the FIU and the staff complement allocated for the said task which can limit the FIU's supervisory activity.

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<sup>39</sup> As of December 2022, the number of staff has been increased to 3 officers.

614. Supervisory plans for ordinary supervision cover 6 months and there is no particular number of OEs that is to be included. Ordinary supervision focuses largely on accountants, which account for 90% of the OEs nowadays supervised by the FIU. Customer samples are selected so as to include customers from all risk bands applied by the OE under examination, on the basis of the client list provided by the OE itself.

615. Prior to the 2022 changes to the AML/CFT Law, the FIU was also empowered to carry out ordinary supervision over all other OEs. With the changes to the AML/CFT Law introduced in 2022, the FIU has now a shared mandate for the ordinary supervision of specific categories of DNFBPs and is tasked with the extraordinary supervision of FIs. It has to be remarked, even if the Notarial Chamber carried out a total of 199 examinations between 2017 and 2021, that the majority and most significant AML/CFT breaches for the notarial sector were uncovered by the examinations from the FIU. The situation may actually prove itself to be worse with respect to lawyers as the Bar Association has never actually carried out any form of AML/CFT onsite supervisory activity over lawyers and, even if provided with the necessary powers to do so, will require time to acquire the necessary expertise to act as a supervisory authority. There is therefore a clear difference in the quality of supervision being exercised over these two particular sectors, dependent on the supervisor that effectively carries out examinations on the individual OE concerned.

*All*

616. It is in only a small percentage of the supervisory activities undertaken by the different supervisory authorities that results in any form of breaches. Over the period 2017-2021, breaches were identified in only 12% of the on-site examinations carried out by the FIU, 4.15% of the on-site examinations carried out by the NBRNM and 21.6% of the on-site examinations carried out by the SEC. Given the preference shown by supervisory authorities to carry out full-scope examinations, the figures quoted above cast doubts about the quality of the examinations carried out as one would expect that there would be a higher number of examinations resulting in findings however minor these may be.

#### ***6.2.4. Remedial actions and effective, proportionate, and dissuasive sanctions***

617. Under the AML/CFT Law it is possible for supervisory authorities to direct OEs to take corrective actions, with all authorities having a process to follow up on the corrective action to assess its actual implementation though actual testing of the effectiveness action would only be assessed upon a subsequent supervisory examination of the OE.

618. In so far as pecuniary sanctions are concerned, the AML/CFT Law prescribed minimum and maximum amounts that may be imposed depending on the particular obligation breached and on the size of the OE. The sanctioning powers of supervisory authorities have been increasing over the years but, exception being made for the FIU, the NBRNM and, to a lesser extent, the SEC, supervisory authorities do not have appetite for pecuniary sanctions.

619. The following table sets out the number of supervisory actions undertaken by the FIU and how many of them resulted in corrective actions and/or pecuniary sanctions. Even one of the main authorities that is relatively likely to make use of pecuniary sanctions, has only done so in a small number of cases.

**Table 6.9. Corrective Actions and Sanctions Imposed on OEs by the FIU**

Year	Supervisory Actions Undertaken		Supervisory Actions Resulting In:		
	Ordinary	Extraordinary	Corrective Action	Settlement/ Number	Misdemeanour Procedure (Court)
2017	30	6	5	1	0
2018	32	9	3	1	2
2019	26	13	5	5	11
2020	36	2	0	1	0
2021	110	3	0	2	2
<b>Total</b>	<b>234</b>	<b>33</b>	<b>13</b>	<b>10</b>	<b>15</b>

620. Even in those instances where supervisory authorities have recourse to pecuniary sanctions, the process presents a series of limitations that lead to the final pecuniary sanction not being proportionate, effective or dissuasive. Any supervisory authority that determines that a pecuniary sanction is warranted due to a breach of an AML/CFT obligation, has to commence a so-called misdemeanour procedure. The OE must be allowed to reach a settlement agreement in all instances and, where it accepts, the amount of the pecuniary sanction is reduced by 50%. The value of the pecuniary sanction is determined on the value of the lowest pecuniary sanction to which the OE would otherwise be subject to, taking into account the turnover of the OE, its number of employees and whether there is a repetitive element. According to the Law on Misdemeanours, a repetitive element can only subsist where the OE has been subject to a final decision in the previous year and therefore is quite restrictive in itself.

621. The following table provides a clearer understanding of how the value of the pecuniary sanction can vary through the application of the settlement procedure.

**Table 6.10. Settlements concluded by the FIU**

Year	Settlement/ Number	Settlement/Obligations Breached	Minimum Value of Penalty that may be imposed in terms of Law (EUR)	Settlement/ Value (EUR)
2017	1	1	11,700	5,850
2018	1	1	18,000	9,000
2019	5	5	189,200	94,600
2020	1	1	27,000	13,500
2021	2	5	75,000	37,500
<b>Total</b>	<b>10</b>	<b>13</b>	<b>320,900</b>	<b>160,450</b>

622. Thus, over the period 2017-2021, the FIU imposed a total value of EUR160,450 in administrative sanctions. Some of the breaches for which a settlement was made use of included 3 instances in which an OE failed to submit an STR, with the OE being a bank in one instance and a brokerage house in another, one instance in which a bank failed to adhere to a monitoring order issued by the FIU, and one instance of tipping-off by an accounting firm. By their very nature these obligations are quite serious and the amount imposed by way of settlement cannot be considered as proportionate to the seriousness of these 5 particular breaches.

623. In addition, no corrective action can be imposed on the OE as part of the settlement agreement, nor can any senior management officer be removed as a result thereof. Thus, authorities have no discretion in determining whether the seriousness of the case justifies the conclusion of such an agreement nor to mould the terms thereof in a manner that reflect the particular circumstances of the case.

624. In those situations where the OE does not accept the settlement proposed by the particular supervisory authority, the case has to be referred to the Court of Misdemeanours for determination. While the law sets out that a case should, at least at first instance, be determined within six months, only 2 such cases has ever been determined to date even though the FIU has undertaken this process at least 15 times between 2018 and 2021. The lapse of time has already been such that even the eventual determination of the case will not be enough to consider any such action as being in any way timely in nature, which impacts the effectiveness of the sanctioning regime under the AML/CFT Law. What is encouraging is that the FIU is exercising its power to demand the suspension of the OE to carry out its activities, at least temporarily. Indeed, it has requested the court to impose such a ban in 11 cases.

625. It is the authorities' view that this is due to a lack of resources in the law courts to handle cases of this nature. It has to be pointed out that even in the case of the matter being decisively decided by the law courts, the said law courts would have no discretion as to whether to order corrective action to be undertaken by the OE or otherwise.

626. In the 2 cases that have been determined the amount of the pecuniary sanction was decreased quite substantially by the law courts compared to the amount that would otherwise have been applied, though it did result that the amount was slightly higher than what would otherwise have been due by the OE through settlement. The amount of the pecuniary sanction is still questionable considering the nature of the breaches in question on their own.

**Table 6.11. Misdemeanour Penalties determined by the Law Courts**

Case No.	Nature of Breach	Amount Imposed (EUR)	Amount due through Settlement (EUR)	Amount due following court procedure (EUR)
1	Failure to analyse a complex, unusually large transaction; and Failure to submit an STR	60,500	30,250	34,000
2	Failure to conduct an independent audit	20,000	10,000	2,000

627. It has to be pointed out that the overall assessment is also hampered by the absence of any comprehensive statistics on the number and nature of the breaches detected by the supervisors in respect of which misdemeanour penalties were imposed. The FIU retained the best statistical data in this respect but even here, there was no clarity as to whether a breach of a given obligation either referred to a single business relationship/occasional transaction or otherwise to multiple breaches of the same obligation.

628. With respect to sanctioning the OE's senior management officials, the same issues referred to above present themselves. While in close to all instances where the FIU found breaches of AML/CFT obligations, it sought to impose pecuniary sanctions on the responsible officer of the OE, the amount of the sanction imposed was never particularly high due to the application of the settlement process.

**Table 6.12. Settlements concluded by the FIU where sanctions have been imposed to the responsible officer**

Year	Settlement/ Number	Settlement/Obligations Breached	Minimum Value of Penalty that may be imposed in terms of Law (EUR)	Settlement/ Value (EUR)
2018	1	1	5,400	2,700
2019	5	5	52,800	26,400
2020	1	1	8,100	4,050

<b>2021</b>	2	5	15,000	7,500
<b>Total</b>	<b>9</b>	<b>12</b>	<b>81,300</b>	<b>40,650</b>

629. Given that the pecuniary sanction that may be imposed on the responsible person is determined on the basis of a fixed percentage of the sanction imposed on the OE and its further dilution through the settlement mechanism, the authorities lack the necessary flexibility to account for the specific circumstances of the case.

630. In addition, the AML/CFT Law only allows for the publication of those misdemeanour procedures which have resulted in a final court judgement, not allowing the authorities to give publicity to any other measures undertaken under the AML/CFT Law. This further detracts from the effectiveness and dissuasiveness of the overall system.

631. Financial institutions' supervisors can make use of sanctions provided for under their sectoral laws which include the power to order the taking of corrective actions, the restriction of the OE's business activities and the possible suspension or withdrawal of one's licence. These measures are wider than the sanctioning tools available under the AML/CFT Law. When imposing pecuniary sanctions and any other kind of coercive or corrective action, supervisors advised that these are imposed in parallel. It has to be noted that no actual policies or procedures were provided to explain how any one of the financial institution's supervisors ensure that similar cases are treated in the same manner.

632. Having said so, only the SEC and the NBRNM have sporadically had recourse to pecuniary sanctions. The SEC has only done so once in 2019 when it imposed 2 penalties totalling EUR 8,778 whereas the NBRNM has in total imposed 28 penalties for a total of EUR 295,500. When it comes to the application non-pecuniary sanctions, it is also only the NBRNM and the SEC who have ever actually done so, with the SEC applying a wider range of non-pecuniary sanctions than the NBRNM.

**Table 6.13. Sanctions imposed by the NBRNM to banks**

Year	No of Examinations	AML/CFT Breaches	Written Warnings	Recommendations	Pecuniary fines	Amount of fines (EUR)
2017	10	3	2	1	0	0
2018	5	5	2	4	0	0
2019	7	7	4	4	4	71,500
2020	5	5	5	2	0	0
2021	8	6	3	2	24	224,000
<b>Total</b>	<b>35</b>	<b>26</b>	<b>16</b>	<b>13</b>	<b>28</b>	<b>295,500</b>

**Table 6.14. Non-pecuniary sanctions imposed by the SEC**

Year	No of Examinations	AML/CFT Breaches	Warning	Manager/Compliance Officer removal	Temporary Suspension of Authorisation	Public Reprimand
2019	8	2	0	0	1	1
2020	8	5	3	0	1	1
2021	5	4	1	1	1	2
<b>Total</b>	<b>21</b>	<b>11</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>4</b>

633. Both the SEC and the NBRNM have made reference to instances where they have restricted, suspended or otherwise withdrawn an OE licence on the basis of breaches of AML/CFT obligations. The NBRNM has also referred to a case where the registration for the carrying out of currency exchange services was cancelled on the basis that the OE did not provide it with access to data, information and documentation to carry out its supervisory function. No other authority

has provided any similar examples though the SEC did make reference to having done so in one case in 2020. The SEC has also temporary suspended the licence of OEs falling within its remit in relation to failures related to the carrying out of CDD, including EDD, in 3 cases.

634. However, supervisors can only pursue a suspension or withdrawal of a license on the basis of supervisory activities undertaken by them and not on the basis of those carried out by the FIU. Only the NBRNM has confirmed that it can do so in practice. Authorities seek to work around this restriction through the holding of joint examinations.

635. Given the significant lack of discretion on the part of supervisory authorities with respect to the proposal and possible conclusion of a settlement agreement, together with the fact that law courts are not being particularly timely in deciding the outcome of AML/CFT cases, the sanctioning framework under the AML/CFT Law cannot be considered as resulting in proportionate, effective and dissuasive sanctions. And this is even demonstrated by the reliance that financial supervisors put on sectoral law to ensure a more timely resolution of the case notwithstanding that this may not result in sanctions of a pecuniary nature.

#### *6.2.5. Impact of supervisory actions on compliance*

636. Authorities did not provide tangible evidence that their actions are having an impact on OEs' compliance with AML/CFT obligations.

637. Although reference was made by a number of the supervisory authorities to an increase in investment by OEs to strengthen their compliance function through the recruitment of additional staff and the implementation of automated systems, no concrete examples were provided of as much. It is difficult to draw a correlation between the increase in investment and the gradual increase in supervisory activity, as in most cases there is no pecuniary penalty imposed or it is otherwise significantly reduced through the settlement procedure.

638. On a separate note, there are indications that the guidance being provided by the authorities may be having a counter-productive effect. While the FIU and other authorities have been providing the different sectors with lists of high-risk indicators, from discussions had with OEs there is a cross-sectoral tendency to focus on these high-risk indicators (cash transactions, non-resident customers, high-risk industries like the construction sector, PEPs, high-risk jurisdictions or NPOs) while not much thought is given to relevant typologies, that is, any threats and vulnerabilities to which the given OE business and activities are exposed to. Rather most OEs, especially, but not exclusively, among less material FIs and DNFBPs, are focusing on the lists provided by the authorities and, notwithstanding the context of a given business relationship, automatically consider these relationships as high risk. This runs counter to the risk-based approach.

#### *Financial institutions*

639. The FIU, the NBRNM and the SEC have a follow up process to ensure that corrective action is implemented correctly. In the case of the ISA a similar process exists, although it has never been tested. This consists of an off-site process, whereby the OE concerned is asked to deliver revised documentation to the respective authority, and an on-site element wherein the changes made are checked for effective implementation once there is a subsequent on-site examination. The NBRNM also requests the OE's own internal audit to report back to it on the changes carried out. By way of example, the FIU claims that all instances where it imposed corrective measures for the period 2017 – 2021 were addressed successfully by the OEs.

640. The SEC has indicated that over the period being assessed it has noticed that some OEs under its remit have been adopting restrictive customer acceptance policies, refusing to service non-residents and/or legal persons that have complex structures. While this was presented as tangible evidence of the effect authorities' actions are having on OEs, it also points at a de-risking behaviour among certain entities rather than a better application of the risk-based approach.

#### *DNFBPs*

641. The FIU noticed an increase of the number of STRs submitted by notaries in 2021, where there was a doubling of the annual STR submission rate and attributed it to the increase of the number of supervisory actions with respect to notaries over the years. In 32 inspections carried out on notaries between 2017 and 2021, the FIU identified 7 instances in which notaries failed to submit an STR to the FIU. It should be noted that in all 7 cases, misdemeanour procedures have been started in court and were still pending on the date of the on-site visit. There was therefore no publicity given to these instances. While the FIU stressed that this would be no obstacle due to the small community involved, no actual evidence was provided to link the two together nor was sufficient data provided to attest whether this is a sustainable effort or otherwise. And any increase in quantity did not result in an increase in quality as the reports concern undervaluation of share value in transfers of shares, with the FIU performing little operational or strategic analysis itself before forwarding the same to the PRO, due to the straightforward nature of these cases.

#### ***6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks***

642. Most authorities have taken varying degrees of steps to ensure that OEs have a correct understanding of AML/CFT obligations and their correct implementation.

643. The FIU has a 'Restricted Website' where OEs can find guidance documents issued by the FIU, lists of high-risk indicators and other information useful from an AML/CFT perspective. Among the documents issued by the FIU and accessible through the said website are (i) its guidance on the risk-based approach, PEPs and beneficial ownership; (ii) lists of high-risk countries as identified by different bodies; and (iii) a list of red flags divided by service/product to better assist OEs in their risk assessment process. In addition, the FIU also issues from time to time typologies' studies. The said website also has an FAQ section which features a list of the most commonly asked questions on a series of topics. While there is no registration obligation on OEs, a significant number thereof have done so and there is quite a significant volume of traffic on the said website. In addition, ignoring notification of updates can lead to the OE being considered as presenting a higher risk of ML/TF. Additional information can be found under the "*Implementation of targeted financial sanctions for TF without delay*" section under IO.10.

644. In addition, the FIU also replies to queries it receives via email. It has also hosted, together with the Central Register, a series of 30 training events in the months leading to the official launch of the BO Register focusing on beneficial ownership and the relative registration requirements. The FIU, together with the Central Register, managed to inform attendees on the nuances of beneficial ownership. The FIU also has a 'helpline' to assist OEs with questions on this particular topic.

645. The NBRNM has also issued a series of guidance documents on how OEs falling within its remit can effectively comply with their AML/CFT obligations. Not only has it issued a Decision and Instructions on the application of the risk-based approach to the different sectors they have supervisory remit over, but it has also issued instructions to banks on the risks associated with accounts held by non-resident accountholders and applicable mitigating measures as well as the

outcome of its assessment of TF risks and controls within the banking industry with relevant recommendations associated therewith. It has also referred to the consultation process held with MVTs and exchange offices and the training sessions held prior to that, all of which contributed to its guidance document addressed to MVTs and exchange offices. In addition, it has also held 14 training sessions between 2017 and 2022 for the OEs falling within its remit, focusing on different aspects of AML/CFT. Out of the said 14 training sessions, 6 were held in 2022, which points at a situation where efforts to train are not sustained for a particular period of time. Having said so, these training sessions covered a wide spectrum of obligations and aspects, from beneficial ownership, transactions with a high value, risk understanding and assessment, the role of the NRA, etc.

646. ISA has similarly indicated that it has consulted with the insurance sector with respect to its guidance on the risk-based approach for the life insurance sector which it issued in 2021. The said guidance sets out how insurance operators are to apply the risk-based approach, what risk factors they need to consider and also what EDD measures can be applied in specific cases. Consultations were also held with the sectors with respect to the draft of the AML/CFT Law. The SEC has also issued similar guidelines of its own.

647. In addition, the NBRNM and the SEC have regular meetings with the representative bodies of banks and capital markets operators respectively. Even ISA maintains contact with the insurance sector though this is done on a needs basis rather than on any regular basis.

648. Even with respect to the DNFBPs, there is more activity in terms of guidance and training from the SRBs. The PRO has issued guidance in 2022 as to how it expects real estate agents to apply the risk-based approach. Similarly, the Notarial Chamber has issued equivalent guidelines applicable to notaries and has held some 5 training sessions between 2018-2022. On the other hand, the Bar Association has only in 2022 organised its first training event, focusing on the registration to FIU's "Restricted Website".

649. Additionally, provision of feedback from FIU on the substance of STRs assists recipients to improve the quality of their reporting and also helps to promote understanding of risks and obligations, although such feedback is not provided on a systematic, case-by-case basis, but rather on an annual basis. A more detailed analysis of the feedback provided by the FIU can be found under the "*STRs received and requested by competent authorities*" section under IO.6.

650. However, and as stated in the previous section, there is a tendency by some OEs to consider only those customers indicated by the supervisory authorities as being high risk without actually considering their actual business model nor the actual circumstances surrounding a given customer and business relationship or occasional transaction. While the NBRNM and SEC have already noted indicators thereof, supervisors should further adopt outreach initiatives to promote the implementation of a risk-based approach in favour of "de-risking" behaviours.

651. Regarding VASPs, as expressed in IO4, only some of the entities met by the AT have implemented basic AML/CFT measures, in the absence of the FIU providing sector-specific guidance as to what is expected of them in this regard. Although the FIU advised that some engagement activities had already taken place with relevant industry representatives, further sector-specific training and guidance to the VASP population about their obligations under the AML/CFT Law would be appropriate, given the ML/TF risks associated with VASPs, the particular nature of their services and their recent inclusion as OEs.

### *Overall conclusions on IO.3*

652. There are issues relative to the application of market entry requirements, when these are present. In particular, the market entry requirements for casinos remain considerably weak while

for certain segments of DNFBPs (real estate agents and DPMS) and VASPs they are completely absent. With respect to the accounting and legal professions, particular focus is put on one's criminal conduct. When it comes to FIs, although there are positive aspects to the checks carried out by the NBRNM, the SEC and the ISA, there is the need to further streamline the checks carried out, as well as to reinforce those applicable to MVTs operators and exchange offices.

653. The shortcomings identified in relation to the supervisory system applied in North Macedonia carry the most weight when assessing this Immediate Outcome. While the overall system presents some positive aspects, not least the efforts by the supervisory authorities for financial institutions and the FIU to adopt as much as possible a risk-based approach to supervision, most notably through the adoption of new supervisory methodologies, it is still unclear up to what extent the changes which have been introduced in the last few years have led to sufficient positive results. Resources dedicated to AML/CFT supervision are quite small in number and there may be issues with how effectively they are being made use of as in the case of supervising MVTs and exchange offices. There are also concerns on the low number of findings resulting from most of the supervisory actions undertaken by all authorities.

654. Having the same weight as the shortcomings related to supervision, it has to be remarked that there are significant obstacles to the effectiveness and dissuasiveness of pecuniary sanctions and to the authorities' discretion to exercise what sanctioning powers are bestowed on them by law in a timely manner, as well as the fact that the overall number and amount of pecuniary sanctions imposed is low.

655. **North Macedonia has achieved a moderate level of effectiveness under IO3.**

## 7. LEGAL PERSONS AND ARRANGEMENTS

### 7.1. Key Findings and Recommended Actions

#### **Key Findings**

#### **Immediate Outcome 5**

- a) The NRA has highlighted some possible forms of abuse of legal persons and authorities were quite conversant with the same. This analysis did not take into account relevant phenomena such as how prevalent is the use of strawmen and possible implications thereof, although authorities, in particular the FIU and LEAs, have some operational understanding of such. Also, the possible reasons and implications of having a significant number of legal persons being struck off on an annual basis was not considered. A specific risk assessment focused on legal persons is underway and will cover the possible abuse of incorporated/registered legal persons and those foreign entities that are active in the country.
- b) Though legal persons can be registered by the founder/s themselves, the vast majority make use of registration agents, i.e., accountants and lawyers, who are also empowered to submit beneficial owner information. There is complete reliance on the registration agents to ensure the correctness and completeness of the information provided by them. The Central Register carries out no checks to prevent the potential misuse of legal entities for ML/TF purposes, although the involvement of gatekeepers for certain legal acts (lawyers and notaries to register companies and changes thereto) mitigates the issue up to an extent. There is no ongoing monitoring mechanism other than with respect to the filing of financial statements for ensuring timely detection and registration of changes to basic and BO information.
- c) Authorities can obtain BO information from: (i) the BO Register within the Central Register, which, as of March 2022 was 92.5% populated, (ii) OEs, and (iii) legal persons themselves, which are bound to hold accurate and updated beneficial ownership information. Registration agents have a tool at their disposal (“Notes”) to inform the FIU about any suspicions regarding the BO information they are submitting on behalf of their clients. Similarly, a mechanism to report BO information discrepancies by OEs to the FIU has been established. This notwithstanding, the level of reliability of BO information varies. The AT has received contradicting information from OEs and the FIU concerning the number of discrepancies in BO information accuracy reported. The Central Register carries out no verification of the information provided to ascertain that the individual/s indicated are the actual BO. These considerations undermine the effectiveness of the system.
- d) Prior to the launch of the BO Register, the authorities held a series of training events on: (i) the concept of BO, (ii) how to determine BO, and (iii) the system to be used to populate data in the BO Register. The occurrence of strawmen and therefore the presence of a third party as BO, together with anecdotal evidence from meetings with the private sector, suggest that there is still not a clear understanding of the concept of “control through other means”.
- e) No trusts or similar legal arrangements can be established under the law of North Macedonia. In addition, authorities have only sporadically encountered such legal

arrangements in the course of their investigations. This has been confirmed through conversations with the private sector. The ability of authorities to appreciate the risks associated with trusts and similar legal arrangements, including with respect to how these may impact the determination and identification of beneficial ownership, is limited, especially as they are of the view that there are no TCSPs active in the country.

- f) No proportionate, effective and dissuasive sanctions have been imposed when basic and BO information undergoes a change and the entity concerned either files it late or otherwise does not file it at all.

### ***Recommended Actions***

#### ***Immediate Outcome 5***

- a) North Macedonia should finalise the specific risk assessment it had started to carry out at the time of the onsite with respect to legal persons incorporated or otherwise active in the country. In so doing, it should take into consideration the widest range of information possible, including aspects like strawmen, the phenomenon of struck-off companies and the eventuality of an unregulated TCSP sector. North Macedonia should take commensurate measures to address the identified risks.
- b) North Macedonia should examine the mechanisms in place to limit the potential misuse of legal entities for ML/TF purposes, if any, and consider, where necessary, to introduce new or enhance already existing mechanisms. These would include the mechanisms for the: (i) verification of all information provided at the stage of registration of a legal person; (ii) timely detection and registration of changes to basic and BO information, and (iii) supervision of the accuracy and timely update of information.
- c) North Macedonia should commence supervision of legal persons to determine the extent to which they are complying with their beneficial ownership obligations and action the discrepancies noticed by OEs as well as the notes submitted by registration agents with respect to submissions of beneficial ownership information.
- d) North Macedonia should step up its efforts to ensure that there is a correct understanding of the concept of beneficial ownership exercised through control through other means and under what circumstances it is acceptable for senior management to be considered as beneficial owners.
- e) North Macedonia should reconsider what impediments there are to the eventual imposition of proportionate, effective and dissuasive sanctions for failures related to the timely submission and updating of basic and beneficial ownership information and address any identified impediments.
- f) North Macedonia should determine whether there are effectively TCSPs active within its territory and that are managing or administering trusts and similar legal arrangements from within North Macedonia, independently of the laws under which the trust or legal arrangement is established, as well as take steps to prevent misuse of these structures for ML/TF.

656. The relevant Immediate Outcome considered and assessed in this chapter is IO.5. The Recommendations relevant for the assessment of effectiveness under this section are R R.24-25, and elements of R.1, 10, 37 and 40.

## 7.2. Immediate Outcome 5 (Legal Persons and arrangements)

657. As of December 2021, there were a total of 96,299 legal persons registered in North Macedonia, the greater part of which were companies established in terms of the Law on Trade Companies. Though there is the possibility to establish a number of different companies, the most popular forms are the limited liability company and the single-member limited liability company. Given the economic situation of North Macedonia and the fact that it is not a financial centre, the number of companies being registered seems incommensurate to such characteristics, and the use of companies is recognised as being one of the common means through which ML can be carried out.

**Table 7.1. Types of Legal Persons registered in North Macedonia**

Type of Legal Person	Number as of 31 December 2021
Sole proprietors	6,082
General Partnership	354
Limited Partnership	9
Limited Liability Company	12,198
Simplified Limited Liability Company	9
Joint Stock Company	568
Limited Partnership with Stocks	1
Limited Liability Company (Single Member)	59,122
Economic Interest Group	41
Subsidiaries of Foreign Trade Companies	347
Cooperatives	289
Chambers And Business Associations	86
Political Parties	302
Trade Unions	161
Associations	16,449
Foundations	215
Religious Communities and Religious Groups	44
International Organisations	22
<b>TOTAL</b>	<b>96,299</b>

658. It is also noticeable that over the years there has been a significant number of companies being struck off by the Central Register. These number an average of 3,000 companies a year between 2018 – 2021, with the striking off procedure being triggered largely due to the companies having been liquidated. In addition, there are roughly 6,000 new companies registered each year, these being mostly limited liability companies or single member limited liability companies. A significant number of inactive companies are still present on the Register awaiting to be struck-off. In addition, though measures are in place to ensure the submission of accurate basic and beneficial ownership information, these have not been implemented. This notwithstanding, the impact of measures taken to address issues such as the transparency of legal persons is diluted due to the existing concerns regarding the accuracy of the basic and beneficial ownership submitted.

659. Legal arrangements are not recognised under the laws of North Macedonia.

660. North Macedonia has established, on January 2021, a Beneficial Ownership Register, whose information became available to the authorities on April 2021. In the months leading to the launch of this register, the authorities conducted 30 training sessions on beneficial ownership and the registration process. Through this series of training sessions, the authorities managed to

reach out to 2,500 attendees from OEs and other interested parties. Currently, the Register is 92.5% populated. 71,371 individuals have been registered as beneficial owners of one or more legal persons. From an analysis of the data collected so far by the Central Register which is responsible for the running of the North Macedonia's Beneficial Ownership Register, 92.6% of all beneficial owners disclosed so far are residents of North Macedonia. The remaining individuals disclosed as beneficial owners are resident mainly in Türkiye (1.5% of the total beneficial owners), Serbia (0.7% of the total beneficial owners), Bulgaria and Greece (0.6% respectively of the total beneficial owners), Germany or Kosovo\* (0.5% respectively of the total beneficial owners).

661. Legal persons do not very often present structure complexity. Data from the Central Register indicates that only 20% of the legal persons that have disclosed their beneficial ownership data have more than one beneficial owner. In addition, there are only a few instances in which beneficial ownership is exercised indirectly or through control via other means, these totalling 16,850 individuals out of a total of 71,371 disclosed beneficial owners.

### ***7.2.1. Public availability of information on the creation and types of legal persons and arrangements***

662. Information on the creation of legal persons that can be established under the laws of North Macedonia is to be found on the website maintained by the Central Register. The said website provides extensive guidance as to how any such entity can be registered by making use of a registration agent, that is, lawyers and accountants authorised to submit information on the legal entity to the Central Register, or by the actual founder/s of the legal person itself. In addition, guidance is provided with respect to the submission of annual financial statements and the submission of information on changes to the legal person. It also provides a list of registration agents recognised by the Central Register that can assist with the registration of legal entities.

663. Having said so, information on the different types of legal persons is not equally as extensive. The Law on Trade Companies is available through the said website, providing a source of information on the different types of companies that can be established. The corresponding laws for the other legal persons are published in the Official Gazette of North Macedonia.

664. The website maintained by the Central Register provides guidance on the disclosure and reporting of BO information by legal persons to the BO Register. This includes webinars as to the concept of beneficial ownership and the submission process, rulebooks ("user manuals") and an extensive FAQ section. In addition, the AML/CFT Law is also accessible through the said website.

665. As regards legal arrangements, North Macedonia is not a signatory of the Hague Convention on the Law Applicable to Trusts and on their Recognition. It does not have any laws regulating either trusts nor any other legal arrangements having similar characteristics or use. This notwithstanding, changes to the AML/CFT Law carried out in 2018 have introduced an obligation applicable with respect to trustees of trusts having a North Macedonia's TIN to retain beneficial ownership information. In 2022 this obligation was extended to also cover trustees who are either resident or established in North Macedonia or are otherwise responsible for trusts that have acquired property in North Macedonia or have established a business relationship with an OE located in North Macedonia. As of January 2025, any such trustee will also have to disclose the said information to the BO Register though there is still no indication as to how this is to be done or how this will be enforced.

### ***7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities***

666. North Macedonia was, at the time of the onsite, in the process of carrying out a sectoral risk assessment focusing on legal persons, based on an already defined methodology and the processing and analysis of data held by the corresponding registers. This is to cover both those legal persons that are registered or incorporated in North Macedonia and those legal persons that may be registered or incorporated in another jurisdiction but are active in North Macedonia.

667. The 2016 NRA and the 2020 NRA both contain references to how legal persons can be abused for ML within the context of setting out what are the main predicate offences and how proceeds of criminal activity are usually generated. They also highlight possible transparency issues under the then applicable legal regime, especially with respect to those legal persons that are either owned by non-resident individuals and/or legal persons, or otherwise have a complex structure. It is these transparency issues that led to the introduction and establishment of the BO Register in 2021. And there does seem to be a general understanding amongst OEs that any legal person owned by non-residents or that otherwise has a complex structure is to be treated as presenting a higher risk of ML.

668. This notwithstanding, the said analysis is quite general and is not backed by a detailed consideration of the data available to the FIU, the PPO and other competent authorities. This may account for the absence of any detailed analyses of the phenomenon of strawmen, something that LEAs highlighted as a common occurrence in their investigations involving legal persons. Both iterations of the NRA are silent as to whether there are any features or shortcomings within the framework regulating legal persons that may increase their vulnerability to be abused for ML/TF. This may be especially relevant within the context of limited liability companies (LLCs) and single member LLCs as these are the most common types of companies established in North Macedonia.

669. In particular, it has to be noted that the analysis carried out so far does not take into account what are the reasons and implications for the significant number of legal persons, largely LLCs and single member LLCs, that are being regularly struck-off on an annual basis by the Central Register. While the majority are struck off due to being put into liquidation, no considerations have been made as to how long they were active and for what purposes they had been established. In addition, there is an average of 5,800 new LLCs and single member LLCs registered every year, a number which appears to be inconsistent with the North Macedonia economic situation and the fact that it is not a financial centre. No formal assessment been carried out to confirm whether the authorities' perception that there are neither entities providing services to companies nor shelf companies in the country is correct. Indeed, anecdotal evidence collected by the AT in relation to lawyers and accountants would suggest otherwise.

**Table 7.2. Struck off Companies**

<b>Year</b>	<b>Number of Struck-Off Companies</b>
<b>2017</b>	<b>6565*</b>
<b>2018</b>	<b>3346</b>
<b>2019</b>	<b>3197</b>
<b>2020</b>	<b>3312</b>
<b>2021</b>	<b>3226</b>

*\*The higher number of struck-off companies in 2017 is due to the exercise having commenced that year.*

670. It has to be remarked that notwithstanding these efforts to strike off inactive companies, there are still as of 2022 more than 7,000 inactive LLCs and single-member LLCs on the said register.

671. Authorities have some operational understanding as to how legal persons can be exploited for ML/TF. With respect to ML, the FIU has identified some typologies based on the STRs it has received (“Strategic analysis of legal persons declared in STRs submitted to the FIU”) and these are also included in different documents it has produced, including the Strategic Analysis on Corruption and the Illicit Flow of Funds. LEAs have also obtained similar insights through their investigations. While the FIU and LEAs have differing views as to how common the phenomenon of strawmen actually is, there is concurrence as to how legal persons can in effect be abused for ML purposes. The most commonly abused form of legal persons are the limited liability company and the single member limited liability company, with the said legal persons being used either in the context of tax evasion or in the context of corruption. Through transactions like the alleged provision of services or the repayment of legitimate loans, it is possible to launder the proceeds of criminal activity. And this tallies with the examples and conclusions of the NRA with respect to legal persons.

672. Attempts to determine the nature and level of TF risks associated with legal persons have been fairly limited. North Macedonia has conducted a TF risk assessment with respect to those legal persons that fall to be considered as NPOs while the FIU has included two typologies on the use of legal persons for TF purposes in the strategic analysis referred to in the preceding paragraph. This entails that only a very small fraction of legal persons has actually been somehow analysed for this purpose. Having said that, competent authorities (LEAs and FIU) demonstrated some degree of operational understanding of how legal persons may be abused for TF purposes by presenting a case where they investigated legal persons for a TF-related suspicion (see the “LP case” under IO.9).

673. Notwithstanding what has been stated above, it cannot be concluded that there is a systematic understanding of ML/TF risks with respect to legal persons. The authorities’ understanding is limited to what they notice through their activities, but no consideration has so far been given to how risk may be effected through the specifics of the legal regime for legal persons, their particular characteristics and the limitations with respect to the regulatory framework, all of which may reveal additional vulnerabilities that may be exploited by criminal elements and which so far may have never been detected by the authorities.

674. As stated, trusts and legal arrangements are not considered by the NRA as North Macedonia does not recognise trusts. However, no proper assessment has been carried out so far to identify whether there may be anyone acting as trustee from North Macedonia. This notwithstanding, authorities have already started taking steps to conduct an assessment on the extent to which, if any, trusts and similar legal arrangement may be active in North Macedonia. It has to be remarked that all authorities and OEs have confirmed that it is quite rare for them to come across trusts or similar legal arrangements in the carrying out of their functions and obligations.

### ***7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements***

675. North Macedonia has adopted a series of measures to ensure that legal persons are not abused or misused. All legal persons acquire legal personality and the capacity to contract in their own right only once they are registered in the appropriate registers (trade companies in the Trade Register, foundations and associations in the Register for Other Legal persons, etc.). North

Macedonia has established a so-called 'One-Stop-Shop' system whereby all registers have been centralised and entrusted to the Central Register, which is now in charge of ensuring that the conditions for registration of the various legal persons are met. All information on legal persons is accessible to the public. North Macedonia has also put in place a tool (SORIS) for the continuous processing of data entered into the Central Register.

676. With respect to the registration of companies, the process is quite expedited as the Central Register usually registers a company within 1 to 3 days if all the documentation is in order. Applications for registration can be submitted either by the company's founders themselves or through a registration agent, which is the most used option, according to the Central Register. A registration agent is a lawyer or accountant who is authorised by the Central Register to assist in the company registration process.

677. Changes to the company, including share transfers, would also have to be communicated to the Central Register, either by the registration agent or by an authorised representative of the company. In addition, changes to the company would in most instances, also including share transfers, require the relevant documentation to be attested by a notary. Companies are required to have a bank account with a domestic bank for the deposit of their share capital. All such entities have to file financial accounts annually to the Central Register and in the case of companies which fall to be considered as large or medium-sized enterprises, any such accounts would also need to be audited. In addition, where the company is a joint stock company or is otherwise listed, any change in shareholding has to be registered with the CSD. A list of those shareholders holding more than 5% of the share capital of any such legal person is published on the CSD's website at the beginning of each month.

678. The Central Register applies controls to ensure that the requirements of the Law on Trade Companies are met (in particular articles 29 and 197, which establish the cases where an act cannot be registered, such as bankruptcy, being involved in a misdemeanour procedure, being banned from exercising a profession in particular or having unpaid taxes). The Central Register does not carry out any checks to prevent the misuse of legal persons for ML/TF purposes, as it relies completely on the checks carried out by the registration agent or by the other OEs that may assist or be otherwise involved in the process leading to registration. Moreover, there is no ongoing monitoring mechanism for ensuring the timely detection and registration of changes to basic information, as this responsibility relies on the representatives or registration agents of the legal person. Indeed, the absence of any timeframes for notifying changes to the Central Register, other than for the notification of BO information and the filing of financial statements, makes detecting such changes even harder.

679. While the involvement of a number of OEs within the registration process and throughout a company's existence may provide some reassurances that changes to legal persons are being monitored, it has to be pointed out that there are still a number of shortcomings within the said system.

680. First of all, as can be seen from IO.3, there are concerns about the frequency, intensity and quality of the supervision exercised on lawyers, accountants and notaries, even if the scope of this supervision encompasses their obligations as OEs (including when participating in the establishment of legal entities) and not specifically the role of registration agents of lawyers and accountants. The Central Register also subjects registration agents to supervision, but its supervisory activity has not particularly resulted in any significant finding. From all the examinations carried out, there were only very few instances in which issues were identified by the Central Register though it is not clear what the issues with the documentation retained by the registration agent in question actually were.

**Table 7.3. Number and findings of examinations carried out by the Central Register to registration agents**

Year	Examinations Carried Out	Number of shortcomings in the registered documentation identified
2017	361	0
2018	117	11
2019	48	0
2020	0 (Due to COVID-19 Pandemic)	-
2021	0 (Due to COVID-19 Pandemic)	-
2022 (on-going)	364	0

681. While LLCs and single member LLCs are allowed a year from their incorporation to deposit their share capital and need to have a bank account to do so, there are no measures in place to prevent companies from closing the said account as soon as they have deposited the share capital. Similarly, despite the involvement of accountants and auditors in certain instances to draw up and audit financial statements, a good number of companies (averaging some 11,000 a year), still fail to submit the same on an annual basis while a smaller number (200 per year on average) fails to do so on time or is otherwise struck off for actually failing to do so. The checks and controls applied by OEs cannot therefore completely make up for the absence of any controls by the Central Register.

682. In terms of beneficial ownership information, North Macedonia has recently introduced a BO Register which is also housed in the Central Register. Legal persons in existence as of January 2021 had until April of the same year to submit beneficial ownership information. Newly incorporated legal persons have an obligation to register beneficial ownership information within 15 working days from date of incorporation/registration. Until July 2022, newly incorporated legal persons had to do so within 8 working days from date of incorporation/registration. No concrete explanation was provided for the increase in timeframe: the expectation would be that BO information would be readily available for entry in the BO Register given that this should be required by any number of OEs involved in the registration process and that timeframes for its submission would be shortened over time rather than extended.

683. As of March 2022, the Central Register was 92.5% populated. As to the remaining 7.5%, authorities are of the view that most of the defaulting entities are inactive associations which they cannot strike off as this would be considered as an infringement of their right of association. From data provided, there are still some 4,000 companies that need to provide beneficial ownership information. While recognising that more than half have their bank account in North Macedonia blocked and inactive for more than 45 days, which should mitigate any improper use of the company, this is still a situation which leads one to ask why the said companies were not put into liquidation but retained on the Register.

684. Registration of beneficial ownership is initiated through an authorised representative of the legal person, who may be an officer of the entity itself or otherwise a registration agent. Where recourse is made to a registration agent, it has to retain any information and documentation in support of the registration made for five years, following which the information and documentation is transferred to the State Archives for safekeeping. As it is the case for basic information, the Central Register also relies completely on the information provided by the said authorised agent or representative, carrying out no checks to verify if the determination made as beneficial ownership is correct or otherwise, nor does it request any documentation to support the identity of the individual/s reported as beneficial owners. In addition, there do not seem to be any checks in place to actively determine whether a company should have updated its

beneficial ownership information due to, for example, a possible share transfer or change in structure, the Central Register only detecting those entities that have either never filed beneficial ownership information or have done so late.

685. Nominee shareholders and nominee directors are not concepts recognised by North Macedonia's law. However, the presence of strawmen was something that LEAs did comment about, and which is encountered quite often in the course of their investigations. Thus, there does not seem to be any measure in place to prohibit or otherwise prevent the existence of arrangements whereby one natural person formally acts as a director or shareholder on behalf of another person.

686. The SORIS system allows for the detection of possible instances where several legal persons share the same address, founder, directors and/or beneficial owner, as well as to carry out cross-checks between the BO information and shareholders' information for those companies that have individuals as shareholders, especially single member companies. This notwithstanding, no action such as the analysis of the said data to identify possible vulnerabilities and risks in the current system is being undertaken by any of the competent authorities.

#### ***7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons***

687. Competent authorities in North Macedonia can obtain basic information from the Central Register, OEs and the legal persons themselves or, where necessary, from foreign counterparts.

688. Basic and BO information is available to all competent authorities through the various registers of legal persons maintained by the Central Register, which are accessible online for no fee. Basic information accessible through the Central Register includes data and information allowing for the identification of the legal person itself (e.g. name, registered office address, registration number), the individuals and entities that are responsible for its management and/or who hold shares in the same, as well as information on the basic powers of the same. The said information should be kept current at all times but the absence of timeframes under the Law on Trade Companies within which changes are to be reported to the Central Register, exception being made for the filing of financial statements, and the absence of application of any sanctions for late or non-filing of updated information casts doubts about the accuracy of the information available through the Central Register with respect to legal persons governed by the said law. The AT did receive confirmation from the State Market Inspectorate that it has repeatedly come across instances where the registered office address was not the one reported in the Central Register.

689. With respect to other legal persons, their laws do provide timeframes within which changes to their basic information is to be communicated to the Central Register. However, the absence of data on whether there were any late or non-submissions and the actions taken to address the same, including the imposition of sanctions for any such failure, did not allow to come to a conclusion about the effectiveness of the said legal framework.

690. With regards to beneficial ownership information, competent authorities can access data and information on the identity of the beneficial owner(s) and of the respective legal person, as well as on how the beneficial owner exercises ownership or control over the said legal person. Discussions with the LEAs, FIU and supervisory authorities revealed no difficulties accessing the basic information on registered legal persons either through online mechanisms or through direct co-operation with the Central Register. The LEAs indicated that the information they obtain from the BO Register is not always correct as they often uncover situations involving

strawmen. However, one has to also take into consideration that the BO Register has only been active since April 2021.

#### *Access to Information held by the Central Securities Depository*

691. Shares in joint-stock companies are usually held in dematerialised form through the single CSD active in North Macedonia. Information on the registered holders is made publicly available by the CSD on a monthly basis with respect to all those shareholders who hold 5% or more of the joint-stock company's share capital. Though not published, the CSD would also hold information on anyone holding less than 5% of the said share capital. Beneficial ownership information would have to be sourced from the Central Register as joint-stock companies are equally under an obligation to disclose their beneficial ownership.

692. Anyone wishing to hold shares in a joint-stock company has to be registered with the CSD, which entails the carrying out of at least identification and verification of identity of the individual or entity concerned. With respect to the possible transfer or transmission of shares, this should equally be registered in the CSD. In the case of a transmission of shares, a change in ownership is not considered to have taken place until the transmission is actually registered with the CSD whereas in the case of a transfer of shares this needs only be reflected in the CSD following the actual transfer on the stock exchange within two days following the date on which the trade resulting in the transfer takes place.

693. It should be noted that, in the presence of omnibus accounts, the CSD has no visibility of the underlying investors. Thus, in such cases, information has to be sought from the holder of the account itself which would usually be a brokerage house.

#### *Access to BO Register Information*

694. All competent authorities have direct access to the BO Register and the search facilities allowed to them are quite flexible as they can search either by individual or by entity. Concerning the adequacy, accuracy and timeliness of information reflected in the BO Register, the responsibility for providing and updating BO information, as well as to ascertain the veracity thereof, rests with the legal person and its authorised representative, as it has already been stated. The fact that no checks are carried out by the BO Register itself other than to ascertain whether the said information has been actually provided is a significant shortcoming in this regard.

695. North Macedonia, as a means to ensure that all legal entities comply with their disclosure of BO information obligations, imposed a requirement to OEs to not engage into business relationships with customers that cannot prove they have submitted their BO information to the Register. In addition, where BO information has been provided, OEs are also obliged to report any discrepancies they come across between the beneficial ownership information reported in the BO Register and their own determination and identification of beneficial ownership. Any such discrepancy is to be acted upon by the FIU. Whereas the FIU claims to have so far received 22 discrepancy reports from banks, OEs met during the on-site suggested that the number of discrepancies encountered are much larger and much more frequent, which may point out at a different interpretation between the regulator and the private sector on what kind of discrepancies are expected to be reported. The FIU considers most of the said reports to relate to minor technical deficiencies.

696. The absence of any similar obligation on competent authorities is a further limitation on the quality of the safeguards in place to ensure the quality of the information in this register, even though the FIU has informed it has also received a single discrepancy report from a state institution. As already indicated, LEAs state that they are frequently encountering situations

where the actual BO is someone other than the individual/s indicated in the BO Register. Authorities also have access to information obtained from foreign counterparts which may allow for a further check as to the accuracy of the data reported in the said register. In addition, it has to be pointed out that there is no mechanism in place to highlight situations where there may be possible discrepancies, which could alert competent authorities consulting the BO Register about potential issues with the BO information.

697. In addition, the on-line registration form allows authorised agents to include, via the so-called “Notes” field, any concerns on the beneficial ownership information provided by the respective legal person. This part of the form is only visible to the FIU and there have been 832 such notes submitted so far. This notwithstanding, the FIU considers that most of these notes did not actually highlight any concerns on the beneficial ownership disclosure itself but were once more minor mistakes from the agents when using the system. The FIU provided a sample of 32 such Notes being the ones submitted latest and, from a consideration of the reasons provided, it does seem that this function is being used to report minor issues or mistakes rather than issues with concealment of beneficial ownership or similar matters.

698. Considering that the LEAs are also encountering situations where they uncover cases of strawmen through their financial investigations, resulting in the BO reported to the BO Register either not being the actual BO or otherwise sharing such status with other third parties, concerns arise regarding the reliability of the data reported in the said register.

699. The BO Register’s system allows users to identify those individuals they consider as exercising control through other means through the selection of a pre-defined and open criteria (‘Other’ category) which are included in a dropdown menu listing other corporate and trust functions and positions. A total of 13,139 entities have registered under these different criteria but no checks are carried out to ascertain which situations are triggering the selection of the ‘Other’ heading. In addition, meetings with OEs have indicated that there may be an incorrect understanding of what ‘control through other means’ may entail, as they have equated the same to the legal persons’ management.

700. Authorities have demonstrated some degree of understanding of the matter by providing cases that accurately reflect the concept of “control through other means” involving transfers of shares via gift agreements. However, there is no sustained effort to provide training to OEs and legal entities targeting such aspects, which would enhance the quality of the BO information they are disclosing to the BO Register.

#### *Access from Other Sources*

701. Competent authorities also rely on other sources of information on basic and BO information of legal persons, such as OEs and legal persons, directly.

702. OEs constitute another useful source of basic and BO information. As stated in IO.4, quality on BO identification differs between OEs, but it can be concluded that larger, more material FIs, specially from the banking and the insurance sector, perform much better in this regard, by basing their conclusions not only on customer declarations, legal documents and searches in the register, but also employing third-party RegTech solutions and open data sources. OEs provide information on legal persons to the FIU upon request. While the AT was not provided with any data as to how many requests for information it has submitted to OEs during the period under review, the FIU has confirmed that it has always received a reply to every request for information it has ever submitted to OEs. Beneficial ownership information is also provided by OEs when submitting STRs. LEAs can also obtain this information directly from OEs, but, similarly, there is no information regarding how often this information is sought from this source. Supervisors,

when necessary, obtain BO and basic information on legal persons from OEs as part of their supervisory activities.

703. Where necessary, LEAs obtain basic and BO information directly from the legal persons, although no information has been provided on how frequent this is the case.

#### ***7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements***

704. The ability of competent authorities to have access to any such information could not be assessed, as authorities did not consider legal arrangements as a phenomenon that is present at a national level with any regularity and only very rarely encountered in the carrying out of their functions. Having said that, OEs have an obligation to obtain beneficial ownership information when servicing trusts and similar legal arrangements, as do trustees (although their presence and that of TCSPs in general is not acknowledged by the authorities), which would be accessible to competent authorities.

#### ***7.2.6. Effectiveness, proportionality and dissuasiveness of sanctions***

705. North Macedonia could not provide appropriate information on the application of sanctions to comprehensively analyse the system and applied practices so as to conclude whether the framework is effective or otherwise.

706. The Law on Trade Companies does provide for misdemeanour penalties to be applied where basic information is not provided to the Trade Register or is not otherwise updated accordingly. Article 601 provides for the imposition of misdemeanour penalties for (i) any failure to update the information provided at registration stage, including the registered office, (ii) for failing to keep the shareholders' register properly updated and (iii) for the late filing of financial statements. The said penalty can run from a minimum of EUR500 to EUR10,000, depending on the particular classification of the limited liability company as a trader. The said Article also sets out that in such cases a misdemeanour penalty is also to be imposed on the company's responsible person which may range from EUR100 to EUR500. Article 602 provides for the equivalent misdemeanour penalties applicable to joint stock companies.

707. However, North Macedonia did not provide any information on sanctions applied or procedures undertaken for the application of the same. Additionally, while the State Market Inspectorate, whose mandate in terms of legal persons is limited to ascertaining their registered office, can also impose sanctions where it incidentally notices that the registered office address of a company is not the same as that reported by in the Central Register, no data was provided either as to the level of sanctions actually applied. Indeed, there seems to be uncertainty as to which authority should actually initiate misdemeanour procedures against defaulting legal persons.

708. The AML/CFT Law equally provides for misdemeanour penalties applicable with respect to legal persons that fail to retain accurate and updated beneficial ownership information or that otherwise do not file or update the beneficial ownership information on the BO Register. Article 192(1) – (4) of the AML/CFT Law provides for the imposition of a misdemeanour penalty of not less than EUR5,000 and not more than EUR15,000, according to whether the legal person in question qualifies as large, medium, small or micro-sized trader. The said article provides for the imposition of misdemeanour penalties on the responsible person of the legal person in question, which again depends on the particular categorisation of the legal person as a trader. The said penalty may range from a minimum of EUR750 to EUR2,250.

709. This notwithstanding, no sanctions are currently being imposed on legal persons for failures to populate beneficial ownership information or to notify changes in beneficial ownership. North Macedonia has informed the AT that in these cases it prefers to rely on the obligation imposed on OEs not to establish a business relationship, not to carry out any transactions or to otherwise terminate the business relationship. And the application of any such sanctions to trustees operating from North Macedonia would be questionable at most in the absence of a proper framework regulating the said activity.

710. Even if one or more of the competent authorities were to apply sanctions on legal entities with respect to failures to adhere to their obligations relative to retention of beneficial ownership information or the submission to the Central Register of basic and beneficial ownership information when required in terms of law to do so, it is questionable to what extent any such regime would prove to be proportionate, effective and dissuasive. And this for the same reasons already highlighted under IO.3 with respect to the misdemeanour procedure, i.e. the mandatory settlement process, the absence of any discretion on the part of the authorities to impose conditions that reflect the seriousness of the breach and the lack of timely action should the case be remitted to the law courts for a decision.

711. As regards OEs, misdemeanour penalties are also applicable when AML/CFT obligations with respect to beneficial ownership are not fulfilled. Although there have been some instances in respect of which penalties have been imposed for failures related to beneficial ownership obligations, it is worth highlighting that the number of breaches related to beneficial ownership obligations arising from supervisory examinations is minimal. Additionally, as remarked under IO.3, the sanctioning system was not considered as resulting in the imposition of proportionate, effective and dissuasive sanctions.

#### *Overall conclusions on IO.5*

712. North Macedonia has taken some steps, including the centralisation of public registers and the implementation of a tool for data processing, to identify the ML/TF risks associated with legal persons that can be established under its laws and prevent their misuse, although these efforts have proven to be insufficient, due to an uneven consideration of the use of strawmen, the lack of consideration of the presence of shelf companies and providers of services to companies in the country or the significant number of companies being struck off the register on an annual basis. It is expected for a more in-depth analysis, which was being worked on at the time of the onsite, to address such shortcomings.

713. Some positive steps to address the same to increase the degree of transparency of legal persons and arrangements have been taken, an example of this being the establishment of a BO Register, which, as of March 2022, was 92.5% populated. This notwithstanding there are still major shortcomings to ensure that the information accessible by the authorities is adequate, accurate and up-to-date. Operationally, it has been shown that there are issues with the quality of the data with which the BO Registry is populated. No sanctions are being imposed for failures related to basic or BO information.

714. **North Macedonia has achieved a moderate level of effectiveness under IO5.**

## 8. INTERNATIONAL COOPERATION

### 8.1. Key Findings and Recommended Actions

#### **Key Findings**

##### **Immediate Outcome 2**

- a) North Macedonia provides MLA and extradition in constructive and timely manner to some extent. MoJ is a central authority, forwarding MLAs to DIC PPO for further distribution to prosecutors based on their competences. Based on international agreements, PPO and BPO OCC also receives considerable number of MLAs directly from their foreign counterparts. There is no integrated and comprehensive case management system neither prioritisation mechanism available to all competent authorities dealing with MLAs and extradition. This lack of streamlining may affect timeliness of the execution of the request.
- b) North Macedonia seeks foreign co-operation in relation to ML, predicate and TF offence to a limited extent. In order to improve cooperation a number of agreements have been signed with foreign counterparts enabling direct communication. JITs have been occasionally used by prosecutors when investigating predicate offences. In relation to extradition, the authorities are active in requesting its nationals to be extradited to North Macedonia. While there are a number of refusals, they are mostly due to the lack of guarantee on the satisfactory prison conditions.
- c) LEAs and the FIU request and provide informal assistance with international counterparts using Europol (SIENA), Interpol, CARIN, EGMONT, and other channels. Supervisory co-operation has taken place, particularly amongst competent authorities in material sectors, mostly in relation to fit and proper checks.
- d) While ARO operates in the country, North Macedonia has not effectively used it in financial investigations and seeking assets from abroad.
- e) The authorities exchange basic and BO information with their international partners. Although no obstacles in providing the relevant information were identified, the deficiencies related to verification of BO information submitted by respective legal persons, which were identified under IO 5, can potentially have an impact for the quality of BO information.

#### **Recommended Actions**

##### **Immediate Outcome 2**

- a) North Macedonia should establish clear policy objectives for MoJ, prosecutors, LEAs and judiciary on how to effectively manage, track and provide MLA and extradition. These policy objectives may be materialised through guidelines or any other tool the competent authorities deem appropriate and should be developed in coordination with all authorities involved in MLA and extradition.
- b) Existing case management system (LUIRS) should be made available to all competent authorities dealing with the MLAs and extradition requests. This also will allow North Macedonia to exercise the necessary oversight and prioritise urgent requests as well as

requests that relate to the ML/TF and higher risk predicate offences.

- c) North Macedonia should introduce as a policy objective systematically seeking international co-operation when investigating criminal cases of ML, associated predicate offences or TF with a foreign element. Assistance should be pursued in line with its risk profile.
- d) Further develop and make concrete steps to enable the ARO to provide and pro-actively seek concrete and tangible international assistance in tracing and seizing assets.
- e) North Macedonia should consider expanding international cooperation in supervision by going beyond fit and proper measures and using more international cooperation in the field of supervision over DNFBPs in line with the national and sectorial risks identified.

715. The relevant Immediate Outcome considered and assessed in this chapter is IO.2. The Recommendations relevant for the assessment of effectiveness under this section are R.36-40 and elements of R.9, 15, 24, 25 and 32.

## **8.2. Immediate Outcome 2 (International Cooperation)**

### ***8.2.1. Providing constructive and timely MLA and extradition***

716. North Macedonia provides a wide range of MLA on the basis of various legal arrangements and international instruments including UN, CoE conventions, treaties, ad hoc agreements, bilateral arrangements on MLA, and also on the basis of reciprocity.

717. Ministry of Justice (MoJ) is the central authority in North Macedonia for receiving and distributing incoming MLA and extradition requests. However, some requests are directly received by PPO and BPO OCC based on the international cooperation agreements signed with other jurisdictions.

718. Once requests are received by MoJ, they are further disseminated to Department of International Cooperation at PPO (DIC PPO) that is responsible to assign the request to either the BPO OCC or PPO depending on the subject of request and competences. Authorities advised that prosecutors may further disseminate case to other LEAs in order to obtain evidences. However, it is not clear when and under which circumstances, prosecutor will execute MLA by himself and when it will engage LEAs to do so. No comprehensive statistics is available on how long it takes each of the authorities to execute requests. Authorities also advised that neither MoJ nor DIC PPO carry out formal check of legal requirements in practice before forwarding the request to competent prosecutor. There are no SOPs or guidelines regulating timelines and other operational matters. Prosecutors advised that the delays in executing requests are mainly caused by the inability of the LEAs to locate persons.

719. In case of direct requests received by DIC PPO it is obliged to notify the MoJ about the receipt within 15 days. In practice, DIC PPO does not systematically notify the MoJ of received MLA requests and if, a notification is sent, it is often not within the set deadline. This causes issues for MoJ to keep track of cases as well as maintain any comprehensive statistics on pending, refused and executed requests.

720. During the period under review there was only one person working in the DIC PPO and responsible for coordinating all incoming, outgoing MLA request addressed to the PO office and

fulfilling ARO function. There is a significant lack of resources at this department both human and IT to effectively manage the incoming and outgoing MLAs and ARO function.

721. The MoJ has an electronic case-management system LUIRS to monitor the execution of incoming requests. However, the other authorities involved in the process do not have such system, rather they keep track of incoming/outgoing MLAs in paper-based forms. This was recognised as an impediment to the effectiveness of international cooperation in the NRA. There is no prioritisation mechanism neither any guidance which would help the authorities to streamline the process. In the future it is envisaged to connect the BPO OCC and PPO with the case management system of MoJ – LUIRS.

722. The international cooperation feedback for MLA was moderate with a third of jurisdictions reporting issues with quality and timeliness of information provided. When asked about this during the onsite the representatives of the BPO OCC were not able to respond with valid explanations. They indicated the insufficient quality of the incoming request as the main reason for delays, but no further details and clarifications were provided. Often additional information is required from the requesting country in order to execute the requests and that considerably prolongs the time. In general, to remedy this the PPO has signed numerous cooperation agreements with its partner institutions in foreign countries that enable direct communication and exchange of information and evidence. It was confirmed during the onsite that this channel works smoothly with some of the counterparts from the neighbouring states, such as Serbia and Albania (see case box 8.1).

**Box 8.1: information exchange based on bilateral agreement for mutual cooperation (Serbia Laboratory case)**

On the bases of bilateral agreement for mutual cooperation with Serbia, the BPO OCC through the PPO of MK established the JIT with the PPO of Serbia on 02.11.2017. Competent authorities with the JIT agreed to take actions against 7 persons (2 in Serbia and 5 in MK) for drug trafficking (article 215 of CC).

In MK, the BPO OCC issued an order to conduct an investigation under Article 215 and undertook several investigative measures and techniques (SIMs, searches, expertise of the performances of the seized equipment, analysis of information form databases of competent authorities, including evidence from criminal database) Also, competent authorities conducted financial investigation. All gathered information were shared with PPO in Serbia.

The BPO OCC completed investigation and filed an indictment on 28.05.2018. The competent court issued a verdict and all 7 persons were convicted (5 in MK and 2 in Serbia).

723. There is no comprehensive statistics kept in the country on the execution of incoming MLAs. Nevertheless, authorities were able to retrieve some data (see table 8.1 on aggregate data from the PPO and BPO OCC) as well as provide some case examples.

**Table 8.1: Aggregate number of incoming MLA requests received by the Prosecutors Office (DIC PPO and BPO OCC together)**

Year	2017	2018	2019	2020	2021	2022
Number of incoming MLA	152	148	252	206	271	164

724. When looking at how North Macedonia provides international cooperation more broadly, the BPO OCC and PPO of Skopje district stressed importance of the MLA in completing ML/TF related investigations. As illustrated by case example (see case Box 8.2 – “Clean Hands”) and discussions during onsite interviews, the BPO OCC successfully dealt with incoming MLA requests

in relation to obtaining (i) BO information; (ii) data on transaction from bank account in North Macedonia, and (iii) freezing of funds. It is not known to the AT if PPO COO has applied any other coercive measures following a request from a foreign counterpart (interrogation, wiretapping, etc.).

**Box 8.2: Case of a successful execution of an incoming MLA request on ML and/or one of the main threats faced by the country ('Clean Hands' case)**

Investigation launched at the end of 2017 into suspicious financial transactions of a football club in the top (Belgian) league, with indications of possible influencing of matches in the 2017-2018 season. Belgian police carried out searches at leading Belgian clubs and residences. Investigations also took place in France, Luxembourg, Cyprus, Montenegro, Serbia and North Macedonia.

As a part of a larger investigation on tax evasion, money laundering and possible match-fixing, the Belgian Prosecutors Office submitted request for mutual legal assistance to the BPO OCC in September 2018. The request was answered in one month (period until all data on the persons who were included in the request are provided).

In cooperation with the FIU, the BPO OCC identified whether persons mentioned in a request for assistance were holders or beneficial owner of bank accounts, obtained the particulars of specified bank accounts and of banking operations and identified that transferred funds were used for purchasing real estate. The following information as collected: detailed overview all bank accounts, money transfer; property, data on BO have been checked in the Central Registry; data in Central Depository; data from database of the FIU (cash transactions, data of notaries reports from where it was determined that one of the involved persons acquired real estate), Employment Agency information, possible notarial contracts.

At the request of Belgian Prosecutors Office BPO OCC froze bank accounts and property of involved persons in amount of 110,000 EUR.

The case was led by the Belgian Public Prosecutor's Office that coordinates the other Prosecutor's Offices in several countries. The BPO OCC had direct cooperation with the PPO Belgium.

725. The MoJ and BPO OCC noted that majority of incoming MLA requests are related to 1) the provision of bank records, 2) ownership structure of legal entities, 3) ownership of real estate, 4) hearing of witnesses.

726. During the period under review the BPO OCC has directly received 144 MLA requests (see table 8.2), out of which 30 are related to ML. There have been no TF related incoming requests. According to the NRA, abuse of official position and authorisation (corruption), tax evasion, smuggling of migrants, drug trafficking and drug trade, fictitious bankruptcy, fraud and robbery are identified as the top proceed generating offences in the contact of ML and being considered as being high threat for ML. The received requests, to large extent correlate with the highest risk predicate offences identified by the NRA (see Case Box 8.3).

**Box 8.3: Incoming MLA requests relating to ML, computer fraud and drug trafficking.**

*MLA request from Chinese Taipei (ML and computer fraud)*

The BPO OCC on 12.01.2021 received (via Ministry of Justice) a ML request from the Public Prosecutor's Office of Chinese Taipei related to criminal acts 247, 273 (money laundering), 418-a (criminal association). Upon the request, the BPO OCC undertook requested measures and searched the location in order to identify the organized group. After the searches on the given location they found out that the group left the country. The BPO OCC replied to the PPO Taiwan on 28.01.2021.

The PPO of Chinese Taipei submitted additional request for other crime (computer fraud) related to other criminal group with different members on 26.04.2021.

The public prosecutor issued an order and MoI took actions in accordance with the law on 07.05.2021 and a search was carried out at 2 locations and 42 people from Chinese Taipei were found, as well as other material evidence was secured (telephones, laptops, electronic devices).

The competent prosecutor organized meeting through EUROJUST with competent public prosecutor from Chinese Taipei and agreed to transfer of criminal prosecution on the competences of Chinese Taipei's authorities. The BPO OCC handed over all obtained documents to the PPO of Chinese Taipei on 14.05.2021.

MLA request from Australia (drug trafficking)

The BPO OCC has received a ML request from Australia via MoJ to take over criminal prosecution on 24.10.2022. The competent prosecutor organized meeting through EUROJUST with competent public prosecutor from Australia and agreed that MK's authorities will accept and proceed with the criminal prosecution.

The BPO OCC made a decision to take over criminal prosecution for Article 394 (criminal association) and 215 (drug trafficking) of the criminal code, and consequently made an order to start an investigation against 1 person for the same crimes on 28.10.2022. The investigation has been completed and on January 24, 2023, an indictment was filed against the person and trial is ongoing.

727. The majority of requests have been executed (129) with 14 requests in total pending execution. When looking throughout the reporting period, it is noticeable that for example in 2018 - 19% of the requests are still pending execution. There is no comprehensive analysis of the pending cases, nevertheless authorities indicated that most likely the reason behind it is inability to locate witnesses.

728. For BPO OCC the average execution period for MLA varies between 91 days and 243 days. Comparing to the number of incoming MLA requests per year (on average not more than 25 a year) the average time taken to execute such requests seems long (on average around 5 months). Whilst the AT is aware that different reasons may be behind delays in execution of the MLAs and that many of them may not be caused by the North Macedonia's authorities, little information was provided to allow for a conclusion whether delays in executing MLAs are justified.

**Table 8.2: Number of incoming MLA requests received directly by BPO OCC based on bilateral agreements<sup>40</sup>**

Year	2017	2018	2019	2020	2021	2022
<b>Total incoming requests</b>	24	16	25	26	44	9
<i>ML</i>	6	3	4	9	7	1
<i>TF</i>	-	-	-	-	-	-
<i>Terrorism</i>	-	1	-	-	2	1
<i>Participation in terrorism organization</i>	-	-	-	-	4	-
<i>Fraud</i>	1			1		

<sup>40</sup> The number depicted in table 8.1 show only the requests received directly by the BPO OCC. Nether the MoJ nor DIC SPO have oversight on these requests and their execution.

<i>Illicit trafficking in narcotic drugs and psychotropic substances</i>	9	2	8	4	8	1
<i>Illicit arms trafficking</i>	1					
<i>Trafficking in humans and migrant smuggling</i>	-	2	-	1	4	-
<i>Corruption, bribery</i>		1	1	-	1	-
<i>Abuse of power</i>	1	1	1	2	2	2
<i>Robbery or theft</i>	-	1	1	-	-	-
<i>Tax crimes (related to direct and indirect taxes)</i>	-	-	-	-	-	-
<b>Other predicate offences</b>	4	3	8	7	13	2
<b>Executed</b>	22	13	22	24	41	7
<b>Pending</b>	1	3	3	2	3	2
<b>Refused</b>	1	-	-	-	-	-
<b>Average time of execution (days)</b>	243	213	183	122	91	91

729. The NRA classifies - Bulgaria, Cyprus, Greece, Serbia, Switzerland, Türkiye, United Kingdom and USA as high-risk countries. Based on the information provided during the onsite interviews and statistics from the MoJ and BPO OCC and PPO (for year 2021 only), North Macedonia's authorities receive incoming requests mostly from Slovenia, Albania, Serbia, Bulgaria and to lesser extent from Germany and Switzerland. This, to some extent, correlates with the risk profile of the jurisdiction.

730. The DIC PPO advised that they have received 128 requests in 2017, 132 in 2018, 227 in 2019, 180 in 2020, 227 in 2021 and 155 in 2022. As no comprehensive statistics is kept by the NIC PPO only limited information relating to year 2021 was provided to the AT. For year 2021 majority of incoming requests to PPO were answered within 3 months period with 7 of the incoming requests still pending execution. In relation to ML 2 incoming requests were received by the PPO and majority of the incoming requests were related to fraud, trafficking in drugs, migrants and weapons. From the limited statistical data available the AT can conclude that for year 2021 it seems that the requests that PPO received were in line with countries risk profile, however, this conclusion cannot be generalised to the whole period under review.

#### *Seizures and confiscations*

731. The requests of foreign countries to identify, freeze, seize, or confiscate property are processed as regular incoming letters rogatory. After receipt by the MoJ, they are forwarded to the competent domestic judicial authority (public prosecutor or a criminal court) for enforcement. The MoJ advised that no such requests have ever been received.

732. Whilst the framework for ARO is established and became operational in 2019 its tangible impact on international cooperation is still to be seen. Authorities advised that some instructions and standard operation procedures (PPO) were adopted on how to use ARO and disseminated to PPO.

733. The authorities presented one request received in relation to freezing measures addressed directly to BPO OCC for freezing of assets on a bank account (see case box 8.1).<sup>41</sup>

<sup>41</sup> The ARO provided inconclusive statistics to the AT in relation to either incoming or outgoing requests for 2021 (19) and 2022 (3) without any further explanations or details.

## Extradition

734. Concerning extradition, the existing national legislation forbids extradition of nationals to another state, except if such a request is made in accordance with international agreement signed and ratified by North Macedonia (see R.39). As a central authority, the MoJ is responsible for issuing a decision on allowing extradition of the aforementioned person, issuing the decision on transit of the extradited person through the territory of North Macedonia or giving consent to the transfer of the convicted person. North Macedonia has concluded several bilateral agreements with neighbouring countries which prescribe the procedure for extradition of its own nationals. In general, the legal system of the Republic of North Macedonia provides state authorities with necessary tools to satisfy the needs for international cooperation in the field of extradition. A simplified extradition procedure can be applied provided that the extradited person irrevocably declares to agree to simplified procedure. The MoJ advised that approximately 80% of cases follow a simplified procedure for extradition with deadline for handing over the person is 180 days from the day of arrest according to Article 71 of the Law.

735. In general, ML and TF are extraditable offences. Dual criminality requirement may have an effect on executing extraction requests in relation to ML and TF (see deficiencies in R.3 and R.5). However, no such issues have been identified by the AT in practice.

736. According to the statistics shown in Table 8.3 throughout the period from 2019 till 2021, there were 2 incoming extradition requests with respect to ML and 131 requests related to predicate offences. No extradition requests were received for TF, however, some terrorism related cases are still pending for almost 4 years. Authorities explained that these cases are still pending due to the inability to locate the persons in the country. The time of execution of these requests varies from 30 to 150 days. Authorities advised that COVID-19 pandemic affected the average time for handling extradition requests in 2020 compared to 2019 and 2021.

737. There was never a case of refusal of ML-related extradition request. The refusal rate of extradition requests relating to predicate offences is stable over the reporting period in 2019 – 10%, 2020 -10% and 2021 – 7 %. The authorities indicated that the most common grounds for refusal of an extradition request were: (i) the absence of the accused person in North Macedonia, (ii) the withdrawal of the request by the issuing State; (iii) status of limitation.

**Table 8.3: Number of incoming extradition requests received by MoJ**

Year	2019	2020	2021
<b>Total incoming requests</b>	40	50	43
<i>ML</i>	-	1	1
<i>TF</i>	-	-	
<i>Terrorism</i>	3	6	-
<b>Other predicate offences</b>	40	49	42
<b>Executed</b>	16	27	20
<b>Pending</b>	21	20	20
<b>Refused</b>	4	5	3
<b>Average time of execution (days)</b>	34 (days)	72 (days)	58 (days)

The international co-operation feedback on extradition was more positive than for provision of MLA and did not identify any apparent systematic problems. However, in a few instances, it took

around 5 months for the authorities to execute some requests. The most common reason for longer duration of the procedure is issues with transportation.

**8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements**

738. North Macedonia seeks MLA to pursue domestic investigations into ML and predicate offences that have a foreign nexus. There have been no TF related MLAs sent from North Macedonia during the time period under review.

739. According to the statistics provided by the DIC PPO for the period between 2017 and 2022 the number of outgoing MLA requests has noticeably increased (see table 8.4). However, authorities could not provide any further information on the status of these requests.

740. As no comprehensive statistics on the outgoing MLA requests is kept by DIC PPO only limited information relating to year 2021 was provided to the AT. For year 2021 majority of requests by PPO to foreign counterparts were answered within 5months period with 1 request still pending execution. Majority of the outgoing requests from the PPO were related to fraud, trafficking in drugs, migrants and weapons, with 5 requests relating to ML. From the limited statistical data available the AT can conclude that for year 2021 it seems that the requests that PPO received were in line with countries risk profile, however, this conclusion cannot be generalised to the whole period under review.

**Table 8.4: Aggregate number of outgoing MLA requests sent by the Prosecutors Office (DIC PPO and PBO OCC together)**

Year	2017	2018	2019	2020	2021	2022
Number of outgoing MLA	9	3	20	19	98	140

741. Authorities advised that vast majority of outgoing MLA requests were addressed to neighbouring jurisdictions. The NRA classifies - Bulgaria, Cyprus, Greece, Serbia, Switzerland, Türkiye, United Kingdom and USA as high-risk countries. However, the number of the outgoing requests to these high-risk countries is rather low (see table 8.5) compared to the number of outgoing MLA (see table 8.4).

**Table 8.5: Number of outgoing MLA requests to high-risk jurisdictions as identified in the NRA of North Macedonia**

Country	USA	Bulgaria	Cyprus	Greece	Serbia	Switzerland	Türkiye	UK
MLA requests sent between 2017-2022	3	1	1	-	2	-	2	-

742. From the cases provided by the authorities and examples discussed during the onsite visit the BPO OCC demonstrated that it seeks international cooperation in order to obtain the information and evidence for the cases during pre-investigative and during investigative stage. Bilateral cooperation agreements are used with neighbouring states that enable faster direct cooperation (see table 8.6 for the number of direct cooperation requests sent by BPO OCC).

743. As can be seen from the case example in box 8.4 the BPO OCC requested information during the investigative state of the case dealing with potential corruption of state individual. The request was answered within 3 months and provided information was used to further secure a conviction and confiscation of assets.

**Box 8.4: Outgoing MLA request on ML (complex cross-border investigation) - Case “Imperija”**

The accused national of North Macedonia created complex ownership structure with the intention of concealing the property acquired by him and his family members, while performing his official duties. The property largely exceeds his legal income. After termination of his position as director he gave incomplete information about the property owned by him and his family members to the State Commission for the Prevention of Corruption. The accused did not declare ownership of a legal entity that was co-owning another legal entity together with his wife. The co-owned entity with his wife had an ownership of a property that was not declared and was illegally acquired as the value of the property largely exceeds his legal income.

During the investigation, the BPO OCC sent direct requests to its counterparts based on bilateral agreements and cooperated through MoJ. The information from foreign counterparts was received within the period of 3 months. Requested country provided information about bank accounts, holders of bank accounts, detailed overview of bank accounts, information about owners, managers and beneficial owners of legal entities.

The data obtained were used in court proceedings to prove the connection of the persons and their intention. In July, 2022, the court convicted the accused for the crime of "Receiving a reward for illegal influence" under Article 359 of the Criminal Code and for the criminal offense of "Criminal Association" under Article 394 of the Criminal Code. Another person in this case, is convicted for the crime of Money laundering and other proceeds of crime under Article 273 of the Criminal Code.

With the conviction, the following property in North Macedonia were confiscated from the legal entities: funds in amount of 336,814,160 MKD and 612,616 EUR, securities in value of 21,639,000 MKD, business premises in value of 2,799,241 EUR, land in value of 7,201,032 EUR, 29 apartments in value of 4,143,840 EUR, as well as an amount of 320,918,372 MKD was confiscated from physical person.

744. When looking at the statistics for BPO OCC between 2017 and 2022 - 26 MLA requests in relation to predicate offences and 9 ML-related MLA requests were sent respective counterparts in other jurisdictions.

**Table 8.6: Number of outgoing MLA requests sent by BPO OCC**

Year	2017	2018	2019	2020	2021	2022
<b>Total incoming requests</b>	3	2	9	4	7	4
<i>ML</i>	-	1	3	2	2	1
<i>TF</i>	-	-	-	-	-	-
<i>Terrorism</i>	-	-	-	-	-	-
<i>Participation in terrorism organization</i>	-	-	-	-	-	-
<i>Fraud</i>	-	-	-	-	-	-
<i>Illicit trafficking in narcotic drugs and psychotropic substances</i>	2	-	6	1	-	-
<i>Trafficking in humans and migrant smuggling</i>	-	-	-	-	2	2
<i>Corruption, bribery</i>	-	-	-	-	1	-
<i>Abuse of power</i>	1	1	-	1	-	1
<i>Robbery or theft</i>	-	-	-	-	-	-
<i>Tax crimes (related to direct and indirect taxes)</i>	-	-	-	-	-	-

<b>Other predicate offences</b>	-	-	-	-	2	-
<b>Executed</b>	3	2	9	3	3	-
<b>Pending</b>	-	-	-	1	4	3
<b>Refused</b>	-	-	-	-	-	-
<b>Average time of execution (days)</b>	61	183	243	213	183	183

745. As can be seen in table 8.6 - 8 outgoing requests are still pending execution. Insufficient information was provided to the AT on the reasoning why these MLA requests are still pending execution. For the average time of execution, it takes over 5 months on average to execute an MLA request by foreign counterparts. It is not clear to the AT what measures the North Macedonia's authorities have taken to accelerate the execution process.

746. According to the NRA, abuse of official position and authorisation (corruption), tax evasion, smuggling of migrants, drug trafficking and drug trade, fictitious bankruptcy, fraud and robbery are identified as the top proceed generating offences in the contact of ML and being considered as being high threat for ML. From the overview provided by the MoJ and statistics of BPO OCC it can be concluded that North Macedonia seeks assistance to some extent in line with its risk profile except for the four offences (abuse of official position (corruption), tax evasion, robbery and fraud) that pose the highest ML threat. However, the overall numbers of requests in particular for BPO OCC investigating ML, TF, organized crime and corruption could be higher.

#### *Extradition*

747. During the period under review North Macedonia's authorities have been very active in seeking extradition of their nationals. In total, between 2019 and 2021 MoJ has issued 615 extradition requests (see TABLE 8.7). In relation to predicate offences, the vast majority of extradition requests correspond to criminal offences that are considered of posing heightened ML threat and correspond to the risk profile of the country (see TABLE 8.7). There have been 1 extradition request for ML-related offence and none for TF. North Macedonia sends their extradition requests mainly to Germany, Italy, Austria, Kosovo\* and Serbia.

**Table 8.7: Number of outgoing extradition requests sent by MoJ**

<b>Year</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Total outgoing requests</b>	177	210	228
<i>ML</i>	-	1	-
<i>TF</i>	-	-	-
<i>Terrorism</i>	-	-	-
<b>Participation in terrorist organisation</b>	3	3	5
<b>Other predicate offences</b>	174	206	223
<b>Executed</b>	67	75	111
<b>Pending</b>	87	101	95
<b>Refused</b>	23	35	39
<b>Average time of execution (days)</b>	102 (days)	194 (days)	336 (days)

748. Although, North Macedonia is very active in requesting extradition of its nationals, around 15% of the extradition requests are being rejected by their international partners and between 40-50% are still pending execution. Authorities explained that the most common reason why cases are pending is because the person is already serving a prison sentence in the requested

country. If this is the case, authorities consider the possibility of transfer of a convicted person. For the rejected extradition requests authorities explained that in majority of the cases it is due to the following factors: i) the foreign country to which the request is sent does not extradite its own citizens, ii) inability to locate the person, iii) prison conditions are not satisfactory for the country that rejects extradition, iv) dual criminality issue, v) North Macedonia is unable to provide sufficient guarantees<sup>42</sup>. For example, Germany rejects extradition to North Macedonia based on the report by the CPT commission of the Council of Europe on the quality of the prison conditions.

#### *Seizures and confiscations*

749. Throughout the reporting period North Macedonia's authorities did not request confiscation of assets in other jurisdictions. This limited pro-activeness causes concerns as to whether North Macedonia's authorities proactively seek recovering assets from abroad, taking into account that ML investigations also include international elements (see also IO.8).

#### ***8.2.3. Seeking and providing other forms of international cooperation for AML/CFT purposes***

750. There is a number of international co-operation mechanisms and arrangements with other countries in place in the fields of financial intelligence, supervision and law enforcement. These include bilateral and multilateral MOUs, treaties, co-operation based on reciprocity, or other co-operation mechanisms.

#### *FIU*

751. The FIU's international co-operation is supported through its membership in the Egmont Group. The ESW secure channel is used for exchanging information with other countries. Only 3 people (including the financial intelligence officer who maintains the IT system) have access to the computer through which the ESW exchange takes place, and it is located in a room that is separate from the other rooms. The received request is transferred electronically through the internal system of the FIU to the archive and everything is processed using the IT system of FIU (ASK system). As far as prioritization is concerned those marked by the requesting FIU as urgent or TF requests are dealt within 3 days when possible. However, this approach does not equate to a prioritization mechanism. To facilitate international cooperation, the FIU has concluded several information-sharing agreements with its counterparts, although such agreements are not required for exchanging information including confidential data. The main rationale for such agreements is that some other FIUs require them to be able to exchange confidential data. These agreements are also useful in detailing the procedure for sharing information and submission of feedback.

752. In the assessment period, the FIU sought cooperation from number of countries, out of which majority of the requests were sent to the identified high-risk countries - Switzerland (27), Bulgaria (23), Türkiye (17), Cyprus (17), Serbia (15), UK (13), USA (11). The majority of requests are in relation to drug trafficking, computer crime, corruption, smuggling, environmental crime, tax evasion. While the FIU seeks international cooperation, the requests pertain to simple ML cases dealing with self-loudering or 3<sup>rd</sup> party laundering.

**Table 8.8: Number of the FIU's outgoing requests**

	2017	2018	2019	2020	2021
<b>Total number</b>	<b>52</b>	<b>78</b>	<b>74</b>	<b>79</b>	<b>50</b>

<sup>42</sup> Authorities advised that this situation happens with extradition requests with one jurisdiction (Switzerland).

<b>ML</b>	42	74	52	67	40
<b>TF</b>	0	2	0	2	2
<b>Predicate Offences</b>	10	2	17	10	8
<b>Requests refused by the foreign FIU-s</b>	0	0	0	1	0

753. The FIU informed, that they would typically seek information concerning (i) the criminal records of parties involved, (ii) the BO information in case of foreign legal persons, (iii) the source of funds and wealth and (iv) detailed overview of transactions. Such information is later used for analyses and further dissemination. The FIU monitors the progress of outgoing requests and on some occasions contacts the counterparts to secure receiving the response.

754. The quality of the outgoing requests can be assessed as good, since only one request was refused due to the fact that the person that was subject to the request had received asylum in the country.

755. The FIU also is proactively cooperating with its foreign counterparts by sending spontaneous dissemination reports (see TABLE 8.9). Majority of spontaneous dissemination requests have been sent to Austria, Germany, Kosovo\*, Malta, Syria, USA, Slovenia. Spontaneous disseminations were sent in relation to cyber fraud and smuggling.

**Table 8.9: Number of spontaneous disseminations sent to foreign FIUs by the North Macedonia FIU**

<b>Year</b>	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Predicate offence</b>	1	0	0	0	2
<b>ML</b>	14	16	22	26	31
<b>TF</b>	3	8	10	5	5
<b>Total</b>	18	24	32	31	38

756. The FIU can seek and provide cooperation in relation to the suspension of transactions and freezing of funds. During the reporting period, the FIU sent 5 freezing requests to foreign FIUs in cases of abuse of power, fraud and ML (see table 8.10). The FIU received one request form FINCEN to suspend a transaction.

**Table 8.10: the FIU's outgoing requests for a suspension of transaction or freezing of funds**

<b>Year</b>	<b>Country</b>	<b>Request related to</b>	<b>Amount suspended/frozen</b>	<b>Crime</b>
<b>2016</b>	Slovakia	1 legal person	35.000 EUR	Computer Fraud
<b>2016</b>	UK	1 legal person	5.351 EURO	Computer Fraud
<b>2018</b>	Monaco	1 legal person	8.218.000 EUR	Abuse of official position
<b>2020</b>	Poland	1 legal person	147.000 EUR	Fraud

757. The FIU is regularly providing cooperation when requested from the foreign counterparts. From the statistics provided as well as international feedback, it can be concluded that information is submitted mostly on time and of a good quality (see TABLE 8.11). When a foreign request is received, the FIU opens a case and conducts analysis using all its available operational tools, including requesting information from the NCC, when necessary. The

information received though the NCC is then summarised and forwarded to the foreign FIU that requested cooperation.

758. Foreign partners usually request information that are already in the FIU databases, as well as information related to the transactions, STR, criminal records, BO information, real estate ownership and sources of funds and wealth. The majority of the requests relate to the predicate offences that are considered as posing higher risk - migrant smuggling, drug trafficking, weapons trafficking, corruption and smuggling. During the period under review FIU received information requests mainly for neighbouring countries – Serbia (28), Bulgaria (15), Kosovo\* (14) and Greece (12).

**Table 8.11: Incoming requests received by the FIU**

	2017	2018	2019	2020	2021
<b>Total number</b>	41	41	36	34	53
<b>ML related</b>	30	38	32	25	47
<b>TF related</b>	7	0	2	1	1
<b>Predicate offence related</b>	4	3	2	8	5
<b>No of refusal</b>	0	0	0	0	0
<b>Average number of days to respond the request from foreign FIU-s</b>	118	59	77	46	29

759. The FIU also receives spontaneous disseminations from its foreign counterparts (see table 8.12). Majority of requests is sent from Serbia (29), Bulgaria (28), Greece (13), Slovenia (11), Türkiye (8), Ukraine (8) and Switzerland (8) relating to cyber fraud, tax evasion and drug trafficking. Based on these disseminations the FIU submitted 1 notification in 2018, 3 notifications in 2019 and 1 notification in 2020 to MoI.

**Table 8.12: Incoming spontaneous dissemination received by FIU**

Year	2017	2018	2019	2020	2021
<b>ML related</b>	30	39	36	47	41
<b>TF related</b>	/	1	/	/	/
<b>Predicate offence related</b>	/	2	1	3	2
<b>Total</b>	30	42	37	50	43

760. The AT concludes that the FIU demonstrated an active involvement in the cooperation with its foreign counterparts. The feedback received from the jurisdictions on the support provided by the FIU was overwhelmingly positive with only some jurisdictions noting that timeliness of responses could be further improved. However, no systemic issues have been identified in the responses of international counterparts.

#### *LEAs*

761. In order to support domestic investigations, the Sector for International Police Cooperation (SIPC) within MoI performs activities pertaining to international police cooperation within INTERPOL, EUROPOL (SIENA) and other international organisations. They use LOTUS IT system for case management, however, no formal or ad-hoc prioritisation mechanism has been introduced. All cases are handled in chronological order based on the time of receipt.

762. All incoming requests are forwarded to the NCC that has been established to improve domestic inter-agency cooperation. The NCC analyses requests and further disseminate to the competent police departments for execution.

763. In relation to incoming international cooperation requests there have been 133 requests related to ML and 317 in relation to TF. The majority of the requests when it comes to predicate offences, are related to fraud, misuse of counterfeit credit cards, forgery of documents, counterfeit banknotes, drug trafficking and weapons smuggling.

764. In relation to outgoing requests there have been 55 ML related requests and 26 TF related requests sent from North Macedonia to its foreign counterparts (see TABLE 8.13). The statistics shows that North Macedonia is considerably less active in requesting information in relation to ML and even less so in relation to TF than its foreign counterparts. The AT was not provided with information on the timeliness of execution of the incoming and outgoing requests nor on what type of information most often is requested by both their foreign counterparts and by North Macedonia's police. The authorities advised that all received requests relating to ML and TF have been executed and cooperation most often takes place with neighbouring countries. From the cases provided by the North Macedonia's authorities it can be concluded that police international cooperation is broadly in line with the risk profile of the country.

**Table 8.13: Incoming and outgoing requests sent and received by MoI for ML/TF<sup>43</sup>**

	2017		2018		2019		2020		2021	
<b>INCOMING REQUESTS</b>	ML	TF	ML	TF	ML	TF	ML	TF	ML	TF
<i>requests received by LEAs related to ML/TF</i>	23	50	23	12	33	25	20	105	34	125
<b>OUTGOING REQUESTS</b>	ML	TF	ML	TF	ML	TF	ML	TF	ML	TF
<i>requests sent by LEAs related to ML/TF</i>	10	1	12	1	4	0	22	16	7	8

765. As for the Financial Police, it receives data from foreign countries and INTERPOL, EUROPOL through the SIPC. The Financial Police also requests information through using SIPC and for foreign banking transaction data the FIU's channels are used. Total number of outgoing requests that Financial Police sent to its foreign counterparts is 6 in 2019 and 3 in 2021. Predominately these requests concerned information on tax evasion, tax fraud and abuse of official power (corruption). The AT is of the opinion that due to staff changes and insufficient case management no statistics could be provided on the past cooperation of the Financial Police beyond the last 2 years.

**Box 8.5: Police, FIU and PPO cross-border cooperation in relation to TF (Case - FTF funding 2015-2019)**

Following the exchange of information in international police cooperation with Western European countries, the Counter Terrorism Sector conducted searches in internal databases in order to confirm the identity of several persons (Macedonia's citizens with regulated permanent residence in those countries for which the partner services had operational knowledge that they transfer money to foreign terrorist fighters who actively participated in the war in Syria) and

<sup>43</sup> It is not specified to the AT whether the data contain only MoI or also Financial Police.

possible links to previous crimes, especially for crimes in the field of terrorism. After the collected data, the Sector submitted a Notification to the competent Basic Public Prosecutor's Office for which a case for pre-investigation procedure was established.

The Public Prosecutor's Office and after prior coordination with the Counter Terrorism Sector, submitted to the FIU an Initiative for conducting financial analysis for several persons suspected of being involved in committing a crime of financing terrorism. The analysis shows that in the period between 2015 and 2019, persons using the official financial system (banking and fast money transfer) performed financial transactions (in the amount between 50-500 EUR and Swiss Francs) to individuals who had opened bank accounts in Republic of North Macedonia. The money was withdrawn shortly after through ATMs in Cairo, Egypt, from where further tracking is enabled.

All collected information about the specific persons, by the Counter Terrorism Sector in cooperation with the Public Prosecutor's Office and FIU, through international police cooperation was exchanged with partner competent authorities from which we were informed that according to the collected data the investigation was successful in gathering sufficient evidence for the crime of financing terrorism, whereby the person is prosecuted in a court procedure before the competent court.

766. North Macedonia has legal framework allowing to form joint investigative teams (JITs) with the participation of its counterparts. In practice, North Macedonia has never initiated forming JIT with other countries and only have had a role of a participant. One such JIT was established with PPO of Bulgaria on April 2017 and BPO OCC to investigate smuggling and computer fraud. In the framework of JIT evidence has been provided to aid investigations in both countries. Another example of establishing JIT based on bilateral agreement with Serbia is described in case box 8.1.

767. A few occasions of using EUROJUST channel during the investigations were reported by authorities. The channel was used for organizing meetings with the foreign counterparts and discussing operational matters of the relevant cases, where cross-border elements were present (see case box 8.5 on cooperation with PPOs of Chinese Taipei and Australia).

768. Concerning asset recovery, although the ARO was established in 2019 within the PPO to act as the national contact point for the submission of requests and the exchange of data to trace and identify proceeds of crime, first exchange of information through CARIN network started in 2021 (19 requests received and submitted). Authorities could not elaborate what was the substance of those requests. However, they advised that asset recovery request can be executed only through the MLA.

#### *Customs Administration*

769. The Customs Administration exchanges information and data electronically through a dedicated liaison officer in SELEC. For non-SELEC members the Customs Administration uses platforms Cencomm2 and Cencomm3, RILO network (Regional Intelligence Liaison Office) and RAN (Rapid Alert Network of the World Customs Organization (WCO) in order to exchange information.

770. In relation to incoming requests the Customs Administration has received 5 requests related to suspected smuggling of funds. All received requests were answered within a reasonable period of time. In the period between 2017-2021, the Customs Administration has submitted a total of 29 notifications to SELEC for seizure of cash (10 in 2017, 6 in 2018, 8 in 2019, 4 in 2020,

1 in 2021). In 2017, 2 requests for data were submitted to foreign services related to suspicions of smuggling of funds.

771. Overall, the international co-operation feedback indicated regular exchanges of information, good quality answers with no delays (except for one incident). There have been very few cases of refusal and failure to provide replies to urgent requests on time.

#### *Supervisors*

772. Exchange of information and international cooperation among ML/TF supervisors in North Macedonia is limited by Article 154 of the AML/CFT Law, which prescribes concluding a memorandum in the field of supervision for submitting data, information, and documentation. Cases of the international information exchange with the counterparts without prior signature of the MoU have not been identified by the AT.

773. Among the supervisory agencies National Bank, SEC, ISA and FIU have some ML/TF related international cooperation. For the financial supervisors it is mostly used for “fit and proper” purposes only when doing background checks of shareholders/founders and management of the licensed entities. In the period under review National Bank had 8 incoming and 7 outgoing information request and ISA had 8 incoming and 4 outgoing cooperation requests. On one occasion National Bank requested ECB for some information following leaks of so-called “Pandora Papers”.

774. Other FI and DNFBP supervisors (with exception to ISA) have not cooperated with their foreign counterparts with regard to sectors under their supervision and for some of them, cooperation would not be possible as there are no MoUs in place.

775. Although very limited, the overall intentional cooperation feedback identified no issues with respect to the financial supervisors and FIU.

#### ***8.2.4. International exchange of basic and beneficial ownership information of legal persons and arrangements***

776. Exchange of BO information is performed by the FIU, LEAs and supervisors. The FIU received in total 40 requests related to BO information. Also, the MoI receives BO information request routinely with 259 requests received during the reporting period. Authorities advised that no requests have ever been denied or not answered.

**Table 8.14: Incoming requests of BO information received by FIU**

	<b>2017</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>
<b>Requests related to resident legal person</b>	3	6	8	10	14
<b>Requests related to non-resident legal person</b>	15	33	27	25	12
<b>Requests where non-resident BOs were identified</b>	11	22	21	16	12
<b>Answered requests</b>	3	6	8	10	14
<b>Average time of execution</b>	108	50	70	42	24

777. Foreign and domestic legal entities. Authorities advised that all requests have been answered with an average time of execution from 24 hrs to 30 days, according to the level of urgency and the time needed for processing the requests. No information was provided about exchange of BO information by supervisors.

**Table 8.15: Incoming requests of BO information received by the MoI**

	2017	2018	2019	2020	2021
<b>Requests of BO information</b>	<b>63</b>	<b>59</b>	<b>45</b>	<b>45</b>	<b>39</b>

778. The AT observed no legal obstacles in providing the relevant BO information. To respond to such requests authorities, take data from available databases of the Central Registry, which contain only basic information on the shareholders and not BO information (see IO5). In order to provide accurate BO information, the FIU usually cross-checks information of the Central Registry with the banks and supplements it with more detailed BO information, when available.

779. The international co-operation feedback did not identify any specific issue with such exchange. Nevertheless, limitations observed in IO.5 impact the provision of accurate BO information by North Macedonia to its foreign counterparts.

### *Overall conclusion on IO.2*

780. North Macedonia provides MLA and extradition in constructive and timely manner to some extent. The feedback received from foreign partners is mostly positive whilst shortcomings have been highlighted in relation to timelines and quality of responses provided by the authorities.

781. MoJ is a central authority for MLA coordination that sends all received requests to DIC PPO with is insufficient resourced (both human and IT). Better coordination appears to be needed to enable swift analysis and adequate follow up actions in the field of international cooperation. Absence of a specific and integrated case management system for all the relevant authorities and prioritisation mechanisms to some extent have effect on timely execution of international cooperation.

782. North Macedonia seeks foreign co-operation in relation to ML, predicate and TF offence to a limited extent. In order to improve cooperation a number of agreements have been signed with foreign counterparts enabling direct communication. In relation to extradition, the authorities are active in requesting its nationals to be extradited to North Macedonia. While there are a number of refusals, they are mostly due to the lack of guarantee on the satisfactory prison conditions.

783. LEAs and the FIU request and provide informal assistance with international counterparts using Europol (SIENA), Interpol, CARIN, EGMONT, and other channels. Supervisory co-operation has taken place, particularly amongst competent authorities in material sectors, mostly in relation to fit and proper checks.

784. Some deficiencies related to verification of BO information (see IO.5) can potentially have an impact for the quality of BO information.

**785. North Macedonia is rated as having a moderate level of effectiveness for IO.2.**

## TECHNICAL COMPLIANCE ANNEX

This annex provides detailed analysis of the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations in numerical order. It does not include descriptive text on the country situation or risks and is limited to the analysis of technical criteria for each Recommendation. It should be read in conjunction with the Mutual Evaluation Report.

Where both the FATF requirements and national laws or regulations remain the same, this report refers to analysis conducted as part of the previous Mutual Evaluation in 2014. This report is available from <https://www.coe.int/en/web/moneyval/jurisdictions/macedonia>.

### *Recommendation 1 – Assessing risks and applying a risk-based approach*

These requirements were added to the FATF Recommendations when they were revised in 2012 and therefore, they were not assessed under the 2014 mutual evaluation of North Macedonia.

**Criterion 1.1** – Pursuant to Article 3 of the new and previous AML/CFT Law the competent authorities are required to conduct a National Risk Assessment (NRA) to identify, assess, understand and reduce the risk associated with money laundering and financing of terrorism and to update it at least every four years. North Macedonia has conducted two NRAs; the first adopted in 2016 (drawing on data from 2011-2015) and the second in 2020 (drawing on data from 2016-2018). Both NRAs use the World Bank NRA methodology, drawing on both qualitative and quantitative data. The NRAs are based on analysis from eight inter-agency, cross-sectorial working groups, including representatives of AML/CFT authorities, civil society and the private sector. In addition to the NRA, NRM has also conducted sectoral assessments on NPOs (2020), VASPs (2021), insurance, banks, savings houses, fast money transfer providers and exchange offices, legal entities, securities, real estate, and pawn shops.

**Criterion 1.2** – The Council for Combating Money Laundering and Financing of Terrorism in accordance with Article 3 paragraph (2) of the AML/CFT Law is responsible for coordinating NRA implementation activities and preparing a national money laundering risk and financing of terrorism assessment report.

The Council for Combating Money Laundering and Financing of Terrorism in accordance with Article 140 of the AML/CFT Law was established by a decision of the Government, at the proposal of the Minister of Finance. The Council is presided by the FIU director and it consists of 14 representatives from the competent authorities, public institutions and private sector: Ministry of Interior, Ministry of Justice, Ministry of Finance, Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, Financial Police Office, Customs Administration, Public Revenue Office, National Bank, Securities and Exchange Commission, Insurance Supervision Agency, Pension Insurance Supervision Agency, Postal Agency, Bar Association, Notary Chamber, Institute of Authorised Reviewers and Institute of Accountants and Chartered Accountants. This Council is responsible, inter alia, for monitoring and coordinating the activities for the implementation of the National Strategy towards the accomplishment of the defined objectives, for improving the functionality of the money laundering and financing of terrorism prevention system, and for proposing activities that will increase its efficiency. The Council reports on its work to the Government on annual basis, if required it could report more often.

**Criterion 1.3** – Pursuant to Article 3 (1) of the AML/CFT LAaw, in addition to the obligation to conduct NRAs to identify, assess, understand and reduce the risk associated with money laundering and financing of terrorism, the competent authorities are also required to update it at least every four years. The first NRA was updated in 2019, and the report was adopted by the

Government in March, 2020. The subject of this update were the data relevant for the period 2016 - 2018.

**Criterion 1.4** – Pursuant to Article 3 paragraph (4)) (new Article 3 paragraph (4)), NRA final report is published on the website [https://www.ufr.gov.mk/?page\\_id=235\\_of\\_the\\_Government](https://www.ufr.gov.mk/?page_id=235_of_the_Government). The NRA was also sent to and then published on the websites of all entities which represent the private sector when developing the NRA (Macedonia’s Banking Association, Notary Chamber, Bar Association, Institute of Auditors, etc.) The NRA was also shared with the relevant OEs through trainings and meetings.

**Criterion 1.5** – Pursuant to Article 4 paragraph (2) of the AML/CFT Law, the Council for Combating Money Laundering and Financing of Terrorism has developed a National Strategy for Combating Money Laundering and Financing of Terrorism based on the findings of the NRA report with an action plan of measures and activities to reduce and manage the identified risks and consequences of money laundering and financing of terrorism.

Based on the 2016 Report, a National Strategy for Combating Money Laundering and Financing of Terrorism was prepared, with an Action Plan (2017-2020), adopted by the Government in October 2017. Consequently, on the basis of the 2020 Report, a National Strategy for Combating Money Laundering and Financing of Terrorism was prepared, with an Action Plan (2021-2024), which was adopted by the Government in August 2021.

The Council for Combating Money Laundering and Financing of Terrorism monitors the implementation and fulfillment of the action plans of the adopted strategies.

A number of measures have been carried out by different institutions to strengthen their resources based on risks identified was provided. For example, the FIU strengthened its capacities by increasing its staff. The LURIS system was introduced in the Ministry of Justice’s Sector for Mutual Legal Assistance to effectively address international cooperation weaknesses identified in the NRA.

**Criterion 1.6** – Article 6 of the AML/CFT Law permits exceptions from AML/CFT requirements for entities and individuals operating on an occasional basis and where there is a low ML/TF risk. Entities must meet several criteria to be eligible for such an exemption, including e.g., that the financial activity is ancillary and directly related to the main business activity. Such exemptions must be approved by the FIU. To date, no exemption requests have been submitted. Under Article 7 of the AML/CFT Law, lawyers can also be exempt from all AML/CFT obligations where defending or representing their clients, provided they inform and explain to FIU within seven days. No such exemptions have been submitted.

Article 6 paragraph 2 of the AML/CFT LAW holds that the prescribed obligations from the provisions of paragraph 1 of this Article do not apply to legal entities, sole proprietors or natural persons who independently perform business activity if they make remittances.

**Criterion 1.7** – The current legislation in North Macedonia applies this criterion through both of its components:

(a) Pursuant to Article 39 of the AML/CFT Law, OEs are required to take additional enhanced measures where the NRA has identified a higher risk ML/TF risk.

(b) Pursuant to Article 11, paragraph (5) of the AML/CFT Law, OEs are required to conduct a ML/TF risk assessment and harmonize this assessment with the NRA.

In performing ML/TF risk assessment, OEs (except casinos, VASPs, notaries) also follow the risk assessment guidelines prepared by the supervisory authorities. All these guidelines are available online.

**Criterion 1.8** – Pursuant to Article 38 of the AML/CFT Law, entities may apply simplified measures for client analysis when, in accordance with the provisions of Article 10 of the AML/CFT Law, they have determined that there is a low risk of money laundering and financing of terrorism. Simplified client analysis is not permitted when there is a suspicion of money laundering or financing of terrorism in relation to the client, transaction, business or property, specific scenarios of high risk of money laundering or financing of terrorism are applied or in cases of complex and unusual transactions. When deciding on the application of simplified measures for client analysis, the entities are obliged to take into account the results of the national risk assessment.

The measures of simplified client analysis include confirmation of the identity of the client or the beneficial owner after the establishment of the business relationship, reduction of the frequency of updating documents and customer data and / or reduction of the degree of monitoring of the client's business relationship and transactions.

The entities are obliged to provide appropriate documentation on the basis of which it can be confirmed that the application of simplified analysis of the client is allowed and that the measures of simplified analysis of the client are appropriate to the risk, as well as to make that documentation available to the supervisory bodies.

**Criterion 1.9** – Article 151 paragraph 1 of the AML/ CFT Law specifies that supervisors [and SRBs] must monitor OEs' implementation of AML/CFT requirements, including those in R.1. This requirement is emphasized in special objective 5 and 6 of the National strategy for prevention of ML/TF.

**Criterion 1.10** – AML/CFT Law – its Article 11 paragraph 1 states that OEs should prepare a risk assessment in order to identify, assess, understand and reduce the risks of money laundering and financing of terrorism, taking into account the risk factors related to: a) the client; b) countries or geographical areas; c) products, services or transactions; and d) distribution channels. The FIU prepared and issued RBA Guidelines in March 2019 and. These guidelines are complementary to the guidelines of other supervisory authorities (NBRNM, MAPAS, PRO, SEC, ISA). Their added value is the fact that they may be used by all entities, including those that haven't received RBA instructions from their supervisors.

(a) In line with the AML/CFT Law the risk assessment must be documented.

(b) As noted above Article 11 paragraph 1 of the AML/CFT Law requires OEs to consider all relevant risk factors for purposes of their ML/TF risk assessments. Identification of the level of overall risk is not explicitly stated in the Law. Article 12 stipulates mitigation measures to be applied in accordance with identified risks.

(c) The AML/CFT Law requires the OE to regularly update the risk assessment (Article 11 paragraph 3). Certain supervisors have gone beyond this requirement to require annual updates in their guidance (the NBRNM for banks and saving institutions, voluntary pension fund, and the ISA)

(d) Article 11 paragraph 4 of the AML/CFT Law imposes an obligation to OEs to submit their risk assessments at the request of the competent supervisory authorities referred to in Article 151 of the AML/CFT Law. Furthermore, certain supervisors supplemented the Law's provisions with additional guidelines (e.g. FIU, NBRNM, ISA, SEC, Bar Association).

### **Criterion 1.11**

(a) Pursuant to Article 12 of the AML/CFT Law, the OEs are obliged to prepare and implement a Program for effective reduction and management of identified risks of money laundering and financing of terrorism. The program is required to set out the rules, procedures and guidelines for the application of AML/CFT measures to effectively reduce and manage the identified risks. Such a program has to be approved by OE's senior management (AML/CFT Law Article 12 paragraph 3). NBRNM's Methodology for managing the risks of money laundering and terrorist financing (for banks and savings institutions) stipulates procedures, terms and requirements for the effective risk management, while ISA Guidelines for performing ML/TF risk assessment for the entities under its supervision, (articles 2, 3, 20 and 21) has provisions on structure and activities under the internal program, internal controls' process and elements to determine its effectiveness.

(b) Article 121 paragraph 3 of the AML/CFT Law requires that the senior management of the OEs regularly monitors and evaluates the adequacy of the AML/CFT program, its compliance and efficiency in terms of managing the identified risks. In addition, Article 69 of the law requires OEs to exercise internal control over the implementation of AML / CFT measures at least once a year (in the current year for the previous year) and also to prepare documentation for the purposes of internal audit. The OEs that are obliged to establish a compliance department in line with Article 68, paragraph 3 of the Law, are obliged to assign this department with an internal audit control function which would analyse and report on functioning of the entire internal OE's system for prevention of money laundering and financing of terrorism as well as on the implementation of the OE's programme.

(c) Pursuant to Article 12 paragraph 3 of the AML/CFT Law the senior management of the OEs, in addition to regular monitoring and evaluation of adequacy of the program, its compliance and efficiency in relation to the identified risks, should also take, if it deems necessary, enhanced measures. The Article though does not explicitly link such measures with the cases when a higher risk is identified.

**Criterion 1.12** – Pursuant to Article 38 of the AML/CFT Law, the OEs may apply simplified client analysis measures when, in accordance with the provisions of Article 10 of this Law, they have determined that there is a low ML/TF risk. In line with Article 38 paragraph 5 of the Law, simplified analysis of a client is not permitted where there is a suspicion of money laundering or financing of terrorism in relation to the client, transaction, business or property, specific scenarios of high risk of money laundering or financing of terrorism, or in cases of complex and unusual transactions.

### *Weighting and Conclusion*

North Macedonia mostly meets criteria under the Recommendation 1. There are some issues with the compliance and efficiency in relation to the identified risks which are to be remedied through enhanced measures, as the legislation does not explicitly link such measures with the cases when a higher risk is identified. In addition, not all supervisory authorities issued risk assessment guidelines for their relevant OEs. The AT does not consider these to be a major shortcoming given the overall scale of application of requirements under Recommendation 1. **Recommendation 1 is rated Largely Compliant.**

### *Recommendation 2 - National Cooperation and Coordination*

North Macedonia was rated partially compliant with former R. 31 in the 2014 MER. Some effectiveness issues were identified by evaluators then (no clear rules or consultation

mechanisms between competent authorities on supervision; the incomplete information flow between the FIU and the general supervisors.)

**Criterion 2.1** – Five national AML / CFT strategies have been prepared and adopted so far by North Macedonia, 2 of which during the period under review. These medium-term strategies have their basis on risk assessments findings and priorities identified further to these assessments. In August 2021, the latest National Strategy for Combating Money Laundering and Financing of Terrorism was adopted. In line with Article 4(2) of the AML/CFT law, the Council for Combating Money Laundering and Financing of Terrorism monitors the implementation and coordinates the activities envisaged in the Action Plan.

**Criterion 2.2** – Pursuant to Article 40 of the AML/CFT Law, the Council for Combating Money Laundering and Financing of Terrorism (pls see Rec.1 on its composition) is responsible for AML/CFT policies, strengthening of inter-institutional cooperation and coordinating the NRA implementation activities.

**Criterion 2.3** – Pursuant to Article 140 of the AML/CFT Law (like in previous law), the Council is empowered to promote inter-institutional cooperation and the promotion of the AML/CFT policies. In line with its Rules of Procedure, the Council is in charge for facilitating both – cooperation in developing and adopting of the strategic documents (e.g. AML/CFT strategy, regulations relevant to AML / CFT, including guidelines for uniform application of regulations, etc.) and coordination of relevant AML/CFT supervisory activities, and facilitation of detection of ML/TF and predicate crimes cases. For the latter, the Council is used as a platform for information exchange between the relevant authorities, and for establishing a joint investigation teams. The AML/CFT law, in its Article 139, authorises the FIU to sign Memoranda or Protocols for cooperation with the competent national authorities. Obligation to cooperate with relevant authorities and institutions as referred in Article 5 of the law<sup>44</sup>.

At the operational level, a National Coordination Center for Combating Organized Crime and Serious Crime (NCC) has been established by a Government decision. This center, which coordinates information exchange between the MOI, the Customs Administration, the Financial Police Office, PRO, FIU and the Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption. has been fully functional since 2018. Inter-agency cooperation on operational matters under NCC also includes AML/CFT.

With regard to the AML/CFT supervision, Article 155 of the AML/CFT Law requires the FIU and the supervisory bodies to exchange information and harmonise their annual supervisory programs and plans, as well as to cooperate while performing their tasks and authorities. Supervisory bodies may request and exchange financial, administrative and information obtained when carrying out their supervision, including data on typologies and trends for money laundering prevention and financing of terrorism.

**Criterion 2.4.** – Pursuant to the provisions of Article 20 of the Law on Restrictive Measures, the Government established in September 2018 a Coordination Body for coordination and monitoring of the implementation of restrictive measures Unit. This body ensures consistency, coordination and monitoring in the procedure of implementation of restrictive measures; informs the Government on the implemented restrictive measures, i.e. on the application or termination of the application of the restrictive measures, submitted notifications by the bodies for

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<sup>44</sup> Ministry of Interior, Ministry of Defense, Ministry of Justice, Ministry of Foreign Affairs, Public Prosecutor's Office, the Intelligence Agency, the Financial Police Office, the Customs Administration, the Public Revenue Office, the State Foreign Exchange Inspectorate, the Securities and Exchange Commission of the Republic, the National Bank, the Agency for Supervision of Fully Funded Pension Insurance, the Supervision Agency of the State Commission for Prevention of Corruption, the State Audit Office, the Central Registry and other state bodies and institutions, as well as with other organizations, institutions and international bodies for fight against money laundering and against the financing of terrorism.

implementation of the restrictive measures in accordance with the Law on Restrictive Measures. In addition, inter-ministerial cooperation in the area of dual-use goods and technologies takes place within the Commission for Export of Dual-Use Goods and Technologies. The Commission considers applications for export licenses, brokerage services licenses and transit licenses for goods and dual-use technologies, prepare minutes for each individual case and submit the minutes with its opinion to the Minister of Economy for decision. Consequently, coordination mechanisms in charge of PF related matters are established and are functional in North Macedonia.

**Criterion 2.5** – Cooperation and coordination between competent authorities aimed at ensuring that AML/CFT requirements are compatible with data protection and privacy rules are formalized through the Government's Rules of Procedure - in accordance with Article 68 paragraph (1) laws, by laws and other relevant decisions (including all those AML/CFT related) adopted by the Government need to be ex officio reviewed in advance by the competent and interested bodies. Pursuant to item 12 of this Article, all regulations (draft Laws, bylaws and other proposals) in order to comply with the regulations for personal data protection must be submitted to the Agency for Personal Data Protection (APDP) for review. In addition, the FIU has established intensive cooperation with APDP on all issues that include data protection matters (e.g. developing and updates to the restrictive web site, etc.). LEAs, supervisory authorities and the Central register (in the process of development of Register of beneficial owners) also regularly cooperate with the APDP on this manner.

#### *Weighting and Conclusion*

North Macedonia fully meets four criteria under the Recommendation 2. Operation and coordination of policies on combating the financing of proliferation of WMD issues need to be further developed. **Recommendation 2 is rated Largely Compliant.**

#### *Recommendation 3 - Money laundering offence*

In the 4th round of evaluation, the relevant recommendations (R.1 and R.2) were rated Largely Compliant, respectively. The only technical deficiency was noted with regard to acquirement of proceeds of predicate crime. Other concerns were in relation to the effectiveness.

**Criterion 3.1** – The Republic of North Macedonia is a party to the 1988 UN Vienna Convention and the 2000 UN Palermo Convention. Although the Criminal Code of North Macedonia criminalized money laundering, there are still some issues based on which the disposition of the crime is not fully in line with the standards set by the conventions. In the case of money laundering involving the conversion and transfer of property in order to conceal or disguise its illicit origin or to assist a person involved in the underlying crime to evade the legal consequences of his actions (article 6.1(a)(i) of the Palermo Convention; article 3.1. (b)(i) of the Vienna Convention), the Criminal Code in article 273 (1) and (2) does not explicitly stipulate that the conversion or transfer may be undertaken for a specific purpose, and in particular for the purposes described in the indicated provisions of the two Conventions. On the contrary, the wording of Art.273 (1) indicates that the concealment of the origin of the property is the objective effect of the perpetrators' actions and not the purpose thereof. In turn, this implies that conversion or transfer of property is punishable when undertaken for any purpose and thus remains in line with the standards of the Convention. Concerning actions that are not undertaken by the perpetrators for a specific purpose, but consist in concealment or disguise of the true nature, source, location, disposition, movement, ownership of property or rights concerning property, with the knowledge that this property is the proceeds of crime (art. 6 .1(a)(ii) of the Palermo Convention; article 3 (b)(ii) of the Vienna Convention), the Criminal Code, in article 273

(1) and (2), does not separately use the term "disguise". It is therefore not clear whether the term "in any other manner covers up" used in respect of the perpetrator should be understood only as the equivalent of the concealment or whether it includes both concealment and disguise. Furthermore, in Article 273 (1) CC, the concealment action is limited to the origin, location, movement and ownership, leaving out the motions of "true nature" and "disposition"

The Criminal Code does not use the terms "acquisition" and "possession". Instead, Article 273(1) CC mentions "receiving" Article 273(2) "holding" and "usage of objects". While the terms holding and usage seem to be identical in meaning to those laid down in article 6.1(b)(i) of the Palermo Convention and article 3 (c)(i) of the Vienna Convention, the term "receiving" appears to have a narrower scope than acquisition. Whereas acquisition means actively taking possession of the criminal property, receiving merely means passively taking possession of property transferred by others. Thus, meaning of acquisition is definitely broader than "bringing into circulation", "receiving" and "exchanging". It involves practically any act by which someone gains possession of property and cannot be fully covered by other physical forms of ML listed in Article 273 CC. Acquisition, as contemplated by the Vienna and Palermo Conventions, may also involve gaining property without action of another party which makes the property available to the acceptor. In other words, acquisition covers also unilateral acts.

**Criterion 3.2** – As regards the predicate offences, North Macedonia adopted an all-crime approach. All the designated categories of offences as foreseen in the FATF Glossary have been criminalized in the Special Part of the Criminal Code and concerned as underlying predicate offences for money laundering.

**Criterion 3.3** – The Republic of North Macedonia does not include a threshold or a combined approach, therefore this criterion is not applicable.

**Criterion 3.4** – The money laundering offence makes reference either to "money or other property" (Article 273 (1) CC) or "property or objects" (Article 273 (2) CC). All those terms have been defined under article 122 CC. In particular, money should be understood as "funds for paying cash, in denomination or in electronic money, which based on a law are used in the Republic of Macedonia or in a foreign country" (Art.122(12) CC). Under Article 122 (38) CC the term "property" has a broader meaning and includes money or other payment instruments, securities, deposits, other ownership of any type, both material or non-material, movable or immovable, other rights over objects, claims, as well as public documents and legal documents for ownership and assets in written or electronic form or instruments proving the right to ownership or interest in such property. Finally, the term "object" has been defined in Article 122 (39) as "movable and immovable objects being completely or partially used or should have been used or have resulted from a commission of a crime".

Despite logical error of definition ("object" defined as object which demonstrates *ignotum per ignotum* logical error) the term itself has limited additional value as it seems to be already covered by the definition of property. Apart from the definitions outlined above, the Criminal Code of North Macedonia also sets out a definition of "income from a punishable act" (art.122 (16) CC) which also refers to property or benefit and additionally indicates their origin as direct or indirect commission of a punishable act. As regards income from a punishable act committed abroad the definition provides for a specific dual criminality condition and requires that at the time of commission thereof it has been criminalized under the law of the Republic of North Macedonia and the law enforceable abroad. In the case of a money laundering offence, however, reference is not made explicitly to the "income from a punishable act" but to specific categories of money, property and objects being obtained through a punishable crime. Although, a certain incoherence exists between article 122 (16) and art. 273 CC, the notion of "property" used in

sections (1) and (2) of Article 273 CC and reference to punishable crime as a source thereof, makes article 273 CC applicable to any proceeds of crime. Thus, criminalization of money laundering remains in line with Article 2 (d) of the Palermo Convention and Article 1(q) of the Vienna Convention, as required by Criterion 3.4.

**Criterion 3.5** – Criminal Code does not contain any provision that determines whether the property is the proceeds of crime conditional on a conviction for the underlying predicate crime. In case of doubt as to the origin of the property, Article.273(10) CC is applicable according to which if there are factual or legal obstacles for determining predicate crime, the commission of predicate crime is then established based on factual circumstances of the case and the existence of well-founded suspicion that the property has been obtained through such crime.

**Criterion 3.6** – The offence of money laundering as covered by the Criminal Code of North Macedonia does not explicitly address the issue of extraterritorial predicate offences. The problem of whether underlying predicate offences committed abroad can at the same time constitute underlying offences according to the Macedonia's legal order is also not resolved by the provisions of Chapter XII of the Criminal Code concerning the rules of application of the law according to the place where the offence is committed. On the other hand, the wording of the provision of Article 273 CC does not narrow down the types of underlying offences in any way, also in terms of the place of their commission. Also, the definition of "income from a punishable crime" explicitly states that it includes the proceeds of a punishable act committed abroad criminalized simultaneously in North Macedonia.

**Criterion 3.7** – The wording of Article 273 (1) and (2) does not exclude from the range of perpetrators of money laundering persons who have committed the underlying offences. Consequently, self-laundering is featured in the North Macedonia's criminal law.

**Criterion 3.8** – As required by Article 6 section 2(f) of the Palermo Convention and Article 3 section 3 of the Vienna Convention, knowledge, intent or purpose required as an element of ML offence should be made possible to infer from objective factual circumstances. As a rule, the offences in the Criminal Code of North Macedonia are intentional (premeditated), and they take an unintentional form of negligence only in the case expressly indicated in the Code. (Article 11 (2) CC). Moreover, Article 13 of the Criminal Code clearly defines premeditation as composed of two elements i.e.: awareness of the perpetrator to commit the criminal act and his/her will (intent) of its commission. So that in both cases, i.e. premeditation and negligence, the mens rea is composed of elements of awareness of the features of the offence and the element of will to carry it out or the consent to the occurrence of certain effects (premeditation) or the subjective recognition that consequences of the offence will not occur (negligence). As regards money laundering offence, Article 273 (11) CC provides that the knowledge (awareness) of the perpetrator, i.e. the duty and the possibility to know that the property was acquired by a criminal offence, can be presumed based on the objective factual circumstances. The aforementioned provision therefore applies only to the element of knowledge on the part of the perpetrator and it does not allow for similar presumptions regarding his/her intention or the existence of negligence his/her intent. Article 273 (11) CC allows for such inference only in respect to the awareness of the offender, not his/her intent. Therefore, the AT still assumes that inference from objective factual circumstances is not admissible to a full extent required by the Conventions.

**Criterion 3.9** – The basic type of money laundering offence is punishable by imprisonment from 1 to 10 years (Article 271 (1) CC. In the case of aggravated types of money laundering:

- committed in connection with performing banking, financial or another type of business activity or by using techniques that ensure the avoidance of the obligation for reporting in the cases

determined by law, the imprisonment can be imposed between three and twenty years (article 271 (3) CC and article 35 (1) CC)

- committed by a member of a group or other association that is dealing with money laundering, illegal obtaining of property or other incomes from a punishable act, or with the assistance of foreign banks, financial institutions or persons, the imprisonment can be imposed between five and twenty years (article 271 (5) CC and article 35 (1) CC)

- committed by a public official, or a person responsible in a bank, insurance company, company for the organization of games of chance, exchange office, stock exchange or other financial institution, attorney-at-law, except when in the role of an attorney, notary or other person performing public authorizations or activities of public interest, who enabled or allowed for a transaction or business relation against his legal obligation or who performed transaction against a prohibition pronounced by a competent body or a temporary measure appointed in court or who failed to report laundering money, property or property benefit, for which he became aware, the imprisonment can be imposed between five and twenty years (article 271 (6) CC and article 35 (1) CC).

Considering Article 35 (1) CC which sets the upper threshold for imprisonment for intentional crimes at 20 years, one must conclude that for aggravated forms of money laundering, the imposed imprisonment may be levied for a period of between 5 and 20 years. Furthermore, in the case of intentional money laundering, it is possible to impose an additional fine Article 33(3) CC. Sanctions for natural persons appear proportionate and dissuasive.

**Criterion 3.10** – The Criminal Code provides for the responsibility of legal persons, the basic principles of which are regulated in articles 28-a, 28-b and 96 a and 96 b CC.

As a principle, legal persons are held criminally liable only in cases regulated by special provisions introducing the criminalisation of particular types of crimes. (Article 28-a (1) CC.)

Legal persons are liable for offences committed by a responsible person within the legal entity, acting on behalf, of the account and for the benefit of the legal entity.

However, it should be noted that this liability is subject to significant limitations. Legal persons are held liable in the case when the offence committed by their employees and representatives has brought a significant property benefit or caused significant damage. That limitation does not apply only when the crime is committed by a responsible person in a legal entity. Additional restrictions arise from Article 122 (35) CC, according to which a significant property benefit, value or damage refers to a benefit, value or damage that corresponds to the amount of 50 average monthly salaries in North Macedonia, at the time when the crime was committed. While the Criminal Code in Article 273 CC (12) introduced the liability of legal persons for money laundering and provides for a fine as a penalty for this offence, it is not clear how such a person can be held liable in case the money laundering has neither produced significant property benefit nor has caused damage of the same magnitude. The liability of legal persons for money laundering and for every other criminal offence for which criminal liability of legal persons is envisaged, does not exclude the criminal liability of the natural person as the offender of the crime. (Article 28-b (1) CC. It is also worth noting that the legal entity may be held liable for a crime even when there are factual or legal obstacles to determining the criminal liability of the natural person. (Article 28-b (2) CC). The liability of legal persons comes into play when the offence of money laundering is committed intentionally or unintentionally.

The principal penalty provided for legal persons is a fine which may be imposed in the amount of between 100,000 Denars (EUR 1600) and 30 million Denars. (EUR 488,000), which does not seem to be sufficiently dissuasive due to the lower threshold of the fine.

Only for crimes committed out of covetousness, as well as for crimes generating benefits or damage to a greater extent, the amount of the maximum fine can be doubled or even imposed in proportion with the amount of the damage caused or acquired benefit, but not exceeding ten times of their amount. However, in the case of money laundering, these sanctions are of limited utility given that the damage or benefit from the criminal conduct is not constituent elements of the offence. Under the conditions determined by Article 96-b CC, the court can impose one or more of the secondary sentences provided that the legal entity has abused its activity and that there is a risk for it to repeat the crime in the future. The range of secondary sentences covers: prohibition to obtaining a permit, license, concession, authorization or other right determined by separate law; prohibition to participate in the procedure for open calls, awarding public procurement agreements and agreements for public and private partnership; prohibition to founding new legal entities; prohibition to use subventions and other favourable loans;

**Criterion 3.11** – The Penal Code of North Macedonia includes generic provisions regarding ancillary offences (Articles 18-25 CC) It provides for co-offending that covers both participation and association. An attempt to commit a crime is also covered (art.19 CC). The assistance to commit a crime has been broadly formulated to include aiding, facilitating and counselling the commission of a crime (art.24 CC). As prescribed in the North Macedonia Criminal Code, Instigation seems to reflect abetting to commit a crime. (art.23 CC). As regards conspiracy to commit a ML offence it has been implicitly covered by Article 393 CC which provides for a stand-alone offence of conspiracy which applies to all premeditated offences including money laundering.

#### *Weighting and Conclusion*

North Macedonia criminalized most of the aspects of money laundering. Nonetheless, some shortcomings remained, including: the omission of disguise as physical aspects of money laundering, the restriction of concealment to the origin, location, movement and ownership of property, with the omission of its true nature and disposition, and the replacement of acquisition with a much narrower concept of receipt; limitations regarding inferring from objective factual circumstances to the existence of a perpetrator's intent; restrictions regarding the liability of legal persons due to the premises of achieving a significant property benefit from the offence or causing significant damage. In the overall scope of R.3, the AT is of the view that these are minor deficiencies. **R.3 is rated Largely Compliant.**

#### *Recommendation 4 - Confiscation and provisional measures*

In the fourth evaluation round, North Macedonia received Largely Compliant rating for former Recommendation 3. The following technical deficiencies were noted: (i) confiscation of instrumentalities is in most of the cases only discretionary and the same goes for instrumentalities of money laundering offences; (ii) no value confiscation for instrumentalities and intended instrumentalities.

#### **Criterion 4.1 –**

a) The provisions of the Criminal Code of the Republic of North Macedonia do not explicitly refer to the category of "laundered property". Nonetheless, Chapter VII of the CC regarding confiscation applies the concept of property benefit obtained directly or indirectly through a crime (proceeds of crime) or objects that were intended or have been used to commit a crime (instrumentalities). In turn, Article 273 CC reads of "money or other property being obtained through a punishable crime" and at the same time contains section 13 of Article 273 CC regarding confiscation. Therefore, the current criminal legal framework enables to confiscate "laundered

property” either as the object (corpus) of the ML offence or under the general rules on forfeiture as the proceeds of the underlying predicate offence.

b) The general principle of the Criminal Code of the Republic of North Macedonia provides that no one may retain the indirect or direct property benefit obtained through a crime (Article 97(1) CC). Article 97-a CC further formulates the categories of property constituting indirect proceeds of crime and the manner of confiscation is regulated in Article 98 CC. As it follows from all the cited provisions, all forms of direct and indirect proceeds are covered by the forfeiture, despite their transformation or intermingling. The provisions on forfeiture of proceeds of crime are generic and thus apply to all types of crimes, including money laundering and predicate crimes. The forfeiture of proceeds is mandatory and covers all categories of property. Regarding the instrumentalities of ML, the issue of their forfeiture is addressed by Article 100-a CC. which contains several limitations of the application. Firstly, Article 100-a (2) CC has a conditional character and makes the forfeiture conditional upon the “interest of general safety, human health and moral reasons”. Similarly, Article 100-a (3) CC introduces another condition for forfeiture of instrumentalities making its application conditional upon the prediction that these objects may be used to commit another crime. Therefore, the forfeiture of instrumentalities is in principle facultative which creates unnecessary restrictions that may impede the applicability of this measure.

c) In the case of terrorist financing, the generic provisions of the Criminal Code on the confiscation of proceeds of the crime are applicable. As regards the property used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations, Article 394-c (12) CC applies. It provides for confiscation of money and the property intended for the organization and commission of the crimes referred to in this article. The categories of “money and property” mentioned in this provision, separately defined under Art.122 items 12 and 38 of the CC, cover all categories of property.

d) In North Macedonia, the value confiscation can be applied pursuant to Articles, 98 (1) (3) and 273 (13) CC apply. Under the said provision value confiscation is admissible in respect of income from a punishable crime, but not instrumentalities of crime.

**Criterion 4.2** – North Macedonia deployed a number of measures that permit for identification, tracing of property subject to confiscation and its subsequent seizure.

a) Concerning the identification, tracking and assessment of property subject to confiscation, the Law on Criminal Procedure (LCP) applies, and in particular the provisions regulating measures for locating and safeguarding persons and objects which are: search of a house or other premises; the search of a person, the search of a computer system and computer data (art.181 LCP, 182 LCP, 184 LCP). Also, some other actions might be used for sake of identification and evaluation of the property, such as: examination of defendants, questioning of witnesses, commissioning an expert’s report, as well as collecting recordings and electronic evidence.

Apart from that, identification and tracing of assets might be pursued by employing special investigative techniques.

b) Provisional measures are applied based on Article 202 LCP that addressed inter alia temporary seizure of property or objects. The temporary seizure is applied by decisions of the criminal courts recognizing the motions of a prosecutor. In principle, temporary seizure covers property or objects which should be confiscated according to the Criminal Code. The broad definition of property foreseen in Article 122 (38) CC implies that temporary seizure covers any

object that can be confiscated under the CC, including proceeds and instrumentalities of a criminal offence as well as laundered property.

c) Steps to prevent or void actions that prejudice the country's ability to freeze, seize or recover property that is subject to confiscation might be taken based on Article 541 (5) CPC which provides that all legal acts concluded after the criminal offence was committed, with intent to reduce the value of the assets or property that is subject to forfeiture, shall be considered invalid.

d) As already stated in respect of Criterion 4.2.a) the law enforcement agencies and the judiciary of North Macedonia can carry out all relevant procedural actions aiming at locating and safeguarding persons and objects. These actions include: search of a house or other premises; search of a person, search of a computer system and computer data, examination of defendants, questioning of witnesses, commissioning an expert's report, collecting recordings and electronic evidence. Apart from that, a wide range of special investigative techniques, is available.

**Criterion 4.3** - The protection of the bona fide third parties has been to some extent addressed through the general provisions regarding exceptions to confiscation, as prescribed in Article 98 (3) CC, Article 98-a (3) CC and Article 100-a (3) CC. The cited regulations distinguish between two categories of third parties, i.e. family members of the perpetrator of the offence and other third parties. Depending on which category the third party falls into, the Criminal Code of North Macedonia introduces exceptions to the confiscation regime, but none of the exceptions make the protection of third parties' rights conditional on their good faith, but rather on objective circumstances. The element of good faith applies in respect of instrumentalities of crime acquired by third parties who. To avoid confiscation the third parties who are in possession of instrumentalities must prove that they did not know or could not have known or were not obliged to know about the use or intended use of instrumentalities in the commission of any offence. (Art.100-a (3) CC). In addition, where instrumentalities are ordered to be confiscated, third parties retain the right to compensation for damage resulting from the confiscation ordered, which they are entitled to claim from the perpetrator of the offence

**Criterion 4.4** - Managing and disposing of property seized and confiscated is ensured by the Agency for Managing Confiscated Property, established in 2009. The Law on Managing Confiscated Property, Material Gain and Seized Items in Criminal and Misdemeanour Procedure, adopted in 2009, provided the Agency for adequate set of powers in the field of management of the seized and confiscated property.

#### *Weighting and Conclusion*

The Republic of North Macedonia implemented several required measures that enable the confiscation of the proceeds of crime, instrumentalities serving their commission as well as measures to secure imposition of the confiscation. Nonetheless, some shortcomings remained in the criminal legislation of the country that adversely affects the capacity to seize and subsequently confiscate the property.

In the case of confiscation of instrumentalities to commit the ML offence, it is conditional and in principle discretionary. The value confiscation is admissible in respect of income from a punishable crime, but not instrumentalities of crime. There is also limited protection of the rights of bona fide third parties. **R.4 is rated Partially Compliant.**

#### *Recommendation 5 - Terrorist financing offence*

In the 4th round evaluation report, North Macedonia was rated 'PC' for the former Special Recommendation II. The evaluation team had concluded that the TF offence only covers 2 of the

9 “treaty offences” adequately, while 3 offences are covered partially (with various deficiencies) and a 6th one covered only implicitly; the remaining offences are not covered by the TF offence which limits its applicability; The generic offence of terrorist act appeared to be territorially limited and thus could not formally be applied to acts committed in order to compel (the government of) “any country”; there was no statutory definition for the term “terrorist” while the generally understood scope of this term, as derived from logical and systemic interpretation of different articles of the Criminal Code, appeared narrower than envisaged by the FATF standards. Last but not least, the definition of “funds” (property) contains no indication whether it refers to all assets “however acquired” including funds whether from a legitimate or illegitimate source.

The exit follow up report on North Macedonia, adopted in November 2018, discussed the matter related to SR.II and concluded that the reforms of the Criminal Code rectified majority of these deficiencies.

**Criterion 5.1** – Terrorism financing is largely criminalised by Article 394-c CC in combination with Article 394-a and Article 394-b CC which define crimes of setting up or membership in a terrorist organization and a crime of terrorism. The TF offence refers to the criminal conducts which implement most of the treaty offences as per Article 2(1)a of the UNTF, missing out only those prescribed in Art. 3(1) subparagraphs (e) and (f) of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.

The offence of TF extends to the financing committed “directly or indirectly”, in respect of property given, provided or collected in any manner and regardless of the manner of its acquiring which might be equally lawful and unlawful. As per Article 394-c CC, the property may be completely or partially used for terrorist purposes. Although, the wilful commission of the offence, as required by Article 2 (1) of the UNTF, has not been expressed in the phrasing of article 394-c CC, this feature of crime has been ensured by the General Part of the Criminal Code which provides that TF can be committed only with a premeditation, hence with awareness and will of commission thereof.

**Criterion 5.2** – Article 394-c of the Criminal Code of the Republic of North Macedonia explicitly extends terrorist financing offence to any person who directly or indirectly, gives, provides or collects money or any other property in any manner, regardless of the manner of acquiring, with the intent they to be used or knowing that they are to be used, completely or partially, for the commission of criminal offences listed in section 1 of article 394-c as well as for financing terrorist organization referred to in Article 394-a, or terrorism referred to in Article 394-b CC.

It should be noted that the terms “terrorist organisation” and “terrorist” have not been defined anywhere in the CC.

In the case of “terrorist organisation”, however, a reference can be made to art. 394-a CC which criminalizes setting up, membership and assisting a group or a gang intending to commit criminal offences listed in the text of art.394-a section 1 CC. The same way of interpretation leads to a conclusion that under the Criminal Code of the Republic of North Macedonia, the term “terrorist” denotes a perpetrator of the offence of terrorism as prescribed in art. 394-b CC. Such a definition of a terrorist does not fully reflect all features of the definition laid down in the FATF Glossary.

As regards financing of a terrorist organisation for any purpose, the cited provisions of the Criminal Code criminalised this form of TF as required by Criterion 5.2 b). This however cannot be equally referred to financing of an individual terrorist which has been associated with the intent that the property is to be used for organizing perpetration of specific acts of terror as per Article 394-b CC. In summary, the nexus between financing and specific act of terror still exists to a limited extent with respect of financing an individual terrorist.

**Criterion 5.2bis** – Specific aspects of TF offence such as financing the travel of individuals to a state other than their states of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts or the providing or receiving of terrorist training, have not been explicitly addressed by any section of Article 394-c CC. The authorities of the Republic of North Macedonia argued that the notion of “organizing the crimes foreseen in art.394-c (1) CC” covers all the forms of TF as set out in Criterion 5.2bis. That reasoning however contradicts the principle of determination of crimes prescribed in Article 1 CC which requires criminal offences to be determined by statutory law, not through interpretation of other provisions. Moreover, in contrast to the preparation of a crime outlined in article 18 CC, the term “organizing” has not been defined in the CC or clarified in the jurisprudence. Besides, some of the conducts indicated in Criterion 5.2bis cannot be considered as “organizing the crimes of terrorism or terrorist organisation”. More specifically, providing or receiving of terrorist training may not be linked with a concrete crime of terrorism or participation in a terrorist organization. The travel of individuals to a state other than their states of residence or nationality for the purpose of the perpetration, planning, or preparation of, or participation in, terrorist acts as well as the providing or receiving of terrorist training should be explicitly included in the list of actions provided in Article 394-b CC, to fully conform to standard laid down by Criterion 5.2 bis:

**Criterion 5.3** – The terrorist financing offence pertains to “money or other property” which have been defined in Article 122(12)CC and Article 122 (38) CC respectively. That definition fully covers the categories of funds as laid down in article 1(1) of the UNFT and in the FATF Methodology Glossary, except from the term “economic resources”, which is not mentioned in the definition. The definition has also been supplemented by phrasing of the TF offence which refers to the “property regardless of the manner of acquiring”.

**Criterion 5.4** – In the light of linguistic and logical interpretation of article 394-c (1) and (2) CC, the subsequent use of the assets by the recipient thereof is irrelevant for the assumption that the offence of terrorist financing has taken place. Also, the factual linkage to a specific terrorist act(s) is not required. The commission of a terrorist financing offence is determined by the intent of a perpetrator. If the perpetrator of a TF offence merely intends the assets to be used or knows that they are to be used for the commission of acts of terror or for individual terrorist or terrorist organizations, then the features of the TF offences are met.

**Criterion 5.5** – As a rule, the offences in the Criminal Code of North Macedonia are intentional (premeditated), and they take an unintentional form of negligence only in the cases expressly indicated in the Code (Article 11 (2) CC).

In both cases, i.e. premeditation and negligence, the mens rea is composed of elements of awareness of the features of the offence and the element of will to carry it out or the consent for the occurrence of certain effects (premeditation) or the subjective recognition that consequences of the offence will not occur (negligence). In the case of the money laundering offence, according to Art.273 (11) CC the knowledge (awareness) of the perpetrator, i.e. the duty and the possibility to know that the property was acquired by a criminal offence, can be presumed based on the objective factual circumstances.

A similar provision has not been introduced in respect of terrorist financing offences. Although the courts enjoy the freedom of evaluation of evidence (under Article 16 LCP) and are capable to assume the existence or non-existence of any facts, the absence of the clause similar to Art.273 (11) CC in respect of TF may create some uncertainty as to whether the inference of elements of mens rea from objective factual circumstances is admissible in TF cases.

**Criterion 5.6** – Under article 394-c (1) CC, the sanctions provided by the CC for TF offences range from a minimum of 10 years imprisonment to a maximum statutory limit of regular imprisonment i.e 20 years (Article 35 item 1 CC). Apart from that, under article 394 (12) CC, the money and the property intended for the organization and commission of TF offences are confiscated on a mandatory basis. These sanctions are proportionate and dissuasive.

**Criterion 5.7** – As a principle, legal persons are held criminally liable only in cases regulated by special provisions introducing the criminalisation of particular types of crimes. (Article 28-a (1) CC.) The TF offence, as prescribed in Article 394-c CC contains a specific paragraph (11) providing that “if the crime referred to in this Article is committed by a legal entity, it shall be fined.” Legal persons are liable for offences committed by a responsible person within the legal entity, acting on behalf, of the account and for the benefit of the legal entity. However, it should be noted that this liability is also subject to significant limitations. Legal persons are held liable in the case when the offence committed by their employees and representatives has brought a significant property benefit or caused significant damage. The limitations of “significant property benefit” or “significant damage” do not apply to responsible persons but only to the employees and representatives of the legal entities. This however still creates restrictions as to hold legal entity liable for terrorist financing, given that the TF offence should not be necessary committed only by responsible persons within legal entities as prescribed in Article 28-a (1) CC. In the case of the offence of terrorist financing, it is also difficult to see how it would benefit a legal person dedicating funds for an illegal activity which is, in principle, not profitable. Moreover, the mere fact of financing terrorism is not directly linked to the damage caused only by terrorist acts. Consequently, the criminal liability of legal persons for terrorist financing, on factual grounds, may at the most come into play in the case of the commission of a terrorist act and does not extend to other forms of terrorist acts.

Additional restrictions arise from Article 122 (35) CC, according to which a significant property benefit, value or damage refers to a benefit, value or damage that corresponds to the amount of 50 average monthly salaries in the Republic of North Macedonia, at the time when the crime was committed. Consequently, terrorist acts that do not cause damage of this magnitude will not give rise to the criminal liability of legal persons. The legal entity may be held liable for a crime even when there are factual or legal obstacles to determining the criminal liability of the natural person as the offender of the crime (Article 28-b(2) CC). Criminal liability of legal entities does not preclude any other civil or administrative proceedings.

The principal penalty provided for legal persons is a fine which may be imposed in the amount of between 100,000 Denars (EUR 1600) and 30 million Denars. (EUR 488,000). Given these thresholds, the penalty does not seem to be proportionate and sufficiently dissuasive, given that it can only be imposed if significant damage is caused by an act of terror. Although according to Article 96-a § 3 CC the maximal threshold of the fine may be doubled or even equal to the amount of the damage, this provision suffers from an inherent restriction of its application to instances of crimes committed out of covetousness or generating benefit/ damage of a great extent.

Notwithstanding the fines, another set of sanctions is available for legal entities under Articles 96-b and 96-c CC. Imposition of some of them, e.g. permanent prohibition for performing certain activity or termination of the legal entity, is dependent on the imprisonment sentence actually imposed on the natural person (at least 5 years of imprisonment) acting as a representative of the legal person, not the statutory sanctions prescribed for TF. So that the termination of legal entity cannot be adjudicated on the occasion of every conviction of legal entity for TF.

In summary, the system of sanctions prescribed for legal entities held liable for TF is not adequately proportionate and dissuasive.

### **Criterion 5.8**

a) Attempt to commit a crime has been criminalized under Article 19 of the Criminal Code. The said provision contained in the General Part of the Code is generic and applies to all offences specified in its Special Part, including TF offences.

b) Participating as an accomplice in a TF offence or attempted offence has been addressed by the provisions of Article 22 regarding co-offending. The said provision explicitly reads that co-offending may consist in participating in crime. As the attempt to commit a crime is a stand-alone offence under the Macedonia's legislation there seem to be no obstacles to acting as an accomplice in an attempted crime.

c) There's no one specific provision in the Criminal Code which addressed organising and directing other perpetrators to commit a TF offence or attempted offence. Nonetheless, the direction of other perpetrators to commit a crime seems to meet the criteria of assistance under Article 24 (2) CC which criminalized giving instructions on how to commit a crime. As regards organising other perpetrators to commit a TF offence, article 394-c (4) CC applies and criminalizes calling other offenders to join an organization or a group with the intent to commit the crime.

d) Contribution to the commission of the TF offences or attempted offence, by a group of persons acting with a common purpose, has been criminalized through articles 394-c (4) CC and article 24(2) CC on assistance.

**Criterion 5.9** – Concerning the predicate offences, North Macedonia adopted an all-crime approach. The phrasing of articles 274 (1) and (2) refers to a general term of “a punishable crime” as a source of ill-gotten assets. As no restrictions exist concerning the underlying predicate crime to money laundering, terrorist financing is considered one of the predicate offences.

**Criterion 5.10** – The wording of Article 394-c CC does not make criminal liability for terrorist financing dependent on where the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur. The Criminal Code of the Republic of North Macedonia, on the other hand, in Chapter 12 regulates the principles of application of criminal legislation with respect to the place where the crime is committed and the nationality of the perpetrator. For the crime of terrorism and its financing criminal legislature applies to whosoever commits a crime outside the territory of the Republic of North Macedonia (art.117 CC) Obviously on the territory of North Macedonia general rules of territorial jurisdictions apply, so that offenders of any citizenship are held liable for TF offences (art.116 CC).

### *Weighting and Conclusion*

Since the 4th round of evaluation, the autonomous offence of terrorist financing in the Criminal Code (section 394-c CC) has been upgraded, although some shortcomings remain to be covered. Not all acts which constitute an offence within the scope of and as defined in the Treaties listed in the annex to the TF Convention are covered by the TF offence. The technical compliance of North Macedonia's legislation with Recommendation 5 still suffers from some serious deficiencies which consist in the first place of failure to cover the collection and funding of an individual terrorist for any purpose. Also, the definition of funds does not include 'economic resources', whilst some specific aspects of TF offence such as financing the travel of individuals for terrorist purposes have not been addressed. As regards the legal persons, some serious restrictions on the liability for terrorist financing are still in place and the system of sanctions does not ensure appropriate proportionality and dissuasiveness of the available penalties. **R.5 is rated Partially Compliant.**

## ***Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing***

In its 3rd MER, the Republic of North Macedonia was rated non-compliant with SR.III. In its 2014 follow-up report, SR.III was re-rated to PC with the following deficiencies identified: a lack of clear, comprehensive and reliable procedural rules for freezing of terrorist funds or other assets of designated persons and entities in accordance with UNSCRs 1267/1988 and 1373; no legislation available for freezing under procedures initiated by third countries and funds or assets controlled by designated persons; no designation authority in place for UNSCR 1373; no protection provided to the interests of bona fide third parties; no procedures for considering delisting requests and for unfreezing funds or other assets of delisted persons or entities and persons or entities inadvertently affected by a freezing mechanism; and no procedure available for a court review of freezing actions.

**Criterion 6.1** – In relation to designations pursuant to UNSCR 1267/1989 and 1988 sanctions regimes:

a) The Public Prosecutor's Office, Ministry of Interior, Intelligence Agency, and FIU are identified as competent authorities for proposing persons or entities to the UN via the Ministry of Foreign Affairs (MFA) (LRM, Articles 7, 8, 9, 11). The National Security Agency (established after adoption of the LRM in 2019) is not empowered to come up with designation proposals themselves, but they can be involved to support the process.

b) The Public Prosecutor's Office, Ministry of Interior, Intelligence Agency, and FIU are the competent authorities responsible for identifying targets for designation and submit these to the Government, via the MFA, for a decision (LRM, Article 8), by majority vote. While the legislation provides for the competent authorities responsible for identification of targets against a broad criterion, this is not necessarily the UNSCR criteria.

c) The evidentiary standard of proof applied to a designation proposal is a 'reasonable grounds for suspicion' of involvement in any way with terrorist activities (LRM, Article 10). The decision is not conditional on the existence of a criminal proceeding.

d) Republic of North Macedonia did not demonstrate that relevant authorities follow the procedures and standard forms for nominations to the Committees as they have not submitted any nominations. No formal domestic procedures regarding adherence to the UN Procedures are in place.

e) When submitting a designation request, the MFA shall include identification that enable the precise identification of the person (LRM, Article 11 (2)). The request will include facts that indicate the reasonable grounds for suspicion that they are involved or in any way related to terrorist activities. There is nothing that prohibits the Republic of North Macedonia to specify whether its status as a designating state may be made known should a proposal be made to the 1267/1989 Committee. Republic of North Macedonia has not put forward a listing proposal under UNSCR 1267/1989 and 1988, and successor resolutions.

**Criterion 6.2** – In relation to designations pursuant to UNSCR 1373:

a) The MFA, Public Prosecutor's Office, the Ministry of Interior, the Intelligence Agency, and the FIU are identified as competent authorities responsible for designating persons or entities (after a decision by the "Government"), as put forward either by the Republic of North Macedonia or by foreign states (LRM, Articles 7, 8).

b) The same process to the one described under c.6.1(b) sets out the process for identifying targets for designation.

c) The MFA examines a request of a competent authority of a foreign state on the application of measures referred to in the UNSCR. They submit a proposal to the Government if there is a reasonable ground for suspicion that a person meets the appropriate criteria and after opinions from the competent authorities, which should be provided promptly under an MOU, have been received. No requests from other countries have been received.

d) The evidentiary standard of proof applied to a designation proposal is a 'reasonable grounds for suspicion' of involvement in any way with terrorist activities (LRM, Article 10). Proposals for designations are not conditional upon the existence of a criminal proceeding.

e) When requesting another country to give effect to freezing mechanisms, the proposal will contain the reasonable grounds for suspicion of that they are participating or any way connected with terrorist activities, along with data to enable a precise identification (LRM, Articles 8 and 9). No requests to other countries have been made.

### ***Criterion 6.3 –***

a) At the national level an MOU defines the cooperation, coordination and provides for an exchange of information and data amongst competent authorities for purposes connected with the implementation of, inter alia, targeted international sanctions. Competent authorities can use the powers outlined under R.31 to collect or solicit information to identify persons and entities that may meet the criteria for designation.

b) As stipulated under an MOU, the competent authorities (as per R.6.2) shall operate ex-parte when considering and proposing designations to the UNSC Committee, and when dealing with the requests of the domestic and foreign state authorities.

***Criterion 6.4 –*** Article 6(2) of the LRM provides for implementation of new (after 01 January 2021) UN Resolutions with a delay of no-more than 24 hours within which the MFA must publish the resolution on its website for them to be considered legally enforceable. The Authorities have confirmed that UN Resolutions and successor resolutions adopted before 1 January 2018 (which include the principal ones) remain published on the FIU website and therefore enforceable as per the procedure under the previous International Restrictive Measures Law from 2011.

In relation to TFS obligations relating to changes to UN sanctions listings (e.g., new listings), as per Article 6(1) of the LRM, the "Restrictive measures", which includes financial freezing obligations, apply "immediately without delay" if the principal UNSCR is in force, and are not dependent on another mechanism. According to Article 12(1) of the LRM the FIU shall keep an up-to-date consolidated list of TFS listings and shall publish it on its website. This list is updated automatically to match the UN sanctions list once every 24 hours at 3am with an automatic notification sent to subscribers within seconds that notes a change has been made.

### ***Criterion 6.5 –***

a) There is no explicit requirement under Republic of North Macedonia legislation for all natural and legal persons within the country to "freeze" (as defined in the FATF Glossary), without delay and without prior notice, the funds and other assets of designated persons and entities.

The authorities advise that the ban on the use, transfer, conversion, transfer or other disposal of funds and economic resources, which fall under definitions of Property apply without delay immediately to entities under the AML-CFT Law as well as the Land Registry(Article 5(4/5/9),6 13). Therefore FIs, the Land Registry, and most DNFBPs are bound by an obligation to freeze

assets without delay (Dealers and Precious Metals and Stones and NPOs are not OEs and are therefore not covered). All legal and natural persons must co-operate with competent authorities in relation to the LRM (Article 13) but this does not mean they are all bound by any kind of asset freezing obligation. The Law does not prohibit OEs from providing prior notice before implementing the ban although in practice the authorities state the requirement to implement without delay mean this is unlikely to be possible.

b) The obligations in the LRM apply to all funds and economic assets that are entirely or partially, directly or indirectly, disposed, used, owned or controlled by designated persons and entities; funds and economic resources that originate or derive from funds or economic resources that is wholly or partially, directly or indirectly disposed, used, owned or controlled by designated persons and entities; and funds and economic resources additionally acquired by the designated persons and entities on various grounds (Article 5 (4)). The funds or other assets of persons and entities that acting on behalf of, or at the direction of, designated persons or entities are covered as per FIU guidelines (2.3.4).

c) The authorities noted that Article 5(4) of the LRM defines financial measures, which apply to entities under the AML-CFT law, and ban the use, transfer, conversion, transfer or other disposal of funds and economic resources, ban on making available any funds and economic resources, directly or indirectly, or the establishment or prolonging of a business relationship. Therefore, whilst FIs, and most DNFBPs and the Land Registry are covered by the prohibition, this does not include all legal and natural persons and entities in the jurisdiction.

d) The FIU maintains an updated consolidated list of designated persons on its website that is automatically updated once per day at 3am to be in sync with the UN list. An electronic notification system automatically notifies subscribers to changes of that list (once a change is made) but does not inform them of action to take (which is found in the FIU guidelines). Both FIs and DNFBPs can subscribe to the FIU list through registering an account. See also R. 6(5)(a) noting the deficiency on the scope of freezing obligations.

e) Entities defined under the AML-CFT law are required to report to the FIU any actions taken in compliance with the LRM (Article, 5(9), 13(2), 14). This includes freezing actions and attempted transactions.

f) The LRM makes provision for the protection of bona fide third parties. Under Article 16, they may submit a request, to a competent court, to secure rights to funds and economic resources subject to TFS requirements, within six months of the measure's publication. Article 5(4) provides protection of bona fide 3rd parties when acting in good faith when implementing the LRM (including carrying out their freezing obligations).

**Criterion 6.6** – The following de-listing, unfreezing and access procedures apply:

a) The Republic of North Macedonia did not identify any public procedures to submit de-listing requests to competent authorities. Under Articles 7, 8(4), 11, and 17 of the LRM, the MFA, through collaboration with competent authorities may submit a delisting proposal to the Government, based on the procedure and criteria in R.6.1. Following a majority vote by the Government, the MFA will prepare a de-listing request that complies with the relevant UN Sanctions committee requirements (including UN no objection procedures) and submit to the UN Security Council within 5 days of the Government's decision.

b) When the grounds for a terrorism designation have ceased to be valid, the competent authorities must submit a de-listing proposal to the Government for a decision within 24 hours (Articles 8, 17 of LRM). Competent Authorities coordinate and review 1373 designations under an MOU.

c) In the Republic of North Macedonia, a designated person has the right to initiate an administrative dispute against the decision of the Government to introduce, amend and terminate the restrictive measures before the Administrative Court in accordance with the Law on Administrative Disputes (LRM, Article 7 (4)). This provision applies to individuals listed under UNSCR 1373.

d) Under item 4 in the FIU guidelines: entities may (and are not obliged to) inform their designated clients (including those listed under 1267/1989 and 1988) of the listing, its reasons and legal consequences, their rights of due process and the availability of de-listing procedures including the UN Office of the Ombudsperson (UNSCR 1267/1989 designations). The UN Focal Point mechanism (UNSCR 1988 designations). The guidelines do not cover what specific information could be provided to the client. There are no procedures to facilitate review provided by competent authorities themselves.

e) Under Item 4 in the FIU guidelines: entities may (and are not obliged to) inform their designated clients (including under the Al Qaida sanctions list) of the availability of the UN Office of the Ombudsperson to accept de-listing petitions. The guidelines do not cover what specific information could be provided to the client. There are no procedures to facilitate review provided by competent authorities themselves.

f) There are publicly known procedures (available in the FIU guidelines) for obtaining assistance in verifying whether persons or entities having the same or similar name as designated persons or entities (i.e., a false positive) are inadvertently affected by a freezing mechanism (Alert Processing: 2.4).

a) As with R.6.4, changes to UN sanctions lists are legally enforceable immediately if the principal UNSCR is in force. A delisting is reflected in the FIU's consolidated list which automatically updates with changes to the UN list at 3am every day. FIU entities can register for access to the list and receive automatic notifications of changes within seconds of the update. The Government of the Republic of North Macedonia communicates the lifting of domestic 1373 financial sanctions restrictions by publishing the decision in the Official Gazette on the MFA website in no more than 24 hours. FIU guidelines provide clear instruction to OEs regarding their obligations with respect to de-freezing obligations (FIU Guidelines: 6.2).

**Criterion 6.7** – The Government of the Republic of North Macedonia operates a licensing system where a competent court is empowered to make decisions to allow designated persons or entities access to funds (Article 15 LRM). Licences can be granted based on some but not all of the criteria set out in UNSCR 1452 and 1373; critically, there is no provision to authorise extraordinary expenses requests. The competent court will decide to reject or approve (partially or fully) a request within five days of receipt and must inform the designated person of its decision within 3 days of a decision. The designated person then has 48 hours to appeal the decision before a competent court. The authorities did not evidence how UN mechanisms (including no-objection procedures) are incorporated.

#### *Weighting and Conclusion*

Several of the technical aspects of the regime are in place which, most importantly ensures immediate legal implementation of UN TFS obligations and can enable “freezing” without a delay longer than 24 hours. However, there are moderate deficiencies in relation to a couple of key criteria. Not all natural and legal persons are required to freeze assets. Whilst the legislation provides for the competent authorities responsible for identification of targets against a broad criterion, this is not necessarily the UNSCR criteria. No formal domestic procedures regarding adherence to the UN Procedures are in place. There are no grounds to permit extraordinary

expenses exemption requests, and procedures to inform designated persons of their status and rights depend on the discretion of OEs. When determining the rating the above-mentioned deficiencies have been given more weight considering the risk and context of the country, in particular recent 15 domestic designations. **Recommendation 6 is rated Partially Compliant.**

### ***Recommendation 7 – Targeted financial sanctions related to proliferation***

This is a new Recommendation which was not assessed in the 3rd MER report.

**Criterion 7.1** – The Republic of North Macedonia’s LRM provides the legislative framework for implementing TFS UNSCRs relating to the financing of proliferation of weapons of mass destruction (Article 2). The LRM provides for a delay of no-more than 24 hours within which the MFA must publish new resolutions on its website. UN restrictive measures (including the principal resolutions for PF related UN TFS), adopted under the previous International Restrictive Measures Law (2011) remain valid and are published on the FIU website.

In relation to TFS obligations, as per Article 6(1) of the LRM, the “Restrictive measures” which include financial measures apply “immediately without delay”. Therefore, if the principal UNSCR is in force then TFS obligations stemming from changes to the corresponding sanctions list (e.g., new listings) have immediate legal effect. According to Article 12(1) of the LRM the FIU shall keep an up-to-date consolidated list of TFS listings and shall publish it on its website. This list is updated automatically to match the UN sanctions list at 3am every day. An automatic notification is sent to subscribers within seconds of this update.

#### ***Criterion 7.2 –***

a) There is no explicit requirement under Republic of North Macedonia legislation for all natural and legal persons within the country to “freeze” (as defined in the FATF Glossary), without delay and without prior notice, the funds and other assets of designated persons and entities.

The authorities advise that the ban on the use, transfer, conversion, transfer or other disposal of funds and economic resources, which fall under definitions of Property apply without delay immediately to entities under the AML-CFT law (Article 5(4/5/9),6, 13). Therefore, it is considered that FIs, the Land Registry and most DNFBPs are bound by an obligation to freeze assets without delay (Dealers and Precious Metals and Stones, and NPOs are not OEs and are therefore not covered). The requirement does not extend to anyone except an OE under the AML-CFT law and the land Registry. All legal and natural persons must co-operate with competent authorities in relation to the LRM (Article 13), but this does not mean they are all bound by any kind of asset freezing obligation. The law does not prohibit the entities from providing prior notice before implementing the ban although in practice the authorities state the requirement to implement without delay means this is unlikely to be possible.

b) The obligations in the LRM apply to all funds and economic assets that are entirely or partially, directly or indirectly, disposed, used, owned or controlled by designated persons and entities; funds and economic resources that originate or derive from funds or economic resources that is wholly or partially, directly or indirectly disposed, used, owned or controlled by designated persons and entities; and funds and economic resources additionally acquired by the designated persons and entities on various grounds (Article 5 (4)). The funds or other assets of persons and entities that acting on behalf of, or at the direction of, designated persons or entities are covered as per FIU guidelines (2.3.4).

c) Under the LRM, the obligations to prevent funds and economic resources being made available applies to the list of FIs and DNFBPs set out in Article 5 of the AML-CFT law (i.e., OEs

under the AML-CFT law) and the Land Registry. This does not include all nationals and persons or entities although all legal and natural persons must co-operate with competent authorities regarding the implementation of restrictive measures (Article 13). What constitutes cooperation in this context is not defined.

d) The mechanism for communicating UN designations without delay is as described in c.6.5(d). The FIU maintains a consolidated list of designated persons that automatically updates once per day to align with the UN list. An automatic system then notifies subscribers that a change to the list has been made but does not inform them of action to take (which is found in the FIU guidelines). Both FIs and DNFBPs can subscribe to the FIU list.

e) Entities defined under the AML-CFT law are required to report to the FIU any actions taken in compliance with the LRM (article, 5(9), 13(2), 14). This includes freezing actions and attempted transactions.

g) The LRM makes provision for the protection of bona fide third parties. Under Article 16, they may submit a request, to a competent court, to secure rights to funds and economic resources subject to TFS requirements, within six months of the measure's publication. Article 5(4) provides protection of bona fide 3rd parties when acting in good faith when implementing the LRM (including carrying out their freezing obligations).

**Criterion 7.3** – The Government of the Republic of North Macedonia established a body for monitoring and coordinating the implementation of restrictive measures on 24 September 2018 (under Article 20 LRM). The coordination body lasts for four years. The supervision for PF TFS measures is undertaken by the competent authorities designated for supervision under article 151 of the AML-CFT law (LRM, Article 23).

Article 23 of the LRM provides for fines if restrictive measures are not implemented (introducing or removing) or if there is no cooperation with competent authorities. These include EUR 5,000 for a misdemeanour of a legal entity, a fine in the amount of 30% of the assessed fine for the legal entity of the responsible person in the legal entity and a fine in the amount of EUR 1,000 to 2,000 to a natural person in the legal entity. Officials and Responsible persons in FIs and most DNFBPs could face imprisonment of at least 5 years for failing to comply with prohibitions (Criminal code article 273(6)). As noted under R.7.2, not all legal and natural persons (e.g., NPOs and DPMS) are bound by the LRM and therefore not subject to the prohibitions.

**Criterion 7.4** –

b) The LRM details the steps for the MFA, through co-operation with competent authorities to submit a delisting proposal to the Government. Following a majority decision by the Government, the MFA will prepare a de-request and submit to the UN Security Council within 5 days of the Government's decision (Article 8(4), 11, 17). No publicly available procedures or guidance for submitting de-listing requests to Competent Authorities was provided.

c) There are publicly known procedures (available in the FIU guidelines) for obtaining assistance in verifying whether persons or entities having the same or similar name as designated persons or entities (i.e., a false positive) are inadvertently affected by a freezing mechanism (Alert Processing: 2.4).

d) The Government of the Republic of North Macedonia operates a licencing system to allow designated persons or entities access to funds (Article 15 LRM). Licences can be granted based on some but not all criteria set out in UNSCR 1718 and 1737. For example, there are no provisions relating to extraordinary expenses exemptions and DPRK diplomatic missions. The competent court will decide to reject or approve (partially or fully) a request within five days of receipt and

must inform the designated person within 3 days of a decision. The designated person then has 48 hours to appeal the decision before a competent court. The authorities did not evidence how UN procedures and approvals are incorporated.

e) As with R.7.1, changes to UN sanctions lists are legally enforceable immediately if the principal UNSCR is in force. A delisting is reflected in the FIU's consolidated list which automatically updates with changes to the UN list at 3am every day. FIU entities can register for access to the list and receive automatic notifications of changes within seconds of the update. FIU guidelines provide clear instruction to OEs regarding their obligations with respect to de-freezing obligations (FIU Guidelines: 6.2).

**Criterion 7.5** – With regard to contracts, agreements or obligations that arose prior to the date on which accounts became subject to targeted financial sanctions:

a) The Republic of North Macedonia permits the payment to frozen accounts of interest or other sums due on those accounts or payments due under contracts, agreements or obligations that arose prior to the date on which those accounts became subject to the provisions of this resolution, provided that these amounts are also subject to freezing measures and have prior approval by a competent court (FIU Guidelines item 6, based on Article 14 of the LRM).

b) Provisions authorise the payment of certain sums, that relate to specific basic expenses due under a contract entered into prior to the designation of such person or entity. Payment must not contribute to an activity prohibited by the regulation and must have prior approval by a competent court (FIU Guidelines: 6.1.1.1-6.1.2). Insufficient information was provided to confirm whether (i) and (ii) of this sub criterion is fully met. The authorities did not evidence whether notice is given to the UN Sanctions Committee.

#### *Weighting and Conclusion*

Many of the technical aspects of the regime are in place which, most importantly, can enable “freezing” without a delay longer than 24 hours. However, there are moderate deficiencies in relation to several key criterion. Not all natural and legal persons are required to freeze assets, there are no explicit legislative provisions or bylaws that compel OEs to act upon receipt of an FIU notification, the LRM does not account for all exemption grounds in the relevant UNSCRs, and there is a lack of publicly available information on delisting procedures. **Recommendation 7 is rated Partially Compliant.**

#### *Recommendation 8 – Non-profit organisations*

In the 3rd round of evaluations the Republic of North Macedonia was rated non-compliant on SR. VIII. In its 2014 follow-up report, SR. VIII was re-rated to PC with the following deficiencies identified: No review of the adequacy of domestic laws and regulations that govern the NPO sector; no mechanism introduced for the periodic/systemic reassessment of the TF vulnerabilities of the NPO sector; lack of an adequate control mechanism to ensure the veracity and validity of data and documents registered; no systemic/programmatic monitoring of the sector with a view to detecting potentially TF-related illicit activities.

#### **Criterion 8.1**

a) The Republic of North Macedonia has defined NPOs in its AML-CFT law in near identical terms to the FATF glossary definition (AML-CFT, Article 58). In 2016, a general risk assessment for NPOs was conducted and in 2020 a second risk analysis that considered TF risks in the NPO sector was completed. In 2021, a third risk assessment updating previous NRA findings was completed: This third report identified a subgroup of NPOs that fall within the scope of the FATF

definition of NPOs and identifies the types of NPOs that, based on their activities or characteristics, are likely to be at risk of financing of terrorism. The five categories are: associations (except for trade unions and sports associations and clubs, which are not registered), foundations, foreign organisations, the Red Cross and religious organisations (churches, religious communities and religious groups). The report determined that NPOs whose main activity is social-humanitarian, cultural-educational and religious character, are exposed to a higher TF risk. A variety of primary and secondary sources were used in the report to identify this sub-group including: i) inputs and data from the Central Registry, State Statistical Office, National bank, Intelligence Agency, National Security Agency, FIU, Investigatory bodies, and ii) interviews, questionnaires, and surveys of FIs and NPOs.

b) The Republic of North Macedonia has taken steps to identify the nature of TF threats to NPOs and how terrorist actors abuse those NPOs, although the NPO TF risk assessment did not identify cases of involvement of NPOs in financing of terrorism. Efforts have shown that the main threats include promotion of religious radicalism, recruiting persons, and logistical support. The 2021 report considers the level of threat of NPOs to be low.

c) The 2021 TF NPO risk assessment included a review of the adequacy of measures, including laws and regulations, that relate to the subset of the NPO sector that may be abused for terrorism financing support to be able to take proportionate and effective actions to address the risks identified. The report contains 27 targeted recommendations that relate to improving the effectiveness of laws, policy measures, and the efficiency of the sectoral and individual good practices in the NPOs.

d) The reassessment of the sector's potential vulnerabilities to terrorist activities is to be conducted within the context of the NRA every 4 years (AML-CFT, Article 3(1)).

### ***Criterion 8.2***

a) Special Recommendation 13 in the National AML/CFT strategy (2021-2023) concerns strengthening mechanisms to promote abuse of NPOs for TF. The Republic of North Macedonia has clear legislative rules to promote accountability, integrity, and public confidence in the administration and management of NPOs (LAC, CDA LLSCRC and RG). There are specific laws regulating various legal forms of NPOs and contain provisions for the publication of annual reports, including financial statements. In practice there is a varied application of the provisions and not all non-profit organisations share annual reports with the public.

b) The Republic of North Macedonia, in partnership with international organisations, have conducted outreach and educational programmes to raise awareness of TF risks for NPOs and measures to prevent abuse from 2018 to 2021.

c) The Republic of North Macedonia has consultation processes in place to work with NPOs to develop best practices and policies to address TF risk. A publicly available NPO handbook was created in December 2021 and resulted from collaboration between FIU and NPO representatives.

d) The registration process for NPOs obliges them to have an authorised bank account that they will use to conduct business and that the use of money transfer providers is prohibited. Further to this, the 2021 NPO handbook, which has been promoted by the authorities through trainings to multiple NPOs (not necessarily high-risk), provides recommendations to NPOs that encourages the use of formal channels and minimising the use of cash.

### **Criterion 8.3**

There is no public supervisory or monitoring authority for the non-profit sector for a risk-based approach regarding TF. All NPOs are required to register on the publicly accessible Central Registry (Article 6 Law on association and foundation) and must also submit details to the Beneficial Ownership register (Article 31 AML/CFT Law). NPOs must file an annual return to the Central Registry unless their income is below €2500. NPOs must keep records and official financial and non-financial documentation for up to 10 years (law on accounting for NPOs no. 24/03, 17/11 and 154/15). The Public Revenue Office conducts tax inspections of NPOs but if they uncover TF concerns, they will refer matters to Competent Authorities. These laws, and the NPO risk assessment represent an introductory stage in developing a risk-based approach to supervision or monitoring of the sector for TF purposes.

### **Criterion 8.4**

a) The MOJ supervises the legality of the provisions of the Law on Associations and Foundations, and the Ministry of Finance and Public Revenue Office have authority for conducting supervision of the financial operations of firms. These supervisors do not monitor compliance of NPOs using risk-based measures.

b) The authorities can apply a range of sanctions against NPOs for violations against NPOs and there is unlimited personal liability for funders of NPOs (Law of Associations and Foundations, Articles 51, 91-101). Criminal sanctions may also be applied as per other legal entities. These sanctions are not necessarily effective, proportionate, and dissuasive (see R. 35).

### **Criterion 8.5**

a) Competent authorities (FIU, MOI, Intelligence Agency and NSA) have mechanisms, including through the creation of ad-hoc and multi-agency taskforces, for co-operation, co-ordination and information-sharing regarding NPOs (Articles 64, 130, 131 of the AML/CFT Law, article 4 and 6 of the Law on Agency for National Security). Other agencies and entities that hold relevant information on NPOs, such as supervisors, are not engaged in these mechanisms.

b) The FIU, MOI, Intelligence Agency and NSA have investigative expertise and capability to examine those NPOs suspected of either being exploited by, or actively supporting, terrorist activity or terrorist organisations. Other government agencies, that might possess information on NPOs, do not possess TF expertise.

c) The authorities can obtain some publicly available financial information from NPOs with an annual income more than €2500 (Law on Accounting for NPOs). Legal, contractual, or programmatic information not obtainable through other means may be obtained through investigatory and law enforcement powers (see R.31).

d) The FIU is competent to receive and analyse information on any form of TF abuse of NPOs and disseminate it to other competent authorities. Entities must report (within 24 hours) to the FIU if they have reasonable grounds for suspicion. These grounds include direct knowledge, the list of indicators for suspicious transactions, the consolidated list of sanctions targets, risk assessments and other relevant information. Insufficient information was received to confirm whether the 3 scenarios in this sub criterion would be fully met.

**Criterion 8.6** – The Republic of North Macedonia’s MLA processes can enable information sharing regarding NPOs suspected of TF abuse (See R. 37). It is also possible for international agencies to directly access public registers.

### *Weighting and Conclusion*

The NPO sector has been risk assessed and this has identified characteristics and types of NPOs which by virtue of their activities or characteristics, are likely to be at a higher risk of terrorist financing abuse. A review of the adequacy of measures, including the subset of NPO sector that may be abused for terrorism financing support, has also been conducted. Specific outreach to the NPO sector on TF issues has been done and best practices have been developed in cooperation with NPOs to protect them from TF abuse. NPO information exchange is done in the usual manner by the FIU. There are deficiencies in that there is no risk-based approach to supervision or monitoring of NPOs, and not all agencies and entities that may hold information on NPOs may be engaged in co-operation and coordination mechanisms. These can however be weighted more lightly considering the low TF risk context of NPOs in North Macedonia and efforts by authorities in relation to several of the key criterion. **R.8 is rated Largely compliant.**

### ***Recommendation 9 – Financial institution secrecy laws***

In the 2014 MER, North Macedonia was rated LC with former R.4. The only issue to be addressed was the lack of specific authorisation for FIs to share information for the implementation of former R.7 and SR.VII.

#### ***Criterion 9.1***

##### *(a) Access to information by competent authorities*

Article 71(2) of the AML/CFT Law (Article 60(2) of the previous AML/CFT Law) lays down that providing data obtained by FIs in terms of the AML/CFT Law to the FIU and/or to the supervisory authorities would not be considered as the disclosure of either a business secret or of classified data or information. Moreover, Article 74 of the AML/CFT Law (Article 63 of the previous AML/CFT Law) sets out that it is not possible for OEs, including FIs, to refuse to provide data, information or document that may be requested to them under the AML/CFT Law on the basis that any such data, information or document would result in disclosing a business secret. Attempting to do otherwise would result in any OEs, including any FIs, committing a misdemeanour subject to sanctioning.

Other competent authorities like the FIU of the Public Prosecutor, the Financial Police and supervisory authorities are also empowered to access data, information or documents held by FIs, according to the CP and sector specific laws. However, the AML/CFT Law itself does not set out whether data, information and documentation collected by FIs to comply with their obligations under the AML/CFT Law would also be accessible by competent authorities other than the FIU and supervisory authorities. In addition, it has to be remarked that even if the provisions in sector specific laws allow for the disclosure of information by FIs to competent authorities, adopting the principle that *lex specialis derogat generalis*, questions do arise whether any such provisions would apply to data, information and documentation collected by FIs under the AML/CFT Law.

The 2014 MER had already made reference to the use of the term 'banking secrecy' in the Banking Law, instead of 'business secret' as in the AML/CFT Law, differences that are still maintained in the current legislation. The use of different terminology may lead to questions as to what are the actual implications of the provisions in question and, therefore, should rather be avoided.

While the disclosure of data collected under the AML/CFT Law would not constitute disclosure of a business secret or of classified information, Article 74 only makes reference to business secret as a ground that cannot be accepted to reject the submission of data, information and documents.

It is therefore not made clear in the law whether in general an FI would be able to disclose information categorised as classified information to the FIU, supervisory authorities or other competent authorities, although the powers of such authorities would prevail over any restriction.

Regarding information protected by banking secrecy, Article 111 of the Banking Law states that '[a]ny documents, data and information acquired through banking and other financial activities on individual entities, and transactions with individual entities and on deposits of individual entities shall be considered banking secret the bank is required to protect and keep'. Article 112 of the same law then sets out a series of exceptions to the said non-disclosure and confidentiality obligation which allow all relevant competent authorities to access the information referred to in Article 111 notwithstanding that it may be classified as a banking secret.

#### *(b) Sharing of information between competent authorities*

The characterisation of information held by competent authorities as confidential does not inhibit the exchange of information between one competent authority and another, be it within a domestic or an international context.

However, in setting out the exceptions to the confidentiality of information held by the SEC, Article 188(3) of the Law on Securities fails to make reference to situations where information may be required to be disclosed due to an obligation under another law, as is the case under Article 74(2) of the Law on the National Bank of North Macedonia and Article 108 on the Law on Insurance Supervision. However, it does make reference to the ability of the SEC to disclose information acquired in the course of its operations to law enforcement authorities, the law courts and other supervisory authorities, the latter subject to the conclusion of an MOU. Though there is no express reference to the FIU, North Macedonia has clarified that there is no such impediment as the SEC has signed an MOU with the FIU and exchanges information with the said authority.

#### *(c) Sharing of information between FIs*

In terms of Article 71(1) of the AML/CFT Law, OEs are to use the information collected to meet their obligations under the AML/CFT Law only for the purposes of detecting and preventing ML/TF. In addition, the restrictions on disclosing data and information imposed under Article 72 would not find application where the information relates to a customer or transaction involving two or more FIs or where information is to be exchanged within a group of FIs. Thus, there would be no impediment to sharing information for the purposes of the FATF Recommendations and especially with respect to R.13, R.16 and R.17.

#### *Weighting and Conclusion*

There are no practical obstacles to the sharing of information due to secrecy, confidentiality and non-disclosure obligations. However, a better alignment of laws is recommended so as to eliminate any possible misunderstanding and/or misapplication. And this, in particular, with respect to the sharing of information between FIs (c.9.1(c)). **R 9 is therefore rated Largely Compliant.**

#### *Recommendation 10 – Customer due diligence*

In the 2014 MER, North Macedonia was rated partially compliant with former R.5. The assessment identified technical deficiencies related to the lack of explicit prohibition to open and maintain accounts in fictitious names, FIs not being required to verify customer's and beneficial owner's identity from reliable sources, the definition of beneficial owner not covering the person

who ultimately owns or controls a client, inability of FIs to detect whether a customer is acting on behalf of another in all cases, lack of CDD obligations when customers are North Macedonia's, EU or other equivalent countries banks, no description of EDD, no requirement to prohibit SDD when there are higher risk scenarios and no requirement to terminate business relationships and consider making STRs when there are doubts of the veracity and adequacy of data.

**Criterion 10.1** – Article 60(1) of the AML/CFT Law prohibits financial institutions from opening and keeping anonymous accounts or accounts in fictitious names.

**Criterion 10.2**

a) Article 13(a) of the AML/CFT Law establishes the obligation for all OEs under article 5 of the AML/CFT Law, including financial institutions, to conduct CDD measures upon establishment of a business relationship with the customer.

b) The obligation to conduct CDD measures on occasional transaction in the amount of € 15 000 or more in MKD (MKD equivalent according to the middle exchange rate of the National Bank of the Republic of North Macedonia) is set in article 13(b) of the AML/CFT Law. CDD also needs to be conducted when transaction is carried out in several operations that appear to be linked.

c) According to article 13(c) of the AML/CFT Law, CDD must be performed where an occasional transaction is made constituting transfer of funds, including virtual assets, in the amount higher than € 1 000 in MKD (MKD equivalent according to the middle exchange rate of the National Bank of the Republic of North Macedonia). This constitutes a deficiency, as R.16 also covers wire transfers amounting to €1 000.

d) Article 13(f) of the AML/CFT Law requires OEs to conduct CDD when there is a suspicion of ML/TF, regardless of any exception or amount of funds.

e) CDD must be applied when there is doubt about the veracity or adequacy of the previously obtained data on the identity of the client or the beneficial owner, according to article 13(e) of the AML/CFT Law.

**Criterion 10.3** – Article 15(1)(a) of the AML/CFT Law stipulates that CDD includes both identification of a customer and verification of its identity as one of the CDD measures that OEs must perform. Identification of the client and verification of its identity must be conducted by using documents, data and information from reliable and independent sources. According to article 2(12) of the AML/CFT Law, the definition of customer covers natural person, legal entity, foreign trust and similar legal arrangement which establishes or has established a business relationship with the OE or makes an occasional transaction.

**Criterion 10.4** – According to article 15(1)(b) of the AML/CFT Law OEs are required to identify and verify the identity of the person acting on behalf of the customer as well as verify if the person is authorised to act on behalf of a customer.

**Criterion 10.5** – According to article 15(1)(c) of the AML/CFT Law, OEs are required to identify the beneficial owner of the customer and take appropriate measures for verify its identity by using documents, data and information from reliable and independent sources in order to be confident that it knows who the beneficial owner is. Definition of beneficial owner in the article 2(37) of the AML/CFT Law is in line with that of the FATF Glossary.

**Criterion 10.6** – Article 15(1)(d) of the AML/CFT Law requires OEs to understand and adequately obtain information about the purpose and intended nature of the business relationship with the customer.

**Criterion 10.7** – OEs are required to continuously monitor the business relationship. This monitoring includes ensuring that transactions are consistent with the risk profile and the business of the customer and, if necessary, determination of the sources of funds as well as ensuring that the documents and data provided under the CDD are valid, up-to-date and relevant through regular verification, especially for higher risk customers (article 15(1)(e) of the AML/CFT Law).

**Criterion 10.8** – Article 15(2) of the AML/CFT Law requires OEs to take measures for determination of the nature of their customers' business activity and the ownership and control structure in case that the customer is legal entity or a legal arrangement.

**Criterion 10.9** – According to article 17(3) of the AML/CFT Law the OEs are required to identify the customer who is a legal entity (according to the article 2(53) of the AML/CFT Law the legal entity includes all kinds of legal persons, in line with the FATF Glossary) and verify its identity by the following information: registration document in original or a notarized copy, issued by a competent body of the state in which the legal entity is registered, which must not be older than six months. According to article 17(4) of the AML/CFT Law the name, the legal form, the registered office, the tax number or other registration number of the legal entity, legal representative, management body or persons authorized to establish a business relationship is determined from the registration document. As a deficiency, the identification of the customer who is a legal entity and verification of its identity is not required through: i) the powers that regulate and bind the legal person or arrangement; ii) the address of a principal place of business that is different from registered office.

Article 17(5) of the AML/CFT Law requires identification of the customer who is a legal arrangement through an incorporation act of the legal arrangement in the original or a notarized copy which determines the form, head office, tax number or other registration number of the legal arrangement, the founder(s), the trustee(s), user or group of users of the legal arrangement, legal representative, the governing body, and the persons authorized to establish a business relationship. As a deficiency, identification of the customer who is a legal arrangement and verification of its identity is however not explicitly required through the name of the legal arrangement.

**Criterion 10.10** – OEs are required to identify the beneficial owner of the customer and to take appropriate measures to verify the identity of the beneficial owner on the basis of data and information from reliable and independent sources (Article 19(1) of the AML/CFT Law). Article 20(1)(1) of the AML/CFT Law defines a beneficial owner of a legal entity as a natural person (persons) who ultimately owns or controls the legal entity through direct and/or indirect ownership of sufficient percentage of stakes, i.e. shares or voting rights, as well as through other ownership interest in that legal entity, including through bearer stockholdings, or another form of control. According to article 20(2) of the AML/CFT Law direct ownership is defined as ownership of over 25% of the shares, the voting rights or the other rights in the legal entity or the ownership of 25% plus one stock. Article 20(3) of the AML/CFT Law defines indirect ownership as the ownership or the control of the natural person (persons) over one or several legal entities that individually or jointly have over 25% of the shares or 25% plus one stock. In case that a natural person(s) cannot be determined as a beneficial owner then a natural person (persons) who has a high management position in the legal entity, (i.e. who by law and internal acts is authorized to manage and is responsible for the operation of the legal entity) is considered a beneficial owner of a legal entity (Article 20(4) of the AML/CFT Law).

**Criterion 10.11** – Article 22(1) of the AML/CFT Law defines a beneficial owner of a trust as a settlor, a trustee, a protector, a beneficiary or a group of beneficiaries and another natural person

who through direct or indirect ownership or in any other manner controls the trust. Article 22(2) of the AML/CFT Law defines a beneficial owner of a legal arrangement as a person(s) in similar positions as defined in the article 22(1) for the trust.

**Criterion 10.12** – Article 16(3) of the AML/CFT Law requires verification of the identity of the beneficiary before or during the payment of the policy or before or when the user intends to exercise the rights arising from the insurance policy. However, this legal provision does not make any distinction between the beneficiaries that are identified and specifically named (c.10.12(a)) and the beneficiaries that are designated by characteristics, class or other means (c.10.12(b)).

**Criterion 10.13** – There is no specific provision in the AML/CFT Law that would require to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether enhanced CDD measures are applicable. Nor is it required to take enhanced measures including reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary, at the time of payout of a life insurance policy in case that the OE determines that a beneficiary who is a legal person or a legal arrangement presents a higher risk.

**Criterion 10.14** – Article 16(1)-(2) of the AML/CFT Law requires that the identification and the verification of the identity of the customer and the beneficial owner shall be conducted before they establish a business relationship or before they make an occasional transaction or during the establishment of the business relationship, in order not to disturb the course of the business relationship and in the case of a low risk of money laundering and financing of terrorism. Therefore, identification and the verification of the identity of the customer and the beneficial owner after the establishment of the business relationship is not permitted.

**Criterion 10.15** – As stated in c.10.14 verification of the identity of the customer has to occur during the establishment of the business relationship at latest. Therefore, utilisation of the business relationship prior to verification is not permitted and this criterion is not applicable.

**Criterion 10.16** – Article 37(1)-(3) of the AML/CFT Law establishes the obligation to also apply CDD measures in relation to customers in an ongoing business relationship. The obligation requires to confirm that transactions are made in accordance with the aim and the purpose of the business relationship, the customer risk profile, its financial condition, and its sources of financing. Data regarding customers and beneficial owners as well as their risk profiles has to be regularly checked and updated. The frequency and scope of these measures has to be in compliance with the CDD obligations and the assessment of the risk of money laundering and financing of terrorism to which the OE is exposed during carrying out a particular business activity or transaction.

**Criterion 10.17** – Article 39(1)-(3) of the AML/CFT Law requires OEs to take all measures for EDD in cases of high risk and medium-high risk of ML or TF determined in OEs' risk assessments or on the basis of an NRA. Furthermore, articles 40 to 45 of the AML/CFT Law require OEs to conduct specific EDD measures in case of: correspondent relationship, where customer is not physically present for identification, PEPs, high-risk countries, non-profit organizations and complex and unusual transactions.

**Criterion 10.18** – Article 38(1) of the AML/CFT Law allows OEs to apply SDD in cases of low risk of ML or TF determined in OEs' risk assessments or on the basis of an NRA. Based on Article 38(5) of the AML/CFT Law, the SDD is not allowed where, regarding the customer, the transaction, the business relationship, or the property, there is a suspicion of ML/TF, where specific scenarios of high risk of ML/TF are applied, or in the cases of complex and unusual transactions.

**Criterion 10.19** – When OEs are not able to implement CDD measures, then, according to article 46(1) of the AML/CFT Law the OEs are required:

a) to reject the establishment of a business relationship with the customer; to terminate the business relationship with the customer; not to perform an occasional transaction and/or not to perform a transaction within an established business relationship, until the moment of implementation of the CDD measures.

b) Article 46(3) of the AML/CFT Law sets requirement for OEs to prepare a written analysis and to determine the need of submission of a STR to the FIU in all cases mentioned in the previous paragraph. In case of rejection of the establishment of a business relationship or termination of the business relationship when the OE was unable to comply with relevant CDD measures, the OE is required to notify the FIU pursuant to article 46(2) of the AML/CFT Law.

**Criterion 10.20** – Article 47(1) of the AML/CFT Law allows OEs to submit a STR to the FIU instead of performing CDD measures if they have grounds for assuming that following the CDD measures would tip-off the customer.

#### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia is largely compliant with the CDD requirements. Mostly minor shortcomings exist, e.g. no requirement for wire transfers amounting to €1 000 to be also subjected to CDD in c.10.2, shortcomings in the identification of the customer who is a legal entity in c.10.9 and insufficient CDD for beneficiaries of life insurance policies in c.10.12 and c.10.13. **R.10 is rated Largely Compliant.**

#### ***Recommendation 11 – Record-keeping***

In the 2014 MER, North Macedonia was rated Largely Compliant with former R.10. The deficiencies identified were a lack of requirements to maintain records on transactions, identification data, account files and business correspondence longer if requested by a competent authority in specific cases; lack of requirements to provide information on a timely basis to supervisors; and FIs not being required to ensure that all customer and transaction records and information are available upon LEAs' request.

**Criterion 11.1** – Article 62(2) of the AML/CFT Law sets requirement to keep documents or electronic records for all transactions (both domestic and international) for ten years after their execution.

**Criterion 11.2** – Article 62(1) of the AML/CFT Law requires OEs to keep documents or electronic records obtained through the application of the measures for CDD, customer or account files and business correspondence, and the results of any analysis conducted on the customer or the beneficial owner for ten years. Ten-year period is calculated from the moment of the termination of the business relationship with the customer or from the date of execution of the occasional transaction.

**Criterion 11.3** – Transaction records according to article 62(2) of the AML/CFT Law include the accompanying evidence and records for the transactions that consist of original documents or copies that can serve as evidence in court proceedings, which are necessary to identify and enable the reconstruction of individual transactions.

**Criterion 11.4** – Based on article 62(9) of the AML/CFT Law, the OEs have to make the documents referred to in article 62(1) of the AML/CFT Law (see c.11.2) available at the request of the supervisory bodies, but not those covered under Article 62(2) (see c.11.3). Therefore, not all transaction records have to be made available to the supervisory bodies.

### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia covers most criteria of R.11. The only deficiency in c.11.4 is the lack of an explicit requirement for OEs to make transaction records swiftly available to appropriate authorities. **R.11 is rated Largely Compliant.**

### *Recommendation 12 – Politically exposed persons*

In the 2014 MER, North Macedonia was rated Partially Compliant with former R.6. The deficiencies identified were the definition of “holder of public function” referring only to close family members who live at the same address as the holder of public function; no obligation to apply EDD or to conduct enhanced ongoing monitoring when the BO is a PEP; no requirements for non-banking FIs to obtain senior management approval when the BO subsequently is found to be or becomes a PEP; and no requirement to establish *SoW* of customers or BOs who are PEPs.

**Criterion 12.1** – Article 2(39) of the AML/CFT Law defines PEP (the AML/CFT Law refers to PEP as the “public office holder”) in line with the FATF Glossary and includes both the domestic and foreign PEPs as well as their family members and close associates.

a) The obligation to establish risk management systems to determine whether the customer or the beneficial owner is a PEP (including customer’s statement) is set in the article 42(1)(a) of the AML/CFT Law.

b) The requirement to obtain an approval from the senior management before establishing (or continuing, for existing customers) a business relationship in which the customer or beneficial owner is a PEP is set in the article 42(1)(b) of the AML/CFT Law.

c) Article 42(1)(c) of the AML/CFT Law requires OEs to take appropriate measures to determine the source of wealth and the source of funds of customers and beneficial owners identified as PEPs.

d) Transactions and business relationships in which the customer or beneficial owner is a PEP are subjected to EDD, including continuous enhanced monitoring of the business relationship pursuant to article 42(1)(d) of the AML/CFT Law.

**Criterion 12.2** – As stated in c.12.1, the definition of PEP in article 2(39) of the AML/CFT Law includes both the domestic and foreign PEPs therefore the measures described in c.12.1 apply to domestic PEPs as well.

**Criterion 12.3** – Article 2(39) of the AML/CFT Law states that the term “public office holders” also includes family members and close associates. Therefore, the requirements of c.12.1 and c.12.2 also apply to family members and close associates of PEPs.

**Criterion 12.4** – Article 42(2) to (3) of the AML/CFT Law require OEs to take measures to determine whether the beneficiary and/or the beneficial owner of the beneficiary of life insurance and other insurances related to investment is a PEP. In such cases, the OEs also have to notify the senior management before the payment of the insurance policy premium and to conduct enhanced scrutiny on the entire business relationship with the client in detail. However, these measures do not include a direct reference to consider making a STR.

### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia is almost entirely in line with requirements of R.12. The only minor shortcoming in c.12.4 is caused by the lack of direct reference to consider making a STR whenever a PEP is a beneficiary of a life insurance policy and high risks are identified. **R.12 is rated Largely Compliant.**

### *Recommendation 13 – Correspondent banking*

Under the previous assessment round North Macedonia was rated LC with former R.7. The deficiency identified was related to the undue exemption from additional measures for correspondent relationships with credit institutions established in EU countries or other equivalent countries.

#### **Criterion 13.1**

a) Article 40(1)(a) of the AML/CFT Law, which covers cross-border correspondent relationships, requires OEs to collect sufficient data regarding correspondent financial institution in order to fully determine its activity and, from publicly available information, to determine its reputation, as well as the quality of supervision, including whether it has been a subject of investigation of ML/TF or another supervision measure. Referred article incorrectly uses term “correspondent financial institution” instead of “respondent financial institution”.

b) Article 40(1)(b) of the AML/CFT Law stipulates that OEs have to evaluate the procedures and control mechanisms for prevention of ML/TF of the correspondent financial institution. Referred article incorrectly uses term “correspondent financial institution” instead of “respondent financial institution”.

c) Article 40(1)(c) of the AML/CFT Law specifies that OEs must obtain an approval from the senior management prior to establishment of a new correspondent relationship.

d) Article 40(1)(a) of the AML/CFT Law requires OEs to determine and precisely prescribe the mutual responsibilities arising from the correspondent relationship.

**Criterion 13.2** – Article 40(1)(e) of the AML/CFT Law specifies that OEs have to determine whether the correspondent financial institution carries out the CDD for the entities with direct access to its correspondent accounts at least in the scope and manner laid down by the AML/CFT Law, as well as to determine whether the correspondent financial institution is prepared to provide the data for identification and verification of the identity of a customer of a foreign bank or another financial institution and its beneficial owner, and to submit them to the OE upon its request.

**Criterion 13.3** – Article 59(1) of the AML/CFT Law prohibits OEs to enter in, or continue, a business relationship with shell banks and to establish or continue a correspondent business relationship with a bank for which they know that allows opening and operating accounts of shell banks. However, OEs are not required to satisfy themselves that correspondent financial institutions do not permit their accounts to be used by shell banks.

#### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia covers most criteria of R.13. The only deficiency in c.13.3 is caused by missing obligation to financial institutions to satisfy themselves that correspondent financial institutions do not permit their accounts to be used by shell banks. **R.13 is rated Largely Compliant.**

### *Recommendation 14 – Money or value transfer services*

Under the previous evaluation round North Macedonia was rated PC with the former SR VI. The main deficiencies related to deficient CDD applied to MVTS operators, as well as some effectiveness issues.

**Criterion 14.1** – Currently, the only MVTS providers permitted to operate in North Macedonia are fast money transfer service providers and their subagents (which also include exchange offices) and the Post of North Macedonia, although in the case of the latter, it is not providing such services in practice.

Article 2(1) of the Law on providing fast money transfer services defines “fast money transfer” as an electronic money transfer from a natural person in one country to a natural person in another country within one hour from the payment, regardless of whether the transfer is from or to the Republic of North Macedonia, with the inflow and the outflow being made through a bank.

Article 5 of the Law on providing fast money transfer services forbids provision of fast money transfer services to unlicensed entities, subagents having no contract with a fast money transfer entity to provide such services, banks not having been granted the appropriate approval from the National Bank or natural persons not employed by a fast money transfer service provider or subagents.

Regarding payment services, these can only be performed by banks and micropayments intermediaries according to the current legislation. The framework is expected to change in January 2023, when a new Law on payment services and systems will allow for other types of MVTS and payment service providers to enter the market, which will also be licensed and supervised by the National Bank.

Therefore, all entities allowed that currently operate as MVTS providers are required to be licensed by the National Bank.

**Criterion 14.2** – According to Article 35 of the Law on providing fast money transfer services, the Ministry of Finance – State Foreign Exchange Inspectorate is empowered to inspect over the legal entities that have not been licensed for providing fast money transfer from the National Bank or have no contract for providing fast money transfer as subagents, as well as fast money transfer service providers, subagents and natural persons providing fast money transfer outside the scope of their licenses as defined in Article 16 of the same Law. In case of detecting unauthorized operators, the Inspectorate shall adopt a decision on a ban on performing activity, which also implies being deleted from the register, and notify the National Bank.

Article 36 of the aforementioned Law stipulates that anyone providing fast money transfer services without license or registration shall be sentenced from one to three years of imprisonment and in case of legal entity shall be fined. However, the amount of the fine is not determined in the law, and the legal person would instead be sanctioned in accordance with Article 96-a of the Criminal Code, which is the general article for sentencing legal entities having committed any kind of crime and envisages a range of penalties between 100,000 denars (around 1,600 EUR) and 30 million denars (around 490,000 EUR), therefore conclusion on proportionality and dissuasiveness of fines for unlicensed operators cannot be made.

**Criterion 14.3** – Article 151(1) of the AML/CFT Law states that supervision over the application of the measures and actions determined by the AML/CFT Law shall be performed by the National Bank of the Republic of North Macedonia in relation to banks, savings houses, exchange offices and remittance (fast money transfer) service providers and other financial institutions providing payment services in accordance with law (although there were no such institutions at the time of the evaluation). Therefore, all entities specified in c.14.1 are subject to monitoring for AML/CFT compliance.

**Criterion 14.4** – Article 15 of the Law on providing fast money transfer services establishes Fast Money Transfer Service Provider Registry that is maintained by the National Bank of the Republic of North Macedonia. This registry also contains data on the subagents. Article 2(3) of the Law on

providing fast money transfer services defines "Subagent" as a trade company registered in the Republic of North Macedonia, or a bank having been granted a founding and operating license by the National Bank with which the fast money transfer service provider has concluded a contract for providing fast money transfer services.

**Criterion 14.5** – Article 27 of the Law on providing fast money transfer services requires fast money transfer service providers and their subagents to prepare and to implement programs for the prevention of money laundering and financing of terrorism and to act pursuant to the AML/CFT regulations.

#### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia incorporates minor shortcomings regarding requirements of R.14. The only deficiency is the lack of proportionality and dissuasiveness of the sanctions to natural or legal persons providing MVTS without license or registration in c.14.2. **R.14 is rated Largely Compliant.**

#### *Recommendation 15 – New technologies*

In its previous MER, North Macedonia was largely compliant with these requirements and required more guidance to DNFBPs on ML/TF threats arising from new and developing technologies. Since then, R.15 has been amended significantly to include new requirements relating to virtual assets and virtual asset service providers.

**Criterion 15.1** – According to Article 3 of the AML/CFT Law risk assessment needs to be conducted on a national, sectorial and OE levels (please see R.1). Although both iterations of the NRA (2016 and 2020) did not assess the ML/TF risks that may arise in relation to the development of new products and new business practices.

Article 11 (6) of the AML/CFT Law, obliges OE to identify and assess the ML/TF risks before making significant changes in their business activities and processes that may affect the measures to prevent ML/TF; as well as before introducing a new product, service, activity or distribution channel, or introducing new technologies. The FIU also issued Guidelines for conducting ML/TF risk assessment that prescribes all OE to take into consideration the use of new technologies as distribution channels, involvement of third parties or intermediaries used in the distribution channels, frequency of using new technologies, the possibility of anonymity. Additionally, when assessing the risk factors arising from products and services, use of products that provide anonymity (VA) are also covered.

#### **Criterion 15.2**

a) Before making significant changes in their business activities and processes, that may affect the measures to prevent ML/TF, and when introducing a new product, service, activity or distribution channel, and new technologies, OEs are obliged to conduct risk assessment to determine and assess how these changes will affect the risk of ML/TF and take appropriate measures to reduce and effectively manage this risk (Article 11 (6) the AML/CFT Law). NBRNM Methodology for managing the risk of money laundering and terrorist financing specifies how these risks shall be assessed for banks and savings houses.

b) This matter is addressed by the above-mentioned Article 11(6) of the AML/CFT Law. In line with the risk according to Article 11 OEs are required to introduce internal programs and policies to reduce the risk identified with the risk assessment, so new technologies and new products are part of the whole assessment process and must be prescribed by the OEs in the internal procedures (both risk assessment and the programs).

### **Criterion 15.3**

a) Prior to the adoption of the AML/CFT Law of 2022, a working group was established to determine the risks and mechanisms for reducing the risks of the VAs and VASPs related to ML/TF (decision of the MOF number 04-8431/1 from 27.08.2021.). By December 2021 the VA and VASP risk assessment was prepared, adopted by the working group and presented to all relevant stakeholders at meeting of Council for Capital Market Development. The Council comprises of the representatives from the MOF, the MOE, the NBRNM, the SEC, the Pension and Insurance supervisory authority, the Central Depository and members from the private sector organizations such as banking association, insurance association, and brokerage association. The risk assessment analyses the ML/TF risk exposure of the VASP sector in North Macedonia to a limited extent, in particular limited sources of information were available on the sector and threat and vulnerability analysis focuses more on the misuse of VAs as authorities had limited information on domestic VASPs. The authorities confirmed that a very limited number of entities were conducting VA related services at the time of the risk assessment that limited the available information.

b) The sector has only been brought under application of AML/CFT framework as OE on 7 July 2022. According to Article 199 VASPs will have to comply with the AML/CFT measures outlined in the new Law within the period of 9 months from its adoption (April 2023). After the adoption of the Risk Assessment on VA and VASPs a Working Group was formed within MoF that identified recommended actions based on the outcomes of the report. The recommended actions were split into short term, medium term, and long term and suggested improvements on various aspects such as intelligence, investigation, freezing, confiscation, review of existing legislative framework etc. However, the working group did not set specific timeframe for realization of these recommended actions. It is also not clear to the AT who is responsible to monitor implementation of these recommended actions and what is the mandate of this working group.

c) N/A<sup>45</sup>

### **Criterion 15.4**

a) There is no licensing regime for VASPs. The AML/CFT Law Article 8 prescribes to FIU to maintain a Register of VASPs in electronic form, which shall be published on its website, and to VASPs to inform the FIU post factum that they perform activities prescribed by this Law within 30 days from the day of registration in the Central Register of the Republic of North Macedonia. Article 8 also defines what information the VASP's needs to submit to the FIU. In case of doubts about the accuracy of the submitted data, FIU may at any time request additional documents, data and information on the activities and services of VASPs and the latter are obliged to submit the additional documents, data and information on the activities and services related to virtual assets within 10 working days from the day of receipt of the request. Requirements of Article 8 cover only VAPS that operate in the form of legal entities. The registration regime will only be fully operational from the date when Minister of Finance issues bylaws prescribing the form and content of registration. Before that VASPs do not have a legal obligation to register. The bylaws will be adopted within 15 months from the date of entry into force of amendments to the AML/CFT Law (7 July 2022). Authorities have informed the AT that Article 198 of the AML/CFT

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<sup>45</sup> According to Article 199 VASPs will have to comply with the AML/CFT measures outlined in the AML/CFT Law within the period of 9 months from its adoption (April 2023). This is 6 months after the end of the onsite visit.

Law is to be interpreted to mean that bylaws cannot be adopted earlier than the proscribed 15 months period, meaning that the registration requirement will only be fully in force and effect after the adoption of bylaw and not earlier than from November 2023. Without the bylaws the registration requirement is not legally enforceable. The authorities advised that by the end of the onsite visit no bylaws have been adopted.

b) The legislation (article 153 paragraph 1 of the AML/CFT Law) requires only licensed OEs to take the necessary legal or regulatory measures to prevent criminals or their associates from holding, or being the beneficial owner of, a significant or controlling interest, or holding a management function. Thus, these provisions do not apply to VASPs.

**Criterion 15.5** – According to the AML/CFT Law (Article 8 paragraph 3) VASPs are obliged to inform the FIU that they perform activities prescribed by this Law within 30 days from the day of registration in the Central Register of the Republic of North Macedonia. Article 187(1) prescribes a fine in the amount between 10,000 to 40,000 EUR (depending on the size of legal entity) to be applied to VASP in case of violation of registration requirement of Article 8. These provisions do not apply to natural persons, so VASPs operating in such capacity fall outside the scope of application of this law.

However, there is no requirement to take action to identify natural or legal persons that carry out VASP activities without the requisite license or registration and apply appropriate sanctions to them.

#### **Criterion 15.6**

a) The FIU is a supervisor of VASPs, since article 151 paragraph 2 of the AML/CFT Law prescribes that the FIU shall supervise the application of the measures and actions determined by this Law on the entities that are not covered by paragraph (1) of this Article. According to Article 152 risk-based approach supervision is prescribed, while Article 161 prescribes on-going monitoring which is also applicable to VASPs such as all other OEs. Natural persons acting as VASPs are not covered by the AML/CFT Law. Analysis and deficiencies identified in R.26 in relation to supervisory approach of FIU are applicable here.

b) Articles 159 to 170 of the AML/CFT Law provide the FIU with the most of competences of the supervisors. The FIU does not have any authority to restrict or suspend the VASP's registration. As there are no licensing requirements, the possible penalties of withdrawal, restriction or suspension of a license cannot be applied. Thus, the power to withdraw, restrict or suspend the VASP's license or registration does not appear to be covered by the legislation. Analysis and deficiencies identified in R.27 in relation to supervisory powers of FIU are applicable here.

**Criterion 15.7** – Pursuant to Article 11(7) of the AML/CFT Law the FIU is obliged to prescribe guidance for VASPs. There is no obligation to provide specific feedback or guideline to VASP sector on how to comply with their AML/CFT obligations and the risks they may face, but FIU has provided a number of guidance aimed at all OEs (see R34) and red flag indicators for TF regarding VAs. VASPs have not been informed about the sectorial risk assessment results on VAs.

**Criterion 15.8** – The sanctions on VASPs are not enforceable as VASPs are excluded from application of the provisions of the AML/CFT Law until April 2023 (Article 199(1)). It is also not clear since when the registration requirements are applicable to VASPs pursuant to Article 199(2) and Article 8(6).

a) The analysis on the deficiencies in relation to sanctioning from c.35.1 apply to c.15.8(a). No sanctions apply to VASPs that operate as natural persons. Deficiencies identified under c.35.1 are applicable to c.15.8(a).

b) Sanctions are applicable to responsible persons of VASP's for not complying with requirements set in the AML/CFT Law. These sections are based on three categories taking into consideration the nature of the violations. The definition of "responsible person" given in Article 3(6) of the Law on Misdemeanours and seems to cover directors and senior management. For more analysis see c.35.2. Deficiencies applicable to c.35.2 apply to c.15(8).

**Criterion 15.9** – N/A<sup>46</sup>

**Criterion 15.10** – Law on restrictive measures incorporates requirements of c.15.10 for VASPs as of the entry into force of the AML/CFT Law. Article 199 of the AML/CFT Law that gives VASPs nine months period for harmonization of their processes with obligations of the AML/CFT Law does not directly apply in this case. Despite that, it is necessary to take into consideration the fact that until the harmonization period is over, the VASPs are not obliged to have a framework that would allow them to perform tasks envisioned by the c.15.10. Therefore, requirements incorporated by the Law on restrictive measures without compliance with the AML/CFT Law cannot lead to proper compliance with c.15.10 requirements until the harmonisation period is over (April 2023).

**Criterion 15.11** – Article 154 of AML/CFT Law regulates international cooperation by supervisory agencies. The international exchange of data by the FIU is regulated by Articles 142-150 of the Law and Procedure for the exchange of data and information with the Financial Intelligence Units of other countries, but in the FIU capacity only. No specific information was provided by the authorities on supervisory cooperation of FIU regarding VASPs.

As stated in the analysis of Recommendations 37 to 40, relevant authorities are able to provide mutual legal assistance (including cases in which VASPs could be involved), but shortcomings regarding the timely prioritization and execution of requests impact their MLA capabilities. The deficiencies identified in R.37-40 are applicable to c.15.11.

### *Weighting and Conclusion*

North Macedonia has a number of AML/CFT deficiencies in the field of new technologies. According to Article 199 VASPs will have to comply with the AML/CFT measures outlined in the AML/CFT Law within the period of 9 months from its adoption (April 2023). This is applicable for the following criterions – 15.10,15.9,15.5,15.4,15.3. Additional deficiencies include: i) VASPs have not been familiarized with the sectorial risk assessment results on VAs; ii) the FIU has not provided any specific feedback or guideline aimed specifically to the VASPs sector and the particular risks they may face. Taking into the fact that the measures for VAs and VASPs will commence from April 2023 and the small VASP sector in terms of materiality (for more information see Chapter 1 and IO.4), the AT concluded that North Macedonia is **Partially Compliant with R.15**.

### *Recommendation 16 – Wire transfers*

In the 2014 MER, North Macedonia was rated Largely Compliant with former SR.VII. The deficiencies identified were the Postal Office not displaying sufficient awareness of its obligations; and the effectiveness of the risk-based procedures for identifying and handling wire transfer not being demonstrated.

**Criterion 16.1** – Article 50(1) of the AML/CFT Law requires financial institutions in case of "payments" of EUR 1,000 (or any other currency in the value of EUR 1,000 or more in MKD

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<sup>46</sup> According to Article 199 VASPs will have to comply with the AML/CFT measures outlined in the AML/CFT Law within the period of 9 months from its adoption (April 2023). This is 6 months after the end of the onsite visit.

equivalent according to the middle exchange rate of the National Bank of the Republic of North Macedonia on the day of the payment) for the purpose of transferring the funds through the international payment operations, to “provide data” on the payer (including name and surname, account number or reference number of the transaction, address or national identification or customer number or date and place of birth) and on the recipient (including name and surname, account number or reference number of the transaction). It should be noted that the term “to provide” (instead of requiring the information to accompany the transfer) is not in line with the standard. Furthermore, the legal provision does not require to ensure that the information is accurate.

**Criterion 16.2** – Decision on the manner of performing international payment operations no.42/2011 and the associated “Instructions on the manner of performing international payment operations” sets forth the manner of performing cross-border wire transfers. Paragraph 117 of the instructions state that when performing cross-border wire transfers via the SWIFT system, form MT 950 must be used. While the form only allows to fill information for a single wire transfer, there is no specific provision in the North Macedonia’s legal framework that regulate the possibility, or lack thereof, of wire transfers bundled into a batch file.

**Criterion 16.3** – Although Article 50 of the AML/CFT Law establishes a *de minimis* threshold of EUR 1 000, the instructions regulating wire transfers referred above are applicable to all wire transfers regardless of the amount. Therefore, it is unclear whether North Macedonia is actually applying a *de minimis* threshold. Additionally, shortcomings under c.16.1 also apply.

**Criterion 16.4** – The same analysis and shortcomings under c.16.3 apply.

**Criterion 16.5** – Article 50(2) of the AML/CFT Law requires financial institutions to provide the data on the payer on the basis of which its identity may be determined and verified in case of “payments” of EUR 1,000 (or any other currency in the value of EUR 1,000 or more in MKD equivalent more according to the middle exchange rate of the National Bank of the Republic of North Macedonia on the day of the payment) for the purpose of transferring the funds through the domestic payment operations. If the provided data cannot be forwarded due to technical reasons, only the data concerning the account number or the reference number of the transaction shall be forwarded.

Article 50(3) of the AML/CFT Law states that financial institutions are obliged to make the data on the payer referred to in article 50(1) of the AML/CFT Law (see c.16.1) available in a period of three working days as of the submission of the request of the financial institution that should execute the payment, or of the competent bodies, at the latest.

**Criterion 16.6** – See c.16.5. However, there is no provision empowering the law enforcement authorities to be able to compel immediate production of information accompanying the domestic wire transfer.

**Criterion 16.7** – Article 62(2) of the AML/CFT Law sets requirement for OEs to keep documents or electronic records for all transactions for ten years after their execution, including the accompanying evidence and records for the transactions that consist of original documents or copies that can serve as evidence in court proceedings, which are necessary to identify and enable the reconstruction of individual transactions.

**Criterion 16.8** – No legal provision meets requirements of c.16.8. In addition, shortcomings under c.16.1-c.16.4 and c.16.6 are also applicable.

**Criterion 16.9** – Article 50(4) of the AML/CFT Law requires the financial institutions that act as intermediaries in the transfer of funds in the amount of EUR 1,000 (or any other currency in the

value of EUR 1,000 in MKD equivalent or more according to the middle exchange rate of the National Bank of the Republic of North Macedonia on the day of transfer) in the international payment operations to forward the data (which is not equivalent to the data having to accompany the transfer) on the payer referred to in article 50(1) of the AML/CFT Law (see c.16.1) to the financial institution that is to pay the funds. However, there is no requirement regarding beneficiary information. The shortcomings identified in c.16.3 also apply in c.16.9.

**Criterion 16.10** – Article 62(2) of the AML/CFT Law sets requirements for all OEs including intermediary financial institutions (See c.16.7). However, as stated on c.16.9, there are no requirements for intermediary financial institutions in regards to beneficiary information and the shortcomings related to domestic wire transfers noted in c.16.3 are also applicable here.

**Criterion 16.11** – Article 50(5) of the AML/CFT Law stipulates that financial institutions shall be obliged to determine whether part of the data referred to in article 50(1), (2) and (4) of the AML/CFT Law (see c.16.1, c.16.5 and c.16.9) is missing and the manner of dealing with such transfers (in the case of payments regarding transfer of funds in the international payment operations in the amount of EUR 1,000 or any other currency in the value of EUR 1,000 or more in MKD equivalent according to the middle exchange rate of the National Bank of the Republic of North Macedonia according to the middle exchange rate of the National Bank on the day of payment). The entities should ask for the missing data or reject to make the transfer. The shortcomings identified in c.16.3 also apply in c.16.11.

**Criterion 16.12** – There is no provision requiring intermediary financial institutions to have risk-based policies and procedures for determining when to execute, reject or suspend transactions and the appropriate follow-up actions.

**Criterion 16.13** – Article 50(5) of the AML/CFT Law stipulates that financial institutions shall be obliged to determine whether part of the data referred to in article 50(1) of the AML/CFT Law (see c.16.1) is missing and the manner of dealing with such transfers (in the case of payments regarding transfer of funds in the international payment operations in the amount of EUR 1,000 or any other currency in the value of EUR 1,000 or more in MKD equivalent according to the middle exchange rate of the National Bank of the Republic of North Macedonia according to the middle exchange rate of the National Bank on the day of payment). The entities should ask for the missing data or reject to make the transfer. Other reasonable measures, which may include post-event monitoring or real-time monitoring where feasible are not required. The shortcomings identified in c.16.3 also apply in c.16.13.

**Criterion 16.14** – In the case that the beneficiary is the customer of a business relationship with the FI, CDD measures should be applied according to article 15(1)(a) of the AML/CFT Law, which include the verification of the identity of the customer (see c.10.3). In the case of occasional transactions, according to article 13(c) of the AML/CFT Law, CDD must be performed where the occasional transaction constitutes a transfer of funds in the amount higher than EUR 1,000 in MKD (MKD equivalent according to the middle exchange rate of the National Bank of the Republic of North Macedonia). For cross-border wire transfers equalling or below EUR 1,000, Decision no. 42/2011 and the associated instructions described in c.16.2 apply. In terms of record keeping, article 62(2) of the AML/CFT Law sets requirements for all OEs including beneficiary financial institutions (See c.16.7).

**Criterion 16.15** – Article 50(5) of the AML/CFT Law requires financial institutions (including beneficiary financial institutions) to determine whether part of the data referred to in article 50(1) and (2) of the AML/CFT Law (see c.16.1, and c.16.5) is missing and the manner of dealing with such transfers (see c.16.11). However, there is no explicit requirement for beneficiary

financial institutions to have risk-based policies and procedures for determining: (a) when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information; and (b) the appropriate follow-up action. Furthermore, the shortcomings identified in c.16.3 also apply in c.16.15.

**Criterion 16.16** – Article 2(9) of the AML/CFT Law defines legal entities that are not banks or savings houses that carry out payment services (fast transfer money service providers) as financial institutions. Therefore, provisions covered in previous criteria apply also to MVTs providers, including the deficiencies. Regarding agents of the MVTs providers (“subagents”), article 27 of the Law on providing fast money transfer services requires the fast money transfer service providers and their subagents to prepare and to implement programs for the prevention of money laundering and terrorist financing and to act pursuant to the AML/CFT regulations, which would include Article 50 on obtaining and forwarding information in case of transfer of funds.

#### **Criterion 16.17**

(a) According to Item 15 of the Decision on issuing license and approval for providing fast money transfer services, the service provider is required to possess complete data for the sender and the recipient (name and surname, address, national identification number, etc.) before executing the transaction. Furthermore, given their status as AML/CFT OEs, they are subject to obtain information from the payer and the recipient of a transfer of funds by virtue of article 50 and to file STRs in accordance to article 65.

(b) According to Article 2.1 (2-3) of the Law on providing fast money transfer services, service providers and their subagents have to be registered in the Republic of North Macedonia, therefore not being able to file STRs in any other country.

**Criterion 16.18** – FIs that conduct wire transfers, as OEs under the AML/CFT Law, must implement the restrictive measures and freezing mechanisms defined in Article 13 of the Law on restrictive measures. However, shortcomings detected in R.6 are also applicable here.

#### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia is negatively impacted by non-compliance with requirements specified in c.16.2, c.16.3, c.16.4 and c.16.8. Law enforcement authorities are not able to compel immediate production of information accompanying the domestic wire transfer, which negatively influences c.16.6. Not complying with requirements set in c.16.3 further negatively influences c.16.9, c.16.10, c.16.11, c.16.13 and c.16.15. No requirement for the intermediary financial institution to ensure that beneficiary information that accompanies a wire transfer is retained with it in case of cross-border wire transfer also impacts c.16.9. No explicit requirement for intermediary and beneficiary financial institutions to have the risk-based policies and procedures specified in c.16.12 and c.16.15 also affects these criterions. c.16.16 is negatively impacted by relevant deficiencies stated above. **R.16 is rated Partially Compliant.**

#### **Recommendation 17 – Reliance on third parties**

In the 2014 MER, it was considered that former R.9 was not applicable in North Macedonia.

**Criterion 17.1** – Article 49(1) of the AML/CFT Law allows OEs to entrust the implementation of the measures and the activities referred to in article 15(1)(a) to (d) of the AML/CFT Law to third parties. These CDD measures cover identification of the client and verification of its identity, identification of the person acting on behalf and for the account of the customer, identification of

the beneficial owner of the customer and understanding and adequate obtaining of information about the aim and purpose of the business relationship.

Article 49(2) of the AML/CFT Law states that responsibility for implementation of the CDD measures mentioned in the previous paragraph remains with the OE relying on the third party.

a) According to the article 49(6)(a) of the AML/CFT Law the OE relying on the third party has to immediately obtain from the third-party necessary information for performing the client due diligence in accordance with the AML/CFT Law.

b) Article 49(6)(b) of the AML/CFT Law specifies that the OE relying on the third party shall immediately at its request, without delay, receive data and information on the performed CDD, i.e. copies of the identification and verification documents of the identity, including, if possible, information and data obtained by way of electronic identification means issued within registered scheme for electronic identification of a high level of security in accordance with law or other credible, electronic means of remote identification regulated, approved and accepted by the competent authorities of foreign countries.

c) Article 49(3) of the AML/CFT Law requires third parties to be entities regulated by the AML/CFT Law, member organizations and federations of those entities or other institutions established in the Republic of North Macedonia, a member state of the European Union or in another country in which the following is mandatory:

- the measures for the CDD and the data storage in accordance with and in a way at least identical to the manner determined by the AML/CFT Law and which are in accordance with the international standards are applied;
- the application of measures and actions for prevention of ML/TF is subject to supervision by a competent authority in accordance with the AML/CFT Law or in accordance with international standards.

Article 49(4) of the AML/CFT Law specifies that the OE relying on the third party have to check in advance whether the third party meets the conditions prescribed by the AML/CFT Law, and in case the third party is an entity from another country, it shall be obliged to take into account the degree of risk of ML/TF of that country.

**Criterion 17.2** – See reference to articles 49(3) and (4) of the AML/CFT Law in c.17.1.

**Criterion 17.3** – Article 49(7) of the AML/CFT Law allows OEs to entrust the implementation of the measures and the activities referred to in article 15(1)(a) to (d) of the AML/CFT Law (see c.17.1) to a third party that is part of the same financial group if the group:

- applies the requirements for CDD, data storage and procedures for prevention of ML/TF in accordance with international standards;
- applies requests for CDD and storage of data that are subject to supervision at the level of a group by a competent authority and
- properly manages the risks associated with high-risk countries.

However, the shortcomings identified in R.18 negatively impact this criterion.

#### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia incorporates minor shortcomings regarding requirements of R.17 due to deficiencies identified in R.18. **R.17 is rated Largely Compliant.**

### ***Recommendation 18 – Internal controls and foreign branches and subsidiaries***

In the 2014 MER, North Macedonia was rated Partially Compliant with former R.15 and Largely Compliant with former R.22. The deficiencies identified were, for R.15: (i) no requirement for securities companies, foreign exchange offices and MVTS providers to maintain an adequately resourced and independent audit function; and (ii) inadequate staff screening requirements; and, for R.22, a lack of an explicit reference to home country standards (except for banks), respectively the higher standards.

**Criterion 18.1** – Article 12(1) of the AML/CFT Law specifies that OEs have to prepare and apply a program for efficient reduction and management of the identified risk of ML/TF, which has to be adopted and regularly monitored by the senior management of the entity. This program includes:

- a) appointment of the authorized person (AML officer) and his/her deputy responsible for compliance with ML/TF and their position in the organizational structure);
- b) screening procedures for the employees in order to ensure high standards for prevention of ML/TF;
- c) plan for continuous training of the employees in the field of prevention of ML/TF that provides delivery of at least two training events during the year;
- d) independent audit function for testing the entire internal system for prevention of ML/TF depending on the size and nature of the activity of the entity (article 12(2) of the AML/CFT Law). Requirement to include independent audit function however only covers OEs that are required to establish special AML/CFT department (OEs with more than 50 persons who are directly related to the activities for which they are obliged to implement AML/CFT measures). Other OEs are not required to include an independent audit function to test the system into program against ML/TF even though these entities are required to conduct an internal control of the implementation of the measures and activities for prevention of money laundering and financing of terrorism at least once a year (article 69 of the AML/CFT Law).

Furthermore, the specific level/position of compliance officer (authorized person) in the structure of OEs is not explicitly prescribed by the law.

Article 68(14) of the AML/CFT Law also sets a requirement for OEs to ensure regular professional training in the field of prevention and detection of ML/TF for all employees.

**Criterion 18.2** – Article 48(1) of the AML/CFT Law stipulates that an OE that has its own subsidiaries or branch offices in another state should ensure application of the measures for prevention of ML/TF in the subsidiaries or branch offices. However, this provision does not cover majority-owned subsidiaries or all branches in North Macedonia itself, neither does it explicitly require implementation of group-wide programs against ML/TF that include all the necessary elements required by c.18.2.

Regarding banking groups, the article 119(2)(4) of the Banking Act requires parent entity to organize and ensure transparency of the banking group, thus enabling identification and monitoring of the internal control system and risk management systems. No provision explicitly requires implementation of group-wide programs against ML/TF that include all the necessary elements required by c.18.2.

**Criterion 18.3** – Article 48(1) of the AML/CFT Law requires OEs to ensure application of the measures for prevention of ML/TF in the subsidiaries or branches in foreign countries. If the regulations of the foreign country where the subsidiary or the branch is located do not allow application of the measures for prevention of ML/TF, the OE should immediately inform the

appropriate supervisory authority. However, no explicit requirement for financial groups to apply appropriate additional measures to mitigate ML/TF risk is stipulated.

#### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia does not require that AML/CFT compliance officer should be appointed at the management level. Requirement to include independent audit function into program against ML/TF covers only OEs that are required to establish special AML/CFT department. Implementation of group-wide programs against ML/TF is not explicitly required and it is only generally stipulated that OEs that have their own subsidiaries or branch offices in another state should ensure application of the measures for prevention of ML/TF in these subsidiaries or branch offices. Therefore, applicable procedures do not cover all aspects of c.18.2. Another deficiency is lack of explicit requirement for financial groups to apply appropriate additional measures to mitigate ML/TF risks if the regulations of the foreign country where the majority-owned subsidiary or the branch is located do not allow proper implementation of the measures for prevention of ML/TF consistent with the requirements of North Macedonia. **R.18 is rated Partially Compliant.**

#### *Recommendation 19 – Higher-risk countries*

North Macedonia was rated PC with the former Rec.21, the main shortcomings being the absence of legal basis for the country to apply countermeasures; no appropriate updates by the MoF to the list of countries with weaknesses in the AML/CFT system.

**Criterion 19.1** – Art. 2(55) of the AML/CFT Law defines "High-risk countries" as countries that have not implemented or insufficiently implemented international standards for the prevention of ML/TF, as well as countries identified by the FATF, the European Union and countries for which competent international bodies seek to take over appropriate countermeasures or countries determined in accordance with the national risk assessment.

Articles 43(1) and (2) of the AML/CFT Law require OEs to undertake measures that qualify as EDD measures (including all the measures specified in paragraph 20 of the Interpretive Note to R.10) when the business relationship or transaction includes a high-risk country. Furthermore, Art. 43(3) of the AML/CFT Law stipulates that OEs have to take one or more risk reduction measures defined by this provision (i.e. taking additional measures of intensified due diligence, introducing additional reporting mechanisms for customer transaction, restricting the establishment of business relations or transactions with natural persons or legal entities from high-risk countries) on top of those established by sections (1) and (2).

**Criterion 19.2** – Independently of any call by the FATF, the OEs are required to apply measures specified in c.19.1. According to Art. 43(5) of the AML/CFT Law, the government of North Macedonia shall adopt a decision to introduce measures against high-risk countries at the request of the FATF or on the basis of assessment reports or other reports from international organizations. These measures include:

- a ban on establishing a subsidiary, branch or representative office of entities from a high-risk country;
- a ban on establishing a subsidiary, branch or representative office of entities in a high risk-country;
- increase of supervisory controls or increase of the requirements for independent audits of a branch, branch or representative office of entities from a high-risk country;
- increasing the requirements for independent audits of financial groups of subsidiaries or branches in a high-risk country;

- request from the financial institutions to check and supplement or, if necessary, to terminate the correspondent relationship with the correspondent financial institution in a high-risk country.

Additionally, article 49(5) of the AML/CFT Law restricts financial institutions from entrusting the undertaking of certain CDD measures (see c.17.1) to a third party originating or established in a high-risk country.

**Criterion 19.3** – Article 43(4) of the AML/CFT Law stipulates that the FIU shall regularly, and at least twice a year, publish a list of high-risk countries on its official website based on public announcements for identified high-risk countries published by FATF, decisions taken at European Union level for identified high-risk countries with strategic deficiencies and high-risk countries identified in accordance with the national risk assessment.

#### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia complies with requirements of R.19. **R.19 is rated Compliant.**

#### ***Recommendation 20 – Reporting of suspicious transaction***

North Macedonia was rated PC in the 4<sup>th</sup> round MER for the former Recommendation 13 and Special Recommendation IV. The deficiencies pertained to the (i) reporting obligation which did not refer to funds that are proceeds of criminal offences but is limited to suspicion of laundering of proceeds; (ii) TF reporting obligation did not extend to: funds related or linked to terrorist organisations and those who finance terrorism; and funds used by those who finance terrorism;

**Criterion 20.1** – OEs (including FI) shall be obliged to submit the collected data, information and documents to the FIU (AML Law Article 65):

1) when they know, suspect or have grounds to suspect that with the transactions money laundering and/or financing of terrorism has been or is committed or there has been or there is an attempt to launder money and/or to finance terrorism, regardless of the amount of the transaction;

2) when they know, suspect or have grounds to suspect that the property is proceeds of crime; or

3) when they know, suspect or have grounds to suspect that the property is related to financing of an act of terrorism, a terrorist organization or a terrorist, or a person who is funding terrorism or financing proliferation of weapons of mass destruction.

**Criterion 20.2** – OEs (including FIs) are required to report suspicious transactions, including attempted transactions, regardless of their amount (AML Law Article 65).

#### *Weighting and Conclusion*

R. 20 is rated **Compliant**.

#### ***Recommendation 21 – Tipping-off and confidentiality***

In 4<sup>th</sup> round MER, North Macedonia was rated largely compliant with former R.14. The assessment identified minor technical deficiencies related to non-existent tipping-off provisions in relation to directors of financial institutions; and lack of sanctions for violating tipping-off provisions.

**Criterion 21.1** – FIs and their directors, officers and employees are protected against criminal and civil liability when disclosing information to FIU (AML Law Article 71, paragraphs 1 and 2, Article 73, paragraph 1). Such protection is extended even in situations when the procedure after the given information and reports did not lead to the determination of responsibility, i.e., final judgment (article 72, paragraph 2) and in cases of withholding transactions (Article 73, paragraph 3).

**Criterion 21.2** – FIs and their directors, officers and employees are prohibited from disclosing the fact that they intend to or have filed an STR to the FIU (AML Law Article 72, paragraphs 1 and 2). This ban does not inhibit FIs and their directors, officers and employees from sharing the fact that they intend to or have filed a STR with FIs in the same financial group to prevent ML/TF or to share the information with other FIs, where the information related to the same client or the same transaction where two or more entities participate, provided that they implement the measures for prevention of ML/TF, perform the same type of activity and are subject to the obligations of protection of business secrets and protection of personal data (AML Law Article 72, paragraph 5).

#### *Weighting and Conclusion*

Both criteria are met. **R.21 is rated Compliant.**

#### *Recommendation 22 – DNFBPs: Customer due diligence*

In the 2014 MER, North Macedonia was rated Partially Compliant with former R.22. The deficiencies identified were internet casinos not being subject to the AML/CFT Law and deficiencies related to FIs in relation to former R.5, R.6, R.8, R.10 and R.11 also applying to DNFBPs.

#### **Criterion 22.1**

a) Casinos are OEs under article 5(4) of the AML/CFT Law, although it refers to them as “organizers of games of chance” and makes the distinction between “organizers of games of chance in a game shop” and “other organisers of games of chance”. Article 54 of the AML/CFT Law further specifies that all types of operators, in addition to the CDD measures shall be obliged to verify the identity of the customer: (i) immediately upon entering the premises and upon buying or cashing-in chips or loans for organizers of games of chance in a game shop; and (ii) before payment of the prize, payment of deposit or both for other organisers of games of chance, where transactions are in the amount of EUR 1,000 or more (in MKD equivalent according to the middle exchange rate of the National Bank of the Republic of North Macedonia) on the day the buying, that is, the paying out has been done, regardless of whether the transaction is conducted as one or several transactions that are obviously linked with each other.

b) Real estate agents are recognized as OEs by article 5(2)(a) of the AML/CFT Law.

c) Dealers in Precious Metals and Precious Stones (DPMS) are not explicitly covered as OEs. However, this shortcoming is mitigated by existing prohibition on cash transactions over EUR 3,000 or more in MKD equivalent. According to article 58(1) of the AML/CFT Law it is prohibited to make payments in cash for goods and services in the amount of EUR 3,000 or more in MKD equivalent in a form of one or several transactions that are obviously linked, that are not carried out through a bank, a savings house or an account in another institution rendering payment services. This means that the threshold of USD/EUR 15,000 as per the FATF Recommendations for cash transactions of DPMS cannot be legally reached and would otherwise be subject to sanctions.

d) According to article 7(1) of the AML/CFT Law, public notaries, lawyers and law companies are obliged to apply AML/CFT measures for all activities listed in R.22.1

Article 5(2)(b) of the AML/CFT Law specifies that natural and legal persons providing accounting and auditing services are considered as OEs.

e) Providers of Services to Legal Entities or Trusts (TCSPs) are defined in accordance with requirements of R.22.1 in article 2(35) of the AML/CFT Law. They are considered OEs according to article 5(5) of the AML/CFT Law.

All OEs are required to conduct CDD measures according to article 15 of the AML/CFT Law. However, the shortcomings identified in R.10 are also applicable to DNFBPs.

**Criterion 22.2** – Record-keeping requirements specified in article 62 of the AML/CFT Law are applicable to all OEs. However, the shortcomings identified in R.11 are also applicable to DNFBPs.

**Criterion 22.3** – Requirements regarding PEPs specified in article 42 of the AML/CFT Law are applicable to all OEs.

**Criterion 22.4** – New technologies requirements set in article 11(6) of the AML/CFT Law are applicable to all OEs. However, the shortcomings identified in R.15 are also applicable to DNFBPs.

**Criterion 22.5** – Requirements regarding reliance on third parties specified in article 49 of the AML/CFT Law are applicable to all OEs.

#### *Weighting and Conclusion*

All relevant DNFBPs are considered OEs except for DPMS (although the threshold for DPMS engaging with cash transactions equal or over USD/EUR 15,000 cannot be legally reached) and therefore they are required to comply with requirements of R.10, R.11, R.12, R.15 and R.17 similarly as financial institutions. The shortcomings identified in R.10, R.11 and R.15 are also applicable to DNFBPs. **R.22 is rated Largely Compliant.**

#### *Recommendation 23 – DNFBPs: Other measures*

In the 2014 MER, North Macedonia was rated Partially Compliant with former R.16. The deficiencies identified were reporting obligations not referring to funds that are proceeds of criminal offences; TF suspicions limited to transactions and clients and not also to funds; internet casinos being outside the scope of the reporting obligations; no guidance being applicable to DNFBPs to further explain the content of AML/CFT internal programs requirements; and no possibility for North Macedonia to introduce counter-measures.

**Criterion 23.1** – Article 65 of the AML/CFT Law requires all OEs to report suspicious transactions. As explained in c.22.1, all DNFBPs, except DPMS, are covered as OEs that have to apply AML/CFT measures, including submitting STRs.

**Criterion 23.2** – Article 12(1) of the AML/CFT Law specifies that OEs have to prepare and apply a program for efficient reduction and management of the identified risk of ML/TF. These requirements apply to all OEs, therefore they are binding for all covered DNFBPs. However, shortcomings identified under R.18 are also applicable to DNFBPs.

**Criterion 23.3** – Article 43 of the AML/CFT Law sets measures for compliance with higher-risk countries requirements for all OEs (see R.19). Therefore, they are binding for all covered DNFBPs.

**Criterion 23.4** – Article 72 and 73 of the AML/CFT Law govern compliance with tipping-off and confidentiality requirements for all OEs (see R.21). Therefore, they are binding for all covered DNFBPs.

### *Weighting and Conclusion*

The AML/CFT legal framework of North Macedonia incorporates minor deficiencies regarding requirements of R.23 due to shortcomings identified in R.18. **R.23 is rated Largely Compliant.**

### ***Recommendation 24 – Transparency and beneficial ownership of legal persons***

In the 2014 MER, North Macedonia was rated PC with former R. 33. The deficiencies identified were that the registration process did not ensure an adequate level of reliability of the information registered, and that the transparency of the ownership structure did not provide information on beneficial ownership.

#### ***Criterion 24.1***

Under the laws of North Macedonia, a variety of legal persons can be established. The Law on Trade Companies sets out the requirements for the establishment of general partnerships, limited partnerships, limited liability partnerships, joint stock companies, limited partnerships with stock and economic interest groups. In addition, it also provides for the registration of foreign companies that are to set up a representative office or branch in North Macedonia. The Law on Trade Companies, publicly available through the website of the Central Register, sets what are the forms and basic features of the different types of trading companies.

The laws of North Macedonia also provide for the creation of social organisations, foundations and citizens' associations under the Law on Foundations and Associations as well as for the creation of cooperatives under the Law on Cooperatives. In addition, there are a number of other legal persons that can be established as part of the country's social and commercial life such as religious communities which can be established under the Law on Religious Communities and Religious Groups, political parties and unions which can be established under the Law on Political Parties, and commercial associations under the Law on Chambers of Commerce. Under the Law on Institutions and the Law on Public Enterprises, legal persons can be set up for the purposes of government, local self-government and the running of commercial activities by the State. The respective laws set out the different types, forms and basic features of these legal persons.

The process to be followed to create any of these legal persons is set out in the respective laws. Each law also provides that a legal person created in terms thereof has to be registered in a specific register, with the registration process requiring the disclose of basic information on the legal person in question. All of the said basic information is publicly available in Macedonia's and can be accessed through the "one-stop-shop" system run by the Central Register. While it does not seem that all of the laws in question are publicly available in the Central Register's website, authorities advised that their publicity is achieved through the Official Gazette of North Macedonia. The Central Register's website contains information on the process to establish legal persons in Macedonia's, however, it could not be ascertained whether this information covers all the different kinds of legal persons that can be established under the laws of North Macedonia.

The AML/CFT Law sets out the process for obtaining and recording beneficial ownership data for the different legal persons that can be established under the laws of North Macedonia. Beneficial ownership data is to be disclosed to the BO Register with the data disclosed therein being publicly available through the Central Register's website. The said law, which is publicly available on the website of the Central Register, is complemented by instructions and manuals issued by the Central Register.

***Criterion 24.2*** – North Macedonia is in the process of assessing the ML/TF risks associated with the types of legal persons that can be created under its laws as well as the ML/TF risks associated

with foreign entities that have links to the country. However, some elements of ML/TF risks associated with legal persons have been considered in the 2016 and 2020 NRA.

**Criterion 24.3** – Article 90 of the Law on Trade Companies sets out which trade entities are to be registered with the Trade Register maintained by the Central Register. All the types of trade companies referred to under Criterion 24.1 hereabove have to be so registered. Specific provisions govern the information that needs to be submitted for registration of a trade company with the Trade Register: (i) general partnerships – Article 115; (ii) limited partnerships – Article 153; (iii) limited liability companies – Article 182 and Article 183; (iv) joint stock companies – Article 298. These reflect the requirements of c.24.3. However, the authorities of North Macedonia have confirmed that with respect to limited partnerships with stocks and economic interest groupings there is no specific provision setting out what information has to be provided to the Trade Register when registering any such legal person, with the Central Register applying by analogy the requirements applicable to the other trade companies.

Article 40 of the Law on Associations and Foundations provides for the registration of any such legal person established under the laws of North Macedonia as well as any association or foundation established under a foreign law but operating in North Macedonia. The specific information that needs to be submitted to the Central Register for entry of the said legal persons in the Register of Other Legal Entities is set out under Article 41. Similar registration requirements are set out under Article 7 of the Law on Cooperatives, Article 18 of the Law on Political Parties, Article 19 of the Law on Chambers of Commerce, and Article 9 and Article 12 of the Law on Religious Groups and Religious Communities. The data entered in the respective registries maintained by the Central Register is designated as public records and members of the public can have access thereto upon request and through the Central Register website. Documents can also be downloaded against payment. This data covers all the requirements of c.24.3 with the exception of the basic regulating powers and the list of the administrators.

**Criterion 24.4** – Under the Law on Trade Companies, limited liability companies have an obligation under Article 210 to retain a copy of all the information and documents submitted to the Trade Register at their head office. The same applies with respect to joint-stock companies under Article 319 of the Law on Trade Companies. However, no analogous provision could be found with respect to the other types of trade companies that can be established under the Law on Trade Companies.

With respect to the maintenance of a register of shareholders or members, the Law on Trade Companies provides that the manager of the limited liability company is to maintain a book of shares at the company's head office which is a record identifying the different members and the amount of the contributions acquired, paid or agreed to pay, additional payments and non-monetary contributions and the number of votes and special rights and obligations arising from the share, among other information (Article 195). For joint stock companies, there must be a book of stocks to be held by the Central Securities Depository (Article 283).

In the case of general or limited partnerships, including in the case of a limited partnership with stocks, there does not seem to be an obligation to maintain any such register though the information on the partners would result from the articles of association. However, as already referred to hereabove, it is not clear whether partnerships have an obligation to retain a copy thereof and where this should be held.

With respect to other legal persons, only associations have an obligation to keep a register of their members under Article 20 of the Law on Foundations and Associations, which they have to update

at least once every 2 years. None of these other legal persons, including associations, have an obligation to retain the basic information of c.24.3.

**Criterion 24.5** – Changes to data, information and documentation provided as part of a trade company’s registration process, which would cover changes to a company’s basic information, need to also be registered with the Trade Register and failure to do so may fall to be considered as misdemeanours subject to a fine in terms of Article 599 – Article 604 of the Law on Trade Companies. However, it is not clear (a) whether there are any timeframes, other than those indicated below, applicable for the submission of any such new information; and (b) whether this obligation actually covers all the data, information and documentation filed with the Trade Register for initial registration. In particular, Article 182(4) for limited liability companies, Article 298(2) for joint stock companies, and Articles 115(4) and 153(5) for general and limited partnerships make no reference to a change to the statutory documents of the trade company, which set out the basic regulatory powers, having to be communicated to the Trade Register.

Changes to the information set out in the book of shares and to the book of stocks have to be duly recorded in line with the requirements of Article 195(2) and Article 283(4) respectively. Changes to the book of shares are to be recorded without undue delay and communicated to the Trade Register within 3 days of the said change having been entered into the book of shares. Failure to do so would amount to a misdemeanor and be subject to a fine in terms of Article 601 of the Law on Trade Companies. Changes to the book of stocks would take place in line with the execution of the trades on the stock market or through other means allowed by law.

It is not clear how the accuracy of any data provided for entry to the Trade Registry is ensured, as Article 94 of the Law on Trade Companies provides that *‘During the entry the legality and validity of the content of the attachments (documents and proofs) submitted upon the entry in the trade register nor the legality of the procedure regarding their adoption shall not be inspected, nor shall be inspected whether the data entered in the trade register are valid, nor whether they are in accordance with law. The person, that is persons determined by this Law shall be liable for their validity and legality’*. Thus, the issue highlighted in the 2014 MER has not been acted upon.

The laws providing for the creation of legal persons other than trade companies do set out that changes to the information or documentation provided to the Central Register have to be communicated to the said Register in the following cases: (i) associations and foundations; (Article 46 of the Law on Foundations and Associations); (ii) religious organizations (Article 17 of the Law on Religious Communities and Religious Groupings); (iii) political parties (Article 27 of the Law on Political Parties) and chambers of commerce (Article 21 of the Law on Chambers of Commerce). Any such change has to be reported to the respective register within 30 days within it taking place (15 days for religious organizations). However, it is only in the case of associations and foundations that the law provides for sanctioning any failure to do so while cooperatives are under no such obligation. No information was provided on how the accuracy of information is ensured. With respect to the updating of their register of members, see c.24.4 above.

### **Criterion 24.6**

a) North Macedonia put in place a Beneficial Ownership Register hosted by its Central Register on January 2021, which has been active since April 2021. The legal persons that are subject to beneficial ownership disclosure obligations are set out under Article 31(1) of the AML/CFT Law, which includes all forms of legal entities, except for budget users<sup>47</sup> and companies undergoing liquidation. However, this has been explained on the basis that the law prescribes who is to be considered the beneficial owner in these cases, under articles 24 and 26, respectively. Beneficial ownership data and any subsequent changes have to be disclosed to the Register within 15 days (as against 8 days under the previous AML/CFT Law) from the date of registration or the change taking place. The disclosed data allows the identification of the beneficial owner(s) and of the respective legal entity, as well as how the beneficial owner exercises ownership or control.

In the terms of Article 20 of the AML/CFT Law, beneficial ownership of legal entities is determined on the basis of (i) the direct or indirect ownership or control of a given percentage of shares, stocks or voting rights; or (ii) other forms of control. If no individual meeting the said criteria can be found, then the beneficial owner is deemed to be the individual holding a high management position within the legal entity. All the Guidance Documents and Handbooks provided in this regard and issued by the FIU and the Ministry for Finance reflect this definition.

Access to the said data is granted by Article 33(1) to a series of authorities which is sufficiently wide to be considered to include all relevant competent authorities, including the FIU, the courts and all relevant LEAs and Ministries covered under Article 130(1) of the same law, as well as all supervisory authorities from Article 151(1).

Article 35 of the AML/CFT Law does point at the Central Register carrying out checks to determine whether legal persons have complied with their obligation. Where the Central Register notices any issues, it is to report the same to the FIU which may take action and, should the issue be confirmed, the legal person may incur a fine under Article 192(1) of the AML/CFT Law. This would complement the FIU's role under Article 151(6) of the AML/CFT Law as supervisor over those legal entities that have beneficial ownership requirements.

In addition, OEs are under an obligation to ensure that legal persons report beneficial ownership information and that this is kept updated, as they are under the obligation not to proceed with a transaction or a business relationship, as well as report to the FIU, should they conclude that beneficial ownership data has not been disclosed or updated. There is no obligation on the part of the Register or other authorities that have access to the said register to report issues they may come across in relation to update or accuracy of the information.

b) Article 28 of the AML/CFT Law obliges all legal entities that can be established under laws of North Macedonia to possess and keep adequate, accurate and updated data and documents on their beneficial owner(s), which allows for their identification and is accessible by competent authorities. Failure to comply with this obligation could result in a fine under Article 192. In addition, under Article 28(4) of the AML/CFT Law, beneficial owners have an obligation to disclose the necessary information to the legal person to allow it to meet its obligations at law.

c) Article 19 of the AML/CFT Law obliges OEs to determine who is the beneficial owner and to identify and verify the identity of the same and keep the said information up-to-date, which can be made available to the FIU and other supervisors (see R.9).

**Criterion 24.7** – The analysis carried out under c.24.6 is also applicable here. Legal entities and OEs are both required to have adequate, accurate and updated information on beneficial

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<sup>47</sup> Budget users is a wide category of entities that are an expression of the State.

ownership. However, no information has been provided on the controls to ensure that the beneficial ownership information held by legal entities is updated, and that the legal entity has correctly determined who the beneficial owner is. In addition, while there may be safeguards in place to ensure that the correct information is included in the Register with respect to beneficial owners that are citizens of North Macedonia or have been resident there for over a year by extracting the relevant information from a centralised database as set out in Article 31(3)(3) of the AML/CFT Law, it has to be pointed out that this does not extend to foreign individuals who are not resident in North Macedonia. While in this latter case data should be taken from a valid identification document, there is no obligation to submit the said document to the Register which entails that there is no verification carried out to ensure that the data is correct.

#### **Criterion 24.8**

a) Article 30 of the AML/CFT Law imposes an obligation on the authorised representative of a legal entity (registration agent), who may or may not be resident in North Macedonia, to enter beneficial ownership data in the Beneficial Ownership Register. However, the information provided was limited to the authorised representative's role with respect to the entry of information in the Beneficial Ownership Register. No explicit reference in the legislation is made in relation to whether the said authorised representative could also be contacted by competent authorities, other than the FIU when the registration agent is also an OE, to assist them and to obtain basic and beneficial ownership information of the legal entity.

b) The registration agent can be a lawyer or an accountant, as an individual and as a firm.

c) No comparable measures to the ones required by c.24.8(a) and c.28.4(b) were identified.

**Criterion 24.9** – Article 31(5) of the AML/CFT Law sets out that data entered into the Beneficial Ownership Register is to be retained for 10 years following the deletion of the legal entity concerned. This would equally apply with respect to historical beneficial ownership data.

Article 62(1) of the AML/CFT Law sets out the obligation of OEs to retain data, information and documentation collected to comply with the AML/CFT Law for a period of 10 years starting from the date of when the transaction took place or, in the case of a business relationship, from the date of the last transaction. If the OE ceases to exist, the said data, information and documentation is to be retained by its legal successors or, failing this, by the OEs' founder(s).

Article 28(6) of the AML/CFT Law provides for a ten-year retention period to be applicable to legal persons that are to obtain and retain beneficial ownership information, though it seems that the way it is worded would fall foul of Criterion 24.9. Currently the text states that data is to be retained '*within ten years from the day of the establishment of the legal entity, i.e. from the day of the change of the beneficial owner of the legal entity*'. Thus, the ten years would start to run not from the termination of the legal person but rather from the initial set-up of the company or from a change in beneficial ownership. In addition, no information was provided as what happens to the said information should the legal entity ceases to exist prior to the lapse of the said period.

**Criterion 24.10** – Article 33(1) of the AML/CFT Law provides that '[t]he data that are entered in the register shall be available directly and on the basis of an electronic access to the following: the FIU; the competent state prosecution bodies; the courts; the bodies that conduct supervision referred to in Article 130 paragraph (1) and Article 151 paragraph (1) of this Law; the entities referred to in Article 5 of this Law; and other natural or legal persons. This ensures that data from the beneficial ownership register is accessible to competent authorities.

With regards to the access of beneficial ownership information held by individual OEs reference is made to the analysis under R.9 which would be equally applicable with respect to all OEs in the

cases of any competent authority seeking access thereto. Competent authorities, including FIU and Financial Police, can access beneficial ownership data held by the individual legal person.

**Criterion 24.11** – While there is no explicit prohibition against the issue of bearer shares or bearer share warrants, the obligation to have share and stockholders registered, including any changes thereto, and the fact that the said information is either communicated to the Trade Register or is otherwise published by the Central Securities Depository means that it is not possible for any bearer shares or bearer share warrants to be issued.

**Criterion 24.12** – While OEs would need to carry out the requisite CDD measures with respect to the nominee (agent) and the customer (principal) whenever engaging with a business relationship or an occasional transaction, no requirements have been put in place in relation to c.24.12 due to the authorities belief that the phenomenon of nominee shareholders and directors cannot take place in North Macedonia, even if a formal legal prohibition is missing.

**Criterion 24.13** – Article 601 of the Law on Trade companies provides misdemeanour penalties to be applied to limited liability companies that fail to update the information provided at the registration stage, to keep the shareholder's register properly updated and for the late filing of financial statements, which range from EUR500 to EUR10,000 for the entity itself and between EUR100 and EUR500 if are also to be imposed to the company's responsible person. Article 602 provides for the equivalent misdemeanour penalties applicable to joint stock companies. However, no information was provided as to whether any sanctions are applicable if other types of legal entities fail to retain any of the basic information of c.24.3.

With respect to the sanctions that may be imposed on OEs that fail to comply with obligations relative to the beneficial ownership of their customers under the AML/CFT Law, these would range from 5,000 to 40,000 EUR for legal entities (depending on their trading size), according to article 187, and between 12,000 and 15,000 EUR for natural persons (article 190).

With respect to legal entities, Article 192 of the AML/CFT Law considers a failure to comply with the requirements of Article 28(2) (to obtain and keep BO information) and of Article 31 (to submit such information to the Register) to constitute a misdemeanour. A fine is applicable, the value of which is dependent on whether the legal entity is a large, medium, small or micro trader. The highest amount that can be imposed is EUR15,000 whereas the lowest is EUR 5,000. An additional fine is to be imposed on the legal entity's responsible person, which can range from EUR2,250 to EUR 750. No information was provided as to whether failure by the beneficial owner to make available the necessary information would result in the imposition of any sanction.

It is highly questionable that the said amounts can be proportionate, effective and dissuasive sanctions, especially considering that a mandatory settlement procedure that would result in half the minimum prescribed amount would also be applicable here. It has to also be remarked that there do not seem to be ulterior measures provided for other than pecuniary fines to address situations where legal persons refuse to disclose beneficial ownership information.

#### **Criterion 24.14**

(a)-(b) Basic information and data entered into the Central Register is publicly accessible, while documents are only accessible to the public for a fee. While both the fee and the language may act as a barrier for foreign competent authorities to directly access the same, the public nature of the said information as well as the waiver of fees should allow any competent authority to access the same and provide the necessary assistance to their counterparts abroad.

c) Beneficial ownership data available through the Beneficial Ownership Register is public and accessible to competent authorities, who may use it for any competences at law including

exchanging information with foreign counterparts. With respect to access to beneficial ownership information collected by the OE, the analysis under R.9 and R.40 applies. In addition, authorities would be able to access beneficial ownership information held by the individual legal entities.

**Criterion 24.15** – The FIU seemingly carries out some form of assessment of the quality of the assistance it receives from its counterparts, limitedly to beneficial ownership data. It is unclear whether any statistical records in this regard are maintained. No information was provided as to whether other competent authorities seeking assistance from counterparts abroad with respect to basic and beneficial ownership information have any similar procedure in place.

#### *Weighting and Conclusion*

There are a series of deficiencies noted with respect to the retention of basic information and, while the introduction of a beneficial ownership register for legal persons is a laudable initiative, the safeguards in place to ensure that the data within it is current, accurate and up-to-date are too limited. This undermines the utility of said register as a tool for competent authorities to meet their obligations and to use in the carrying out of their functions at law, including assisting foreign counterparts. In addition, the level of sanctions applicable with respect to failures related to beneficial ownership obligations cannot be considered as being effective, dissuasive and proportionate. **R.24 is rated as Partially Compliant.**

#### *Recommendation 25 – Transparency and beneficial ownership of legal arrangements*

In the 2014 MER, it was concluded that former R. 34 was not applicable to North Macedonia.

##### **Criterion 25.1**

a) North Macedonia does not allow for trusts or similar legal arrangements to be established under its laws and it has not ratified the Hague Convention on the Law applicable to Trusts and on their Recognition.

b) The laws of North Macedonia do not provide for the establishment of trusts governed by its laws.

c) One of the activities that attracts AML/CFT obligations under the current AML/CFT Law is that of providers of services to legal entities or trusts (“TCPS”) which includes situations where an individual or legal entity in the scope of their operations acts as or engages another entity to act as a trustee or a similar legal arrangement established by an explicit statement.

As such the said OEs would have to comply with CDD obligations and retain on file data, information and documentation on the parties to the foreign trust that they service up to ten years from the date of the executed transaction or from when the business relationship is terminated (Art.62 of the AML/CFT Law), including on its beneficial owners (Article 19). In terms of Article 22(1) the beneficial owner of a trust, would cover the following: (i) the settlor; (ii) the trustee; (iii) protector, if any; (iv) a beneficiary or a group of beneficiaries under the conditions that the future beneficiaries are determined or may be determined; (v) another natural person who through direct or indirect ownership or in any other manner controls the trust. It is not explicitly stated that the information to obtain and retain would include that in relation to other regulated agents and service providers involved with the trust.

**Criterion 25.2** – OEs under the current AML/CFT Law have on-going monitoring obligations, which includes the obligation to ‘regularly check and update the documents and data on the clients, the beneficial owners and the risk profile of the clients with which it has established a

business relationship' (Article 37 of the AML/CFT Law). This would include trustees residing or established in North Macedonia.

Under the AML/CFT Law, trusts and other legal arrangements are also bound to hold adequate, accurate and up-to-date beneficial ownership information and documents, even if not established under the laws of North Macedonia, if they meet one or more of the specific conditions set out under Article 28(1) indicative of ties with North Macedonia<sup>48</sup>.

**Criterion 25.3** – There is no express requirement under the laws of North Macedonia for a trustee to disclose in what capacity it is acting. The provisions requiring an OE to determine whether one is acting in one's own name or own behalf or whether one is acting in some other capacity, together with the obligation to establish who is the customer and the beneficial owner, put the obligation on the OE to determine in what capacity one is acting and not on the trustee.

**Criterion 25.4** – Trustees are under no such impediment under the laws of North Macedonia. As explained in R.9, articles 71 and 74 of the AML/CFT Law do not allow for business secret or classified data to be impediments for the submission of data, information or documents in accordance with the Law.

**Criterion 25.5** – Any information collected by an OE, be it a trustee or another OE contracted by the trustee, on a trust, including its beneficial ownership, would be accessible to the FIU and to AML/CFT supervisors. This may very well not include information on other service providers as there is no CDD requirement obliging the trustee or any other OE to hold such information. With respect to access to the said information by other competent authorities, in particular law enforcement authorities, reference can be made to the analysis under R.9(a) which would be equally applicable with respect to information collected in the course of complying with one's AML/CFT obligations even if one is a DNFBP.

**Criterion 25.6**

a) North Macedonia does not, at present, require trustees to register any information on the trusts they service to any form of register or other authority. However, there would be no obstacle to authorities exchanging information in their possession on trusts with foreign counterparts.

b) As already remarked under R.9 there is no obstacle for competent authorities to exchange information domestically one with the other.

c) Under R. 40, LEAs are empowered to satisfy requests on behalf of foreign counterparts, including those that relate to legal arrangements.

**Criterion 25.7** – To the extent that the trustee is located in North Macedonia, it is possible for sanctions to be applied thereto for failure to fulfil its' AML/CFT obligations or hold beneficial ownership information. The same applies with respect to any other OE. The failure *per se* would be considered as a misdemeanour and fines would be applicable in line with Article 189 to Article 192 of the AML/CFT Law. Concerns about their proportionality, effectiveness and dissuasiveness can be observed throughout the report, in particular in the analysis under R.35.

**Criterion 25.8** – The AML/CFT Law considers a failure to reply to a request for information by the FIU as a misdemeanour and as therefore attracting a fine under Article 186 and Article 189 of

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<sup>48</sup> In addition, as of January 2025, trustees established or residing in North Macedonia as well as trustees of trusts having only links with North Macedonia will have the additional obligation under Article 31(2) of the AML/CFT Law to report beneficial ownership information of any such trusts in the same manner as is done at present for legal persons established under the laws of North Macedonia. It is noted that unlike what is provided for in the case of legal entities, there is no obligation on the said trustees to update the information provided to the Beneficial Ownership Register should there be a change in the same.

the said law, depending upon whether information is requested from an entity or an individual. In the case of an entity, the fine varies depending upon its classification as a large, medium, small or micro trader, with the highest possible fine being EUR 120,000 and the lowest EUR 20,000 in MKD equivalent. For individuals the highest possible fine is EUR 40,000 and the lowest EUR 30,000. With regards to whether they are proportionate, effective and dissuasive, reference is made to the analysis under R.35.

In addition, North Macedonia has also provided information as to what would be the applicable sanctions where the refusal relates to a request for information received from the public prosecutor. In such instances, a demand can be made by the said prosecutor to the courts to impose a fine in the amount of 2,500 to 5,000 EUR in MKD for the responsible officer and a fine in the amount of 5,000 to 50,000 EUR in MKD for the legal entity. However, no additional information was provided as to what would be the applicable sanctions if the request is received from an authority other than the FIU or the public prosecutor.

Moreover, it has to be considered that as highlighted under Criterion 25.1(c) not all the information referred to under the same would be available to OEs.

#### *Weighting and Conclusion*

North Macedonia does not allow for trusts or similar legal arrangements to be established under its laws and it has not ratified the Hague Convention on the Law applicable to Trusts and on their Recognition. While local TCSPs and trustees are covered as OEs, they are not required to obtain and retain information on other service providers to the trust (c.25.1(c) and c.25.8) and, therefore, it is not available to the authorities (c.25.5). There are no explicit requirements for trustees to inform other OEs about their status (c.25.3). Concerns in relation to the proportionality, dissuasiveness and effectiveness of the sanctioning regimes (c.25.7 and c.25.8) are also applicable here. **R.25 is rated Partially Compliant.**

#### *Recommendation 26 – Regulation and supervision of financial institutions*

In the 2014 MER, North Macedonia was rated PC with former R.23. This was in part due to there being no clear legal prohibition against criminals and their associates from holding qualifying participations in insurance companies and agencies; shortcomings in the fit and proper tests applied; and the limited measures applied in the case of leasing companies.

**Criterion 26.1** – The supervisory authorities responsible to ensure compliance with AML/CFT obligations by FIs are set out in Article 151(1) of the AML/CFT Law. The NBRNM is responsible for supervising banks, savings houses, exchange offices, money remitters (fast money transfer providers) and payment service providers (banks and intermediaries in micropayments). The ISA is responsible for supervising insurance companies, brokers and agents. On the other hand, the SEC supervises brokerage companies, persons providing services to investment advisors, banks that are licenced to work with securities as well as the funds sector comprising investment management companies for open-ended, close-ended and private funds as well as the said funds themselves. Managers of voluntary pension funds are subject to supervision by MAPAS. The Postal Agency is then responsible for supervising the Post of North Macedonia, although as already stated it offers no money remittance services.

Article 151(2) of the AML/CFT Law states that the FIU acts as the AML/CFT supervisor for those entities which are not expressly assigned to the supervisory remit of an authority in terms of Article 151(1). This would include those entities conducting the following services listed under Article 2(9) of the AML/CFT Law: (a) financial leasing, crediting, issuance of payment guarantees, avals and other forms of collateral and the issuing of payment means when these activities are

not carried out by banks or by saving houses; (b) advising legal entities on capital structuring, business strategy or other related issues, the provision of services related to merger or acquisition of legal entities, and intermediation in the conclusion of credit and loan agreements, and processing and analysing information on the legal entities' creditworthiness; and (c) keeping or administering/distributing cash. In addition, the FIU also has supervisory remit over the entities that in terms of Article 151(1) of the current AML/CFT Law are already subject to supervision by another authority, which remit would however be limited to 'extraordinary, control supervision', which involves checking specific customer/s and/or transaction/s that either the FIU itself or some other authority would have flagged. The FIU can exercise its supervisory powers either independently or in cooperation with the other supervisory authority.

Two possible issues that may give rise to confusion relate to the investment services sector and the supervisory remit of the SEC in this regard. The first one relates to Article 199 of the Law on Securities, granting the SEC the remit to supervise adherence of all market participants with the requirements of the law, including AML/CFT obligations, which would include entities other than those referred to under Article 151 of the AML/CFT Law (CSD), even if, according to the AML/CFT Law the CSD would fall within the supervisory remit of the FIU. The second issue is the different manner in which particular investment services are referred to under the definition of 'financial institution' under the AML/CFT Law and under Article 94 of the Law on Securities.

**Criterion 26.2** – Core Principles financial institutions are mostly subject to licensing. Banking activity can only be carried out by those entities that have been granted a licence by the Governor of the NBRNM as per Article 3 of the Banking Law. Insurance activities are subject to licensing by the ISA under Article 7 (insurance companies), Article 134 and Article 134-a (insurance agency), and Article 137 and Article 145 (insurance brokerage). With respect to the securities sector, the SEC is responsible for licensing stock exchanges (Article 74), depositories (Article 33), brokerage activities (Article 97) and investment advisory companies (Article 148) in terms of the Law on Securities. Under the Law on the Investment Funds, the SEC is also responsible for licensing investment management companies for close-ended and open-ended funds (Article 9) as well as the respective funds themselves (Article 148). Investment management companies for private funds and private funds themselves are subject to a registration system (for which there have been instances of refusal due to ML concerns), which may not be up to the same standards of a licensing regime, as the actual level and extent of checks carried out could not be determined.

With respect to other FIs, money remitters are subject to registration by the NBRNM in terms of Article 5 on the Law on providing fast money transfer services. In line with the Law on Payment Operations, electronic money can only be issued by an entity that has been duly licensed by the Governor of the NBRNM (although there are no operators as of the time of this report) or by an already licensed bank whereas payment services, with the exception of micro payment intermediaries, are to be carried out only by banks. Micro payment intermediaries have to be registered with the NBRNM. Currency exchange activities are also subject to authorisation by the NBRNM while leasing and financial companies (small credit providers) are subject to licensing by the Ministry for Finance, the latter of which carry out financial leasing, factoring, issuing and administering credit cards, issuing guarantees and approving credits. MAPAS is responsible for licensing managers of mandatory and voluntary pension funds.

With respect to shell banks, the AML/CFT Law (Article 59) prohibits OEs from establishing a correspondent banking relationship with any such bank. In addition, shell banks are prohibited from providing their services within North Macedonia which, together with the requirements imposed under the Banking Law when it comes to the physical presence of banks, excludes the possibility that shell banks are established or allowed to operate within North Macedonia.

**Criterion 26.3 – Banking Activity** – A qualifying shareholding is defined in Article 2(21) of the Banking Law as the direct or indirect ownership of at least 5% of the total number of shares or the issued voting shares in a bank or through which it is possible to exercise a significant influence over the management of that bank. Article 13(2) provides that no person may be allowed to acquire a qualifying shareholding if, *inter alia*, one is not judged to be of good repute. This ‘denotes honesty, competence, hardworking and character that makes sure that the person will not act towards jeopardizing the safety and soundness of the bank and undermining its reputation and credibility’ [Article 2(28)]. In terms of Article 13(3), one is not considered to be of good repute if one has been convicted, by an effective court decision, for unconditional imprisonment of more than six months, in the period of duration of the legal consequences of the conviction and/or has an associate who has been so convicted. *A contrario sensu*, it can therefore be easily argued that anyone who has not been so convicted is to be considered as a reputable person notwithstanding any other characteristics. Furthermore, it is not clear why this is limited to ‘unconditional’ convictions only. Therefore, the law as it currently stands may pose a restriction on the NBRNM’s ability to effectively assess reputation.

The said conditions have to be met upon applying for a licence as well as when one is intent on acquiring directly or indirectly, immediately or gradually, a holding of over 5%, 10%, 20%, 33%, 50% and over 75% in an institution [Article 59(6) paragraph 3]. Should the conditions no longer be met subsequent to approval being granted, Article 153 of the Banking Law allows the NBRNM to withdraw its approval. The acquisition of a qualifying holding by a legal entity would require the disclosure of any of its shareholders holding 10% or more of its share capital, ensuring that any beneficial owner of a qualifying holding is equally identified. In addition, an approval to acquire a qualifying shareholding may not be granted or may be revoked if there are doubts as to the legitimacy of the source of the funds being used or with respect to the reputation or the identity of the qualifying shareholder.

In addition, one has to remark that even the concept of ‘associate’ is quite limited as one can only be deemed an associate of a convicted criminal only if one shares, directly or indirectly, control over a trading company with such an individual [Article 2 (7a)]. Authorities advised that this would be mitigated by taking into consideration the “connected persons and entities” of the applicant, a concept that is present in the Banking Law and further developed in the “Decision on the method of determining connected persons/entities and exposure limits”, although the assumptions for “connected persons” are still quite restrictive and, in any case, this concept does not cover up for the shortcomings in the definition of associate.

Similar conditions apply with respect to the appointment of someone to the Supervisory or Management Board of a bank as well as to any other person that falls to qualify as key personnel which are described under the Banking Law as persons with special rights and responsibilities [Article 83]. In the event that they no longer meet the conditions for their appointment, the NBRNM has the ability to order their removal or replacement. However, in this case the restriction with respect to one being an associate of a convicted criminal is only applicable with respect to appointments to the Management Board.

**Insurance Activity** – Anyone wishing to acquire a qualifying shareholding, defined as a direct or indirect shareholding of 10% or more [Article 16 of the Law on Insurance Supervision], in an insurance company cannot be the subject of a conviction resulting in imprisonment for at least 6 months for specific offences [Article 14(1) para 2 of the Law on Insurance Supervision]. However, it does not result that there is a continuing obligation to observe this condition nor does the ISA have the ability to withdraw any authorisation granted in case a shareholder becomes so

convicted once he acquires the holding. There does not seem to be any grounds on which an associate of a criminal may be refused authorisation to acquire a qualifying holding.

Similar grounds are applicable with respect to appointments to an insurance company's Supervisory and Management Boards [Article 28 and Article 23 respectively of the Law on Insurance Supervision], with the only difference being that this requirement has to be met throughout one's appointment, although only members of the Management Board that no longer meet the requirements for their appointment can be removed by ISA [Article 27(1) of the Law on Insurance Supervision]. In this regard, a rulebook that will establish the principles and methodology for the ongoing review of qualifying holders, Management and Supervisory Board members of insurance companies will come into force after the onsite. It does not seem that any checks are applicable with respect to any other key function holders other than actuaries. With respect to other insurance activities (insurance agents and brokers), it does not seem that there is any form of controls applied on members of their Board.

Securities – Qualifying shareholders need to be of good repute [Article 152-a(2) para 4 of the Law on Securities] and the SEC has issued regulations setting out (Article 4(1)) what documentation it will require to be submitted to it, including 'evidence from a competent authority that the natural person has not been sentenced to imprisonment for criminal offenses in the area of banking, finance, labour relations, property, bribery and corruption'. It is however not clear whether any form of conviction would be considered as detrimental to one's assessment or otherwise. This is also applicable in the case of qualifying shareholdings under the Law on the Investment Funds. However, the SEC does have the ability to withdraw any authorisation so granted in the event that the holder no longer meets the necessary conditions and to withdraw any qualifying shareholding that would have been acquired without its prior approval (Article 152-c(6) of the Securities Law).

With respect to members of the Supervisory Board of a company licensed by the SEC, proposed appointees have to provide evidence that they have not been subject to conviction for criminal offences. The SEC has issued a series of Regulations which set out in more detail the requirements for one to be appointed as director to a company licensed by the SEC, which refer to providing evidence from a competent authority that no misdemeanour sanctions, prohibitions from performing the profession, activity or duty or convictions for crimes in the field of banking, finance, labour relations, property, bribery or corruption have not been imposed against the proposed candidate for director, although no further information seems to be taken into consideration. In addition, it is not clear whether this would be applicable with respect to both members of a Supervisory and Management board where a licensee applies a two-tier board system nor is it clear how extensively the categories of different offences are interpreted. No reference has been made to whether the SEC has the power to remove a director should the said person no longer meet the necessary requirements. There also seems to be no prohibition against associates of criminals holding such positions.

With respect to MVTs (fast money transfers), the law makes provision to exclude anyone who is the subject of an effective court decision for a criminal offence in the area of finance from being appointed as the entity's responsible person or as being entrusted with responsibility to effect money transfers [Article 6(10) of the Law on the provision of Fast Money Transfer Services]. However, not only are these checks fairly limited, but there are no similar disqualifications provided for with respect to shareholders or beneficial owners. This is also the situation with respect to entities authorised in terms of the Law on Foreign Exchange Operations.

With regards to micropayment intermediaries, there is a licensing regime in place, but no controls or checks are applied on its shareholders, beneficial owners or management functions [Article

27-b of the Law on Payment Operations]. As regards electronic money institutions, the Law on Payment Operations extends the relative provisions of the Banking Law to anyone carrying or intending to carry the said activity [Article 34(1)], thus the same shortcomings apply.

With respect to any other financial activities that may be licensed in terms of the Law on Leasing and the Law on Financial Companies, the only checks carried out seem to be limited to ensuring that founders and the manager of the said entities are not subject to prohibitions to carry out a profession, activity or duty, and, for leasing companies, also a lack of an unconditional conviction of at least six months. Regarding pension fund management companies, only a limited element of fit and properness is considered in regards to qualifying shareholders.

#### **Criterion 26.4**

a) North Macedonia was the subject of a full Basel Core Principles assessment in 2018 and it does not seem that there were any major deficiencies highlighted, with North Macedonia being considered Compliant with 21 of the 29 principles and Largely Compliant with the remaining 8. With respect to the Principles referred to in footnote 78, it was rated Largely Compliant with 5 principles and Compliant with the rest.

Similarly, North Macedonia was also the subject of an ICP observance exercise in 2018. There were 7 principles that are relevant even in the area of AML/CFT that were only Partly Observed, including the ICP dealing with Suitability of Persons, and an additional principle that was assessed as not being Observed at all. Since then, several actions have been taken to address the shortcomings, including legislative amendments and an increase in the focus on AML/CFT.

With respect to the SEC, it has made available a self-assessment questionnaire which considers that it is compliant with IOSCO standards. However, the said questionnaire only focuses on IOSCO Principles 1 to 5 which are outside the scope of this assessment.

In terms of Article 151 of the AML/CFT Law, all FIs present in North Macedonia are subject to supervision, be they be part of a group or otherwise. With respect to group supervision, information has only been provided in relation to banks, although there are no banking groups in North Macedonia. In this regard, the NBRNM could perform group-wide supervision by extending the same principles and measures applicable to individual banks being extended to the whole group. Article 120 of the Banking Act providing for consolidated supervision does not make direct reference to AML/CFT but a series of decisions have been adopted by the NBRNM which would see ML/TF risks and the measures adopted to manage said risks as part of the wider category of operational risk to which individual banks or banking groups would be exposed to. It has to be remarked that the previously applied methodology within the context of both individual and consolidated supervision was not intended to assess compliance with AML/CFT obligations but rather to assess risks' (including ML/TF risks) influence on the bank's solvency, liquidity and/or profitability, or to impede the fulfilment of the bank's development plan and business policy. Since April 2022, however, a new methodology, targeted to AML/CFT, has been adopted and is in the process of implementation (see c.26.5 and IO.3).

b) All other financial institutions are subject to supervision for compliance with their AML/CFT obligations as indicated under Criterion 26.1 above.

#### **Criterion 26.5**

a) In terms of Article 152 of the AML/CFT Law, the supervisory bodies are obliged to apply the approach based on the risk assessment of money laundering and financing of terrorism. In the process of preparation and implementation of the program or the plan for supervision, the supervisory bodies are obliged to at least take into account: (i) the data on identified risks of

money laundering or financing of terrorism in accordance with the findings of the report for the national risk assessment; (ii) the data on the specific national or international risks related to clients, products and services; (iii) the data on the risk of particular categories of entities, particular entities and other available data on the entities, and (iv) the important events or changes related to the management of the entity and each change of its business activities. It is unclear how this legal provision is ultimately reflected in the supervisory procedures and practices of the supervisors or how it influences the frequency and intensity of supervisory activities undertaken. It is equally unclear how any information on the controls applied by the particular OE, which is not referred to in the said provision, is factored in.

The NBRNM took into account the size, activities and risk profile of the individual bank subject to supervision through the SREP process, which considers ML risk as part of operational risk, and could lead to prioritisation of banks which are not of a particular ML/TF concern for examination. A new standalone ML/TF methodology has been adopted in April 2022 and is in the process of implementation, based on information from questionnaires sent to the sector on a half-year basis, aiming at providing a more focused ML/TF risk score.

The NBRNM can carry out different kinds of examinations which allow it to vary the intensity of an examination on the basis of risk, however, no information has been provided as to it would decide to undertake one kind of examination (including AML/CFT) rather than another.

With respect to other FIs falling within the supervisory remit of the NBRNM, their supervisory cycles and intensity of examinations are either not based on risk (MVTs providers) or cannot be considered to be fully risk based (exchange offices) (see IO.3).

The SEC has formulated a 1.5-year (for high-risk entities) and 3-year (for low-risk ones) supervisory plan. It has a risk assessment methodology for individual OE, upon which to base the frequency and intensity of its supervision, even if, so far, the onsite supervision conducted has not fully matched the risk categorisation of entities.

On the other hand, the ISA's risk assessment did not take into account some aspects that are key to determine ML/TF risk such as the risks presented by the particular products offered or the kind of customers, including beneficiaries, they may be serviced, although since 2022 it started circulating a new annual questionnaire intended to provide a more granular understanding of the risks to which the sector and individual entities are exposed to. The frequency and staff allocated to its onsite supervisory cycle under this new methodology (5 years for all insurance companies, as well as those entities being rated as critical or high risk during the off-site scoring being inspected the subsequent year) could still benefit from further reinforcements.

With respect to the FIU, please see the supervisory processes describer under c.28.5. Regarding MAPAS, its supervision covers all OEs under its remit, which are rated as low risk. There is no information on how this supervision would be applied to financial groups.

b) Please refer to c.26.5(a). The article quoted above does provide for supervisors to take into account the ML/TF risks of the country. No information was provided with respect to how the said risks are taken into account and influence the risk understanding of the respective supervisor in formulating its supervisory plan and determining the frequency and intensity of the supervisory activity it is to undertake with respect to a given sector or a given OE, although it could be argued that the participation in the NRA has influenced the new methodologies recently adopted by the NBRNM, the SEC and the ISA that are in the process of implementation.

c) Please refer to c.26.5(a). There does not even seem to be an obligation on the respective supervisor to consider the discretion allowed to OEs in the application of the risk-based approach as there is no reference thereto under Article 152 of the AML/CFT Law.

**Criterion 26.6** – The AML/CFT Law does not make any express reference to any periodical review of an institution or a group’s risk assessment unless there are changes to its management or its business model. Subject to what has already been stated in c.26.5, information has been provided that the NBRNM does revise its risk assessment for banks at least on an annual basis or even before in the event of significant developments taking place. The SEC and the ISA have circulated questionnaires in 2022 to gather more information from entities under their remit for the purposes of their risk categorisation methodologies, although, at the time of the onsite, the SEC’s methodology was not yet formally adopted<sup>49</sup>. No information was provided with respect to any periodical revision of risk at an individual level by MAPAS or the FIU.

#### *Weighting and Conclusion*

There are serious limitations to the controls applied to ensure that criminals or their associates do not acquire a significant or controlling interest in an FI or to hold a management function within any such institution, although limitations apply to a lesser extent to banks (c.26.3). In addition, there are serious questions as to supervisory processes applied by supervisors as it does not seem that all of them are fully applying a risk-based approach to AML/CFT supervisory activities as required by R 26 (c.26.5-c.26.6). In addition, group supervision, in those areas where it is actually catered for, is not considered adequate, which is somewhat mitigated by the fact that there are no group-wide FIs in North Macedonia (c.26.4). Minor issues also remain with respect to the licensing of private funds and their management companies (c.26.2). Equally minor issues may be present in so far as clarifying the AML/CFT supervision remit over FIs carrying out investment services is concerned (c.26.1). **R.26 is rated as Partially Compliant.**

#### *Recommendation 27 – Powers of supervisors*

In the 2014 MER, North Macedonia was rated PC with former R. 29. In part this was due to the inability of certain AML/CFT supervisors to compel the production of documentation from OEs in the context of any supervisory activities.

**Criterion 27.1** – The respective AML/CFT supervisors for FIs are set out in Article 151(1) of the AML/CFT Law. In addition, the supervisory remit of specific authorities in the areas of AML/CFT is further complemented by provisions in sectoral laws – Article 7 of the NBRNM Law and Article 171 of the Banking Law for the NBRNM for the banking sector; Article 158-b of the Insurance Supervision Law for ISA with respect to the insurance sector; and Article 199 of the Law on Securities for the SEC.

The FIU also enjoys a supervisory remit, being responsible for supervising all those OEs including FIs for which the AML/CFT Law does not designate a specific AML/CFT supervisor. It can also carry out supervision on other FIs though limitedly to ‘extraordinary, control supervision’. Supervisory authorities are obliged to cooperate and collaborate one with the other, including harmonising their respective supervisory plans.

As already referred to under Criterion 26.1, there may be the need for some further alignment between the AML/CFT Law and the Law on Securities to ensure that there is clarity as to what is exactly the supervisory remit of the SEC.

**Criterion 27.2** – Article 159(1) of the AML/CFT Law provides that the FIU can carry out on-site and off-site, regular, exceptional and control supervision. The NBRNM relies on the powers conferred to it under Article 116 of the Banking Law to carry out inspections on banks and saving houses which can be both off-site or on-site, with the possibility of the latter being full-scope or

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<sup>49</sup> Formally adopted on the 14<sup>th</sup> of November, 2022

targeted to fulfil its supervisory mandate. The ability to do so rests on Article 171(2) of the Banking Law as well as Article 7(10) of the Law of the NBRNM.

This is also reflected with respect to the NBRNM's supervisory remit (including the possibility to carry out on-site and off-site inspections to, among others, ensure adherence to AML/CFT requirements) over fast money transfer operators (Article 29 the Law on Fast Money Transfers) and exchange offices (according to a Decision adopted by the National Bank Council).

As regards payment service providers other than fast money transfer services, these can only be provided by banks and therefore the provisions already referred to with respect to the supervision of banks would find application. The one exception relates to micropayments intermediaries. However, Article 27-f of the Law on Payment Operations allows the NBRNM to conduct on-site or off-site examinations to ensure that the intermediary is adhering to its obligations of the law, including its AML/CFT obligations. With respect to electronic money issuers, the NBRNM powers to carry out supervisory examinations are unclear: while Article 34(1) of the Law on Payment Operations extends a number of the provisions of the Banking Law to the NBRNM's role with respect to electronic money institutions, the said provision makes no express reference to the supervisory powers of the NBRNM. And while Article 34 of the Law on the NBRNM tasks it with the supervision of electronic money issuers, it does not set out what its powers in this regard are to be. It should be remarked that there are at present no electronic money institutions licensed by the NBRNM, which somewhat mitigates the absence of any such powers on the part of the NBRNM. The AT was informed that this is set to be the position until such time as a new law regulating this sector is adopted.

With respect to the insurance sector, Article 160(2) of the Law on Insurance Supervision empowers the ISA to carry out off-field and field inspections on insurance companies to ensure that they are conducting their activities also in line with laws governing their activities. This general supervisory mandate seems to stem from Article 159 of the Law on Insurance Supervision. Given the general character of this reference, it is understood that this would cater also for AML/CFT obligations. Through the application of Article 153 of the Law on Insurance Supervision, the said mandate is extended to also cover insurance intermediary activities.

Article 193 of the Law on Securities empowers the SEC to carry out on-site and off-site inspections for supervisory purposes on all those entities licensed in terms of the Law on Securities. Article 180-a refers to the obligation of authorised market participants, i.e. all those entities licensed by the SEC in terms of the Law on Securities, to abide with AML/CFT regulations. Given that Article 192 provides that inspections are to be carried out with respect to enforcement of this Law, regulations deriving from this Law and the rules of self-regulatory organizations, the powers conferred by Article 193 can be exercised even for AML/CFT purposes. With respect to fund management and investment funds, Article 130 of the Law on the Investment Funds does allow the SEC to carry out indirect or direct supervision, with the latter including on-site examinations.

As regards MAPAS, the authorities of North Macedonia state that it has the legal powers to carry out on-site and off-site inspections on pension companies, i.e. the asset managers of pension funds. However, the legal basis for this power and whether it is exercisable within the area of AML/CFT is not clear.

**Criterion 27.3** – In the case of the FIU, it has the authority to demand any information necessary to carry out its functions at law. Article 128 of the AML/CFT Law provides that '[f]or the purpose of exercising its competencies, the FIU may request data, information and documentation from state bodies, the entities or other legal entities or natural persons in accordance with the provisions of this Law'. In addition, there are a number of other provisions that require OEs to

make available specific information, data or documentation when this is requested by the FIU or by any of the other AML/CFT supervisory authorities.

Furthermore, according to Article 169, any of the FIU officers that carry out supervisory activities are empowered to *'(i) check general and individual acts, files, documents, evidence and information in the scope of the subject of supervision, as well as to request the necessary copies and documents; (ii) request the entity to provide office conditions for work in the business premises of the entity and a person who will be present during supervision for the purpose of timely provision of documentation and information related to the subject of supervision; (...) (v) control identification documents of persons for the purpose of verifying their identity in accordance with the law; (vi) request from the entity or its employees written or oral explanation for matters within the scope of the supervision; (...) (viii) make an inventory of documents found in the business premises; (ix) to have access to the database management system used by the entity for inspection with the help of information technology; and (x) provide other necessary documents, data and information related to supervision'*.

It seems that the NBRNM has the authority to also compel the production of documentation and information for AML/CFT supervisory purposes. However, it has to be remarked that there are some concerns in this regard. While Article 114 of the Banking Act provides that a bank has to provide access to any premise, to the available documentation, including data kept electronically, and provide any documentation requested, Article 117 sets out a definite list of documentation that a bank shall provide for supervisory purposes. The said list is quite limited and focuses especially on the work of the internal audit function. It is acknowledged that there is reference to 'reports and information on the bank's operations' but the wording does not seem to be wide enough to capture all possible information and documentation relevant for AML/CFT supervisory purposes. With respect to foreign currency exchange and fast money transfer operators, they are both under an obligation to make documentation available to the NBRNM upon request. This is set out in Article 31 of the Law on providing Fast Money Transfer Services and in paragraph 19 of the NBRNM's Decision on the Currency Exchange Operations. With respect to micropayment intermediaries, NBRNM officers are empowered to request the overall documentation, information and data under Article 12-g of the Law of Payment Service Providers. However, there is no reference to any such power in the case of off-site examinations. As regards electronic money issuers, the analysis carried out under Criterion 27.2 above is equally applicable here.

The same applies with respect to the ISA, which enjoys similar powers as the NBRNM under Article 160 of the Law on Insurance Supervision with respect to its supervision of insurance companies and other insurance activities subject to the law.

With respect to the SEC, it does have the power under Article 201 of the Law on Securities to compel production of information, documents and data. It is in fact authorised to issue orders to persons from whom it requires the submission of copies or originals of specific documents for their revision and inspection.

In so far as MAPAS is concerned, Article 53 of the Law on Mandatory Fully Funded Pension Insurance confers on the said agency quite extensive powers to compel the production of information and documentation, which powers can be exercised when MAPAS is assessing how the respective entity is complying with its AML/CFT obligations.

However, any shortcomings in this regard, would seem to have been sanitised through Article 157(1) of the recently adopted AML/CFT Law which extends the powers granted to FIU officers conducting supervisory examinations under Article 169 to the officers of any other authority carrying out supervisory work for the purposes of ensuring compliance with the AML/CFT Law.

Thus, any shortcoming in this regard would, for the purposes of AML/CFT, be addressed through this provision. This would include the ability to issue a misdemeanour payment order or initiate a misdemeanour procedure.

**Criterion 27.4** – Under the AML/CFT Law, fines can be imposed for breaches of the AML/CFT obligations arising from the said law and which are deemed to constitute a misdemeanour, i.e. a minor criminal offence. This is one of the options available to AML/CFT supervisors under the said law together with the possibility to have the FI undertake remedial action or otherwise issue a misdemeanour payment order. A misdemeanour payment order is a process that leads to a settlement between the authority and the FI concerned and is a mandatory process that needs to be applied before actually initiating a misdemeanour procedure. Absent particular circumstances referred to in Article 175, all misdemeanours are published following judgement, entailing that those misdemeanours that are settled are not subject to publication.

Misdemeanour procedures are conducted in line with the AML/CFT Law and the Law on Misdemeanours, and may be undertaken either in front of a Court, in front of a so-called misdemeanour authority (or adjudicating authority) or in front of an authorised individual. In this case, it would seem that all misdemeanour procedures undertaken under the AML/CFT Law are determined by a Court exception being made for the SEC which is an adjudicating authority in its own right. The Law of Misdemeanours clearly sets out timeframes for the determination of a procedure in front of a Court, including any appeal, but, when it comes to a procedure taking place in front of an adjudicating authority, it does not stipulate any timeframe within which the said authority has to conclude the process.

Fines are determined on the basis of the breach committed and on the classification of the FI as a micro, small, medium or large trader. The amounts involved, which have been increased when compared to the previous AML/CFT Law, range as follows:

	Article 186	Article 187	Article 188
Large Trader	EUR80,000 – EUR120,000	EUR30,000 – EUR40,000	EUR5,000 – EUR10,000
Medium Trader	EUR60,000 – EUR 80,000	EUR20,000 – EUR30,000	EUR4,000 – EUR8,000
Small Trader	EUR40,000 – EUR60,000	EUR10,000 – EUR20,000	EUR3,000 - EUR 4,000
Micro Trader	EUR20,000 – EUR40,000	EUR5,000 – EUR 10,000	EUR 2,000 – EUR3,000

However, the effects that the mandatory settlement procedure has on the proportionality, dissuasiveness and effectiveness of this sanctioning regime, as laid out in R.35, are also applicable here.

There is also the possibility for the FI to incur a fine equivalent to 10% of its annual turnover generated in the previous fiscal year if the breach is considered as being repeated, committed intentionally or as otherwise resulting in a significant benefit or damage, according to Article 186(11). In addition, in any such case the FI will also be prohibited from carrying out a particular activity. Should any of the conditions set out under Article 186(11) not be met, then it is possible that the court or adjudicating authority may impose a ban, but this will be only temporary. It has to be remarked that Article 186 also allows the FIU to seek the revocation of the licence issued to the FI, which may be temporary or permanent, but it is understood that this would be dependent upon whether the respective supervisory authority is actually empowered to do so and subject to the said authority's discretion whether to actually revoke the said licence or otherwise.

Regarding misdemeanours covered by Article 187 and Article 188, there is no equivalent provision to that of Article 186(11), though under Article 187(10) there still exists the possibility

of imposing a temporary ban on the FI concerned with respect to the carrying out of a given activity. Under neither provision is the FIU empowered to seek the revocation, be it temporary or otherwise, of the FI's licence. It is also of interest to note that none of the provisions referred to so far actually allow the court or adjudicating authority to impose remedial action on the FI concerned as part of its decision.

The NBRNM, the SEC and ISA are all vested under their respective laws with the power to impose a number of disciplinary measures, including the possible revocation, temporary or otherwise, of any licence they have issued. However, the respective laws administered by these supervisors do not provide for any powers to revoke a license on the basis of AML/CFT breaches detected by the FIU.

In the case of the NBRNM, Article 154 of the Banking Act provides that the revocation of a bank licence can take place in a number of instances, including when “the bank fails to meet technical, organisational, personnel or other requirements for conducting banking activities, as specified by the provisions of this law and regulations adopted on the basis of the said law”. No express reference is made to breaches of AML/CFT requirements under the AML/CFT Law. However, it is to be noted that the NBRNM has adopted a Decision on the Management of ML/TF Risks which requires banks to actually implement a series of controls, policies and procedures in line with what is provided for under the AML/CFT Law. Thus, to the extent that the breaches under the AML/CFT Law are procedural in nature, it could be argued that there was also a shortcoming by the given bank to abide by the aforementioned Decision and trigger the licence revocation process. In alternative, it could also be the case that the NBRNM may have imposed remedial action on the bank and it has failed to abide thereto which may also trigger the licence revocation process. However, it is clear that there needs to be further clarity set out in the legislation.

With respect to ISA, it would seem that it has the ability to revoke a licence on the basis of AML/CFT breaches under the AML/CFT Law as Article 165(1)(10) of the Law on Insurance Supervision makes reference to breaches of any other law applicable to insurance which one understands to also include the AML/CFT Law. On the other hand, the SEC's basis to exercise its disciplinary powers including the possibility to revoke one's licence are based on specific grounds set out in Articles 204-222 of the Law on Securities, which can allow for a wide interpretation to include breaches of the AML/CFT Law.

North Macedonia has also stated that MAPAS enjoys the power to withdraw licences it has granted based on gross violations of the AML/CFT Law, but the relevant provision/s setting out this much could not be traced. It is not clear whether it would be able to take measures other than licence withdrawal on the basis of breaches of the AML/CFT Law.

### *Weighting and Conclusion*

The sector-specific supervisory authorities may be subject to limitations as to the exercise of their additional sanctioning powers for AML/CFT misdemeanours not identified through their own supervisory activities and there are concerns about the proportionality, dissuasiveness and effectiveness of the sanctioning regime under the AML/CFT Law due to the effects of the mandatory settlement process. **Therefore, R.27 is rated Largely Compliant.**

### *Recommendation 28 – Regulation and supervision of DNFBPs*

In the 2014 MER, North Macedonia was rated PC with former R. 24 due to the fact that there was no measure in place to prevent criminals or their associates from holding or being the beneficial owner of a casino.

### **Criterion 28.1**

a) Article 57(1) of the Law on the Games of Chance and Entertainment Games provides that the organisation of games within a casino, i.e. land-based casinos, is to take place only once a licence is issued for this purpose by the Ministry of Finance. Once granted, any such licence is valid for 6 years. The provision of online games of chance is also subject to licensing in terms of Article 98(1) and Article 103 of the same Law. In line with Article 4(4), these would also include online games within a casino.

b) There are no measures in place to prevent criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a land-based or online casino. The only checks carried out are with respect to the origin of the funds used for the licensing fee and as capital at application stage. The situation therefore seems to have remained unchanged from the one set out in the 2014 MER.

c) Casinos are considered as OEs in terms of Article 5 of the AML/CFT Law. The provision makes reference to organizers of games of chance, which would cover both land-based and online casinos. In the course of the licensing process prospective operators are required to submit a program as to how they intend to implement AML/CFT requirements. The Public Revenue Office (PRO) is designated by Article 151 of the AML/CFT Law as the AML/CFT supervisory authority for the sector. The FIU can also exercise AML/CFT supervisory powers over casinos in line with Article 151, which supervisory powers it can exercise independently of or in collaboration with the sector-specific AML/CFT supervisory authority.

**Criterion 28.2** – Article 151 of the AML/CFT Law sets out which are to be the AML/CFT supervisory authorities, including for DNFbps. These are: (i) the Public Revenue Office regarding the organizers of games of chance, and legal entities and natural persons that provide services related to real estate brokerage and tax advising, as well as legal entities that accept movable and immovable items as a pledge; (ii) the Commission for Notaries within the Notary Chamber of the Republic of North Macedonia in relation to notaries public ; and (iii) the Commission of Lawyers within the Bar Association of the Republic of North Macedonia in relation to lawyers and law firms.

The FIU has a dual role with respect to supervision of OEs. It is the primary supervisor for accountants and auditors (as well as leasing companies and financial companies (small credit providers) when it comes to FIs), but it is also a secondary supervisor for all the other sectors. As of July 2022, the latter role has been re-dimensioned to cover only so-called extraordinary supervision, with the exception of casinos, real estate agents, lawyers and notaries, for which it still can perform regular supervision, jointly or independently, despite no longer being their primary supervisor.

DPMS are not included as OEs under the AML/CFT Law. However, Article 58(1) of the AML/CFT Law limits payments in cash to amounts below EUR 3,000, be it a payment for goods or one for services, be it in a single transaction or in a series of transactions that ‘obviously’ appear to be linked. This entails that the conditions set by the Recommendations for DPMS to be considered as OEs cannot materialise. While this is the general rule, the same provision also allows for special laws to derogate from the said limit as the EUR 3,000 limitation is applicable only ‘unless otherwise regulated by another law’. Even if there were no laws doing so at the time of the assessment and the authorities advised that the intent of this provision is to allow for lower thresholds to be regulated under certain circumstances, in line with the long-term country strategy to further limit cash, the wording of such provision could benefit from more clarity, so it cannot be interpreted as if the cash limitation could be overruled.

**Criterion 28.3** – All DNFBPs listed under the AML/CFT Law are subject to monitoring by a designated competent authority.

**Criterion 28.4**

a) The powers of the FIU as an AML/CFT supervisory authority have already been examined under c.27.2 and c.27.3. No information was provided as to whether any of the other supervisory authorities mentioned in c.28.1 and c.28.2 have equivalent powers in terms of their own sector-specific laws. However, to the extent that there are any shortcomings in this regard, Article 157 of the AML/CFT law can be said to have addressed the same. The said provision empowers the supervisory authorities mentioned in c.28.1 and c.28.2 to exercise the same powers entrusted to the FIU and its officers for supervision purposes under Article 169. This would include the ability on the part of their officers to even initiate procedures for the issue of a misdemeanour payment order or the initiation of a misdemeanour procedure.

b) In the case of notaries, Article 10 of the Notary Law provides that only those individuals who, amongst others, have not been convicted by an effective judgment on unconditional sentence of imprisonment of over six months can be appointed as notaries. In addition, should there be the suspicion that one committed money laundering or funding of terrorism, the Notarial Council is entitled to take disciplinary action which can also include the permanent deposition from exercising the notarial profession. However, it is to be noted that the requirements to be met only take into account whether one has been convicted of a criminal offence and only as long as this results in an ‘unconditional’ sentence.

Auditors are subject to the Audit Law and can only provide their services if they are duly licensed and issued with a work licence by the Council for the Promotion and Supervision of the Audit of the Republic of North Macedonia. In this regard, it is to be noted that applications for a work licence must also include ‘a certificate from the Central Register of the Republic of North Macedonia that the individual or company is not recorded in the Register of Natural Persons and Legal Entities which are imposed sanction prohibition on practicing profession, performing an activity or duty or temporary prohibition on performing a certain activity’ and, in the case of companies, a certificate from the Central Register of the Republic of North Macedonia that the company is not recorded in the Register of Secondary Sentences for Crimes Committed by Legal Entities kept by the Central Register of the Republic of North Macedonia (Article 23 and Article 24). In the event that any of these conditions are subsequently no longer met, it is possible for the work licence to be revoked (Article 16).

With respect to accountants, the Law on the Performance of Accounting Activities sets out that accounting activities can only be carried out by an individual or an entity which, in accordance with Article 21 of the said law, has obtained a work licence from, and is entered into one of the registers held by the Institute of Accountants and Certified Accountants of the Republic of North Macedonia. To this end, an applicant has to provide amongst others “a certificate from the Central Register of the Republic of Macedonia that it is not registered in the Register of natural persons and legal entities which are imposed a sanction prohibition on exercising a profession, business or office and a temporary prohibition on performing a certain activity” and “a certificate from the Central Register of the Republic of Macedonia that it is not registered in the Register of Secondary Sentences for Crimes Committed by Legal Entities kept by the Central Register of the Republic of Macedonia”. Article 24 allows the said Institute to withdraw the said work licence where ‘the requirements on the basis of which the license has been issued are no longer fulfilled’. Under Article 31 this would result in the deletion of the individual or entity from the relative register permanently. A temporary removal from the said register is also allowed for ‘if a misdemeanour

sanction prohibition on exercising a profession or business is imposed' on the individual or entity concerned.

However, for both auditors and accountants, it has to be remarked that only criminal convictions are here taken into account and only where there is a legal person involved, if at all, as it is not clear what a secondary sentence is. In the case where the applicant for a work licence is an individual the only check carried out relates to whether there has been a prohibition on the said individual from exercising a given profession, business or office. And it does not seem that there is some form of on-going monitoring being performed to ensure that, once met, the relative conditions are met on an on-going basis. In addition, no checks whatsoever are carried out with respect to the individuals who may hold or be the beneficial owners of a significant or controlling interest in the legal person in question or who may otherwise hold a management function therein. Equally, it would not be possible to remove an individual or an entity from the register even if there is a criminal conviction with respect thereto.

The legal profession is subject to the Law on Advocacy, in terms of which the legal profession can only be exercised by an individual that has been registered by the Bar Association and issued a work licence to practice law. Two or more lawyers may associate themselves together to exercise the legal profession. In terms of Article 12(1), a number of conditions have to be met to be granted the said work licence by the Bar Association. One must, amongst others, be of good repute and must not 'been legally sentenced to a penalty, prohibition of performing an activity, profession or duty, during the duration of that penalty'. A temporary ban may be imposed in the case that the legal professional is no longer considered to be of good repute.

It does not therefore seem that there is any explicit requirement to consider criminal convictions or any other information for anyone applying for a work licence as an advocate nor is this expressly a ground that would allow the Bar Association to revoke one's working licence, even if only temporarily. While reference is made to one's overall reputation, it is difficult to understand what this means under the Law on Advocacy on its own, though this could be read in the light of Article 153 of the AML/CFT Law (see below).

There are no market entry requirements in place for real estate agents, TCSPs and tax advisors.

North Macedonia has made reference to Article 153 of the AML/CFT Law, which provides for a wide power for any of the supervisory authorities listed under Article 151 to also obtain information on one's convictions if the same authority is the one issuing permits for the conduct of the particular activity or for appointment of individuals to the said entity's managing body. However, on the basis of the information provided, it has to be noted that (a) none of the activities referred to in the previous paragraph are subject to any form of licensing and therefore Article 153 would not even find application; and (b) even in the case of supervisory authorities in place for the accounting, auditing, legal or notarial professions, as well as for casinos, this provision does not mandate them to obtain and consider the said information but allows them to 'at any time obtain data ex officio on convictions' should this be necessary to assess the reputation of the person in question.

c) The AML/CFT Law provides for the imposition of fines in the event that OEs are found to have committed a breach of their obligations under the said law which constitutes a misdemeanour, i.e. a category of minor criminal offences. DNFBPs may be either legal entities or individuals. As such what has already been stated under Criterion 27.4 is equally applicable to DNFBPs which are legal entities. However, there is a further range of fines applicable to DNFBPs that become applicable where the OE in question is a an individual or a person exercising public powers. The latter would include lawyers, law firms and notaries. Depending on the obligation

breached, the individual or person exercising public powers may incur a fine ranging from EUR30,000 to EUR40,000 (Article 189), from EUR12,000 to EUR15,000 (Article 189) or from EUR2,000 to EUR2,500 (Article 191). However, concerns in relation to the proportionality, effectiveness and dissuasiveness of these sanctions are expressed under R.35.

In addition to the above, under Article 189 and Article 190, a ban is to be imposed on the carrying out of specific activities on the individual or legal entity concerned, which is especially important for those DNFBPs that are not subject to any form of authorisation. The duration of the ban is to be determined by the court or the adjudicating authority according to article 30 of the Law on misdemeanours. However, the application of these articles is not always mandatory, and no indication is given as to whether any such ban would be temporary or permanent. No provision could be noted that would provide for the fine to be increased in the case of a repeated or systematic breach as is the case under Article 186(11) of the AML/CFT Law.

With respect to the ability of any authority governing the activities or professions carried out by OEs qualify as DNFBPs to impose sanctions of a non-pecuniary character and which may complement the fines that can be imposed under the AML/CFT Law, the powers of the Notarial Commission to undertake disciplinary proceedings against a notary for failures of an AML/CFT character should be mentioned. In this regard, it is to be noted that the law governing the notarial profession allows for a permanent dispossession from carrying out the notarial profession in case of the following grounds: (a) failure to take the prescribed measures for preventing the laundering of money and other proceeds of crime and financing terrorism when it is proven that the matters did involve laundering of money and other proceeds from crime; and (b) committing a crime or misdemeanour in the performance of the notary service or other crime or misdemeanour rendering the notary unworthy to perform the notary service or disturbing the reputation of the notary service or the notary.

Additionally, under the respective laws governing the accountancy, auditing and legal profession it could be that the exercise by the Court of its power to impose a ban on the exercise of the respective profession in terms of the provisions of the AML/CFT Law could result in the revocation of one's working licence as described in Criterion 28.4(b) above. Limitedly to the legal profession, it is also possible that any misdemeanour under the AML/CFT Law could result in the loss of one's work licence on the basis that one is no longer of good repute.

No additional information was provided with respect to other DNFBPs, which does not allow to conclude that the range of sanctioning measures available to supervisory authorities is to be considered as sufficiently wide.

**Criterion 28.5** – In line with Article 152 of the current AML/CFT Law, AML/CFT supervisory authorities should adopt a risk-based approach in their supervisory actions. In the process of preparation and implementation of the program or the plan for supervision, the supervisory bodies are obliged to at least take into account (i) the data on identified risks of money laundering or financing of terrorism in accordance with the findings of the report for the national risk assessment; (ii) the data on the specific national or international risks related to clients, products and services; (iii) the data on the risk of particular categories of entities, particular entities and other available data on the entities, and (iv) the important events or changes related to the management of the entity and each change of its business activities.

However, it is not clear how this risk-based approach is applied, if at all, for all DNFBPs. The FIU has deployed a software solution to risk rate OEs (taking into account several factors such as the status and size of the entity, amount of capital and annual income, results of inspections, sanctions imposed, number of STRs and other reports sent to the FIU or the level of ML/TF risk assigned to

its sector by the NRA, among others), although the information it takes into consideration cannot be considered as sufficient to actually result in a risk understanding of the respective sectors or of individual DNFBPs falling within its supervisory remit. In 2022 new self-assessment questionnaires to real estate agents and casinos have been drafted, focusing on the nature of customers serviced, value of transactions or internal controls, among others, whose use should allow for a more holistic understanding of the risk posed by operators that would lead to enhance the risk sensitivity of supervision.

The PRO seems to be still in the stages of formulating its risk-based approach as the information provided suggests that its officers have attended training and are drafting internal policies and procedures that would allow them to supervise on a risk-sensitive basis the OEs falling under its remit. The Notary Commission responsible for AML/CFT within the Notary Chamber seems to adopt some form of risk-based approach that takes into account some relevant elements, but not enough information has been provided to actually determine whether this is in line with the requirements of Criterion 28.5. No information was provided with respect to the risk-based approach, if any, adopted by the Bar Association.

In conclusion, there is no supervisory strategy or methodology applied for all DNFBPs, be it by the individual AML/CFT supervisors in their respective areas or in common between two or more of them (although 2 joint inspections between the PRO and the FIU were carried out in 2022), which does not allow to fully determine how authorities are to conduct supervisory activities on a risk-sensitive basis and calibrate the frequency and intensity of their activities accordingly.

In this context, despite the efforts that are being undertaken by the FIU and the PRO, no DNFBPs supervisory authorities were in possession, at the time of the onsite, of credible risk profiles that would allow them to assess how OEs under their supervision are applying their AML/CFT obligations in accordance with the risks they face.

#### *Weighting and Conclusion*

The absence of any measures to ensure that criminals or their associates do not hold significant or controlling interests or do not hold a management function within a casino or operate a casino had already been highlighted in the 2014 MER and is retained. Additionally, there are other sectors within the DNFBP category where the measures present in this regard are either very limited or not present, as with real estate agents, TCSPs or tax advisors. Sparse or no information is available with respect to the ability of certain AML/CFT supervisors in this area to carry out risk-based supervision and as to their actual powers to do so, whereas there are concerns with respect to whether the sanctions that can be imposed can be considered as effective, dissuasive and proportionate as already expressed under R 35. **R.28 is rated as Partially Compliant.**

#### *Recommendation 29 - Financial intelligence units*

In the 4<sup>th</sup> round MER, North Macedonia was rated LC in respect of the former R.26. Deficiencies pertained to a lack of guidance on the documentation required to be attached to the STR form; unclear and incomplete criteria for allocation of disseminated cases: conflicting provisions in case of money laundering suspicions derived from organised crime; conflicting provisions in case of the ML generating from “financial crimes”; unclear criteria for the authority competent to receive the disseminations in case of financing terrorism.

**Criterion 29.1** – North Macedonia has established a Financial Intelligence Unit. The FIU, which acts as a national centre with responsibility for receiving and analysing STRs and other information of importance for the prevention and detection of money laundering and financing of terrorism, and disseminating that analysis to competent authorities (AML Law Article 75 and

76). Money laundering is prescribed as activities envisaged by the Criminal Code as a crime of money laundering and other proceeds of crime, therefore covering also relevant predicate offences (AML Law Article 1, Article 2).

**Criterion 29.2** – The FIU serves as the central agency for the receipt of information submitted by OEs, including:

a) Receiving of STRs from obliged entities (AML Law Articles 65 and 75).

b) Receiving CTRs for cash transaction in the amount of EUR 15,000 or more regardless of whether it is a single transaction or connected transactions (AML Law Article 63, paragraph 1, Article 64). The FIU is also a recipient of information from the Customs Administration on cross border transportation of cash in the amount of 10,000 EUR or more. This information is made available to the FIU within the three working days timeframe.

**Criterion 29.3**

a) The FIU may request additional information, data and documentation from an entity that has submitted an STR if the information, data and documentation provided are insufficient (AML Law Article 65, paragraph 5). In addition, in order to perform its role as envisaged by the law, the FIU may request data, information and documentation from state bodies, entities or other legal or natural persons (AML Law Article 128).

b) The FIU has access to a wide range of financial, administrative and law enforcement information. This includes free of charge access to extensive list of databases (for a list of databases see IO6.) Furthermore, the FIU is connected to the interoperability platform, which enables the exchange of information between the different state institutions' databases, regardless if the different IT technologies are used for creation and maintenance of these databases (Article 75, paragraph 4, Article 129).

**Criterion 29.4**

a) The FIU has the powers to conduct operational analysis to identify targets, transactions' follow, determine links between targets and potential proceeds of crime and to subsequently disseminate the information to competent authorities (AML Law Article 75, paragraph 1 and 3). However, there appears to be no provision allowing FIU to collect, process and analyse data and initiate cases based on its initiative (AML Law Article 125). On the other hand, the authorities advised that they can initiate cases on their own, basis for which they would find in para 2 of Art.125 (based on information 'submitted by the entities on the basis of Articles 63 and 64 of this Law').

b) The FIU has the powers to conduct strategic analysis to determine trends and typologies of money laundering and financing of terrorism (Article 75, paragraph 3, Article 126, Article 137), using information at the disposal at or available for the FIU. The FIU performs strategic analysis in practice.

**Criterion 29.5** – The FIU is able to disseminate, spontaneously, information and results of its analysis to the competent authorities (AML Law Article 131, Article 75, paragraph 1). The FIU has powers to disseminate information upon request by the competent authorities (AML Law Article 130, paragraph 7). With regard to dedicated, secure and protected channels for dissemination of information from the FIU, there appear to be no regulation in place apart from general rules (AML Law Article 127). All communication from FIU to LEAs and PPO is conducted in a paper-based manner.

**Criterion 29.6** – All data, information and documentation that the FIU collects, analyses, processes and disseminates are classified. An appropriate degree of confidentiality has been put in place in accordance with the regulations on classified data.

a) There are rules and procedures in place governing the security and confidentiality of FIU information, namely, the FIU's Procedure for collection, processing, analysis and submission of data.

b) The Director of the FIU and its staff are subject to security checks in accordance with the regulations on the security of classified information (AML Law Article 82). All employees of the FIU have signed an internal Statement of Confidentiality and non-disclosure of data and information obtained and known at the FIU, which are confidential and to be used in accordance with the purposes set out in the AML Law.

c) There are rules in place to ensure physical security of and access to the FIU's facilities. With regard to handling information, the FIU's Information Security Management Procedures document is intended for all FIU employees. The document describes the procedures for managing information security.

**Criterion 29.7** – The North Macedonia's FIU is an administrative-type FIU. It is administratively and operatively independent in the performance of the competencies prescribed by the AML Law (AML Law Article 78).

a) the FIU is independent in the exercise of the powers prescribed by the Law and has the authority to exercise its powers freely, including deciding on analysis, request, forwarding and submitting the results of its analyses and information, data and documentation to the competent authorities and financial intelligence units of another country (AML Law Article 75, Article 78).

There are some concerns regarding the possible interference of Minister of Finance in the work of FIU (See AML Law Article 75, paragraph 7, Article 81, paragraph 5, Article 138, paragraph 3). Article 81 paragraph 5 includes "carrying out the duty of a director unprofessionally" as a basis for FIU director's dismissal. This is very broadly expressed and non-measurable reason can be abused to dismiss FIU director and thus undermines to some extent FIU's operational independence. There are additional minor shortcomings identified in the autonomy of the FIU discussed under Immediate Outcome 6.

Case monitoring system form, content, manner and deadlines (Article 138, paragraph 3) are prescribed and decided by the Minister of Finance, not FIU director.

b) The FIU is able to make arrangements and engage independently with domestic and foreign authorities (AML Law Article 75).

c) *Not applicable.*

d) FIU shall have the necessary financial means for financing are provided from the Budget of the Republic of North Macedonia (AML Law Article 79). The FIU prepares its own draft budget. The FIU uses its budget independently. However, there appears to be some external involvement of the Minister of Finance in the management of the FIU (AML Law Article 98, paragraph 7, Article 99, paragraph 2, and Article 124, paragraph 2).

**Criterion 29.8** – The FIU has been a member of the EGMONT Group since 2005.

*Weighting and Conclusion*

There are minor concerns regarding the FIU's powers to initiate a case on its own initiative. Additionally, there appears to be no regulation in place regarding to dedicated, secure and protected channels for dissemination of information from the FIU. Furthermore, there are concerns regarding the involvement of Minister of Finance in the work of the FIU. Given the identified deficiencies reviewers are asked to express their view on the final rating. **R. 29 is rated Largely Compliant.**

**Recommendation 30 – Responsibilities of law enforcement and investigative authorities**

North Macedonia was rated PC on the previous Recommendation 27. Deficiencies were related to effectiveness issues only.

**Criterion 30.1** - As a principle, the tasks of detection and investigation of crimes including securing the evidence are vested with the Judicial Police that conduct investigation as ordered by the public prosecutor's office. (Article 46 CPC). The term „Judicial Police” as defined under Article 21 (9) CPC includes the police officers from the Ministry of Interior and the members of the Financial Police as well as legally authorized persons from the Customs Administration that are working on the detection of criminal offences. Powers of the Judicial Police in respect of detection and investigation of crimes are also exercised by the Financial Police and the Customs Administration. The competence of those LEAs has been delineated in sections 1 and 2 of Article 47 which explicitly indicates that both of them are in charge of investigating money laundering and certain predicate crime. More specifically, the Financial Police investigates money laundering and predicate offences such as illegal trade (Article 277 CC), smuggling (Article 278 CC), tax evasion (Article 279 CC) as well as all the rest of the underlying predicate offences generating proceeds of significant value. In turn, The Customs Administration detects and investigates the laundering of money and other proceeds stemming from the production and sale of harmful medicaments (Article 212 CC), production and sale of harmful food (Article 213 CC), unauthorized production and sale of narcotic drugs, psychotropic substances and precursors (Article 215 CC), unauthorized collection and disposal of nuclear materials (Article 231 CC), import of hazardous materials in the country (Article 232 CC), export of goods under temporary protection or cultural heritage or natural rarities (Article 266 CC), smuggling (Article 278 CC), customs fraud (Article 278-a CC), hiding smuggled goods and customs fraud (Article 278-b CC), tax evasion (Article 279 CC), illegal possession of weapons and explosives (Article 396 CC), human trafficking (Article 481-a CC), all other predicate crimes laid down in the Excise Tax Law or related to imports, exports and transit of goods across state borders.

Apart from that, the Department for subversion of Organized and Serious Crime and Corruption (DSOSCC) set up within the Ministry of Interior, and more specifically the Financial Crime Unit and Financial Investigation Unit (established on 01.10.2019) are in charge of money laundering investigations based on reports submitted by the FIU. Moreover, within the Department for subversion of Organized and Serious Crime and Corruption a separate Sector for Combating Terrorism, Violent Extremism and Radicalism was set up for investigating terrorism-related crimes. Designation of financing of terrorism cases also exists within the prosecution service where the Basic Public Prosecutor's Office for Prosecution of Organized Crime (BPO OCC) has jurisdiction over such cases.

**Criterion 30.2** - Under the legal system of the Republic of North Macedonia, a financial inquiry is a part of a regular criminal investigation into money laundering, underlying predicate crime or

terrorism financing. The Judicial Police, including the respective bodies within the Ministry of Interiors, follow the Standard Operating Procedures (SOPs) adopted in 2013, which imposes a duty to conduct parallel checks, apply appropriate measures and undertake other activities to determine the property and other property-related benefits illegally acquired by perpetrators of crime. Within the structure of the LEAs, there are units in place dedicated to financial investigation i.e. Ministry of Interior's Financial Crime Unit and a Financial Investigation Unit.

**Criterion 30.3** - In principle, the FIU has been authorised to identify, monitor and initiate the freezing and seizure of property suspected of being the proceeds of crime. Under the AML/CFT, the FIU initiates the procedure of imposing preliminary injunctions resulting in temporary holding up and/or ban on making transactions by the obliged entities. The procedure contemplated under Articles 133-136 AML/CFT Law is carried out with the involvement of a public prosecutor who is in a position to grant the preliminary injunction and request its final authorisation by the criminal court. Apart from that, based on Article 200 sections 6 and 7 CPC upon an elaborated proposal by the public prosecutor, the court may instruct a financial institution or a legal person to temporarily stop the performance of a certain financial transaction or dealing, or temporarily seize the property. In emergencies, the public prosecutor may impose such measures without a court order. The public prosecutor's order needs however a further court's authorisation.

**Criterion 30.4** - In the Republic of North Macedonia, only the prosecutor and the authorities indicated in respect of Criterion 30.2. are entitled to conduct financial inquiries, therefore the recommendation is non-applicable

**Criterion 30.5** - There are several LEAs responsible for counteracting corruption and conducting investigations concerning thereof. More specifically, among those authorities, these are the State Commission for Prevention of Corruption (SCPC), the Anti-Corruption Unit within the Criminal Police Department, including the Departments of Internal Affairs (SIA) and the Anti-Corruption Unit within the Department for the Suppression of Organized and Serious Crime. The SCPC detects instances of corruption and reports them to the public prosecutor who subsequently initiates an investigation and is capable to apply seizure of property. The aforementioned Anti-Corruption Units have been formed within the police force so that they follow Standard Operating Procedures which require conducting financial inquiry alongside the regular investigation into corruption. All the police units inform the prosecutor in charge of the investigation of the identified proceeds of crime which are seized by the prosecutor's order.

#### *Weighting and Conclusion*

**R.30 is rated Compliant.**

#### ***Recommendation 31 - Powers of law enforcement and investigative authorities***

North Macedonia was rated compliant with the former Recommendation 28.

##### ***Criterion 31.1***

a) When it comes to the usage of compulsory measures for the production of records held by financial institutions, DNFBPs and other natural or legal persons, under the national legislation both the public prosecutor and units of the police force are in a position to request the said records. Prosecutor's requests are based on Article 287 (1) and (2) LCP that requires: state entities, units of the local self-government, organizations, natural and legal persons with public authority and other legal entities to deliver the requested information. The phrasing of that provision implies that no restrictions exist as to what entities are required to respond to the

prosecutor's request. Therefore, the range of obliged entities includes also the financial institutions, DNFBPs and other natural or legal persons. More specifically, the duty to deliver records refers to any objects, information, documents, files, objects and bank account information that may be used as evidence of a committed criminal offence. The recipients of the request are bound to react immediately and take the necessary measures to provide the requested records and other information in a period no longer than 30 days. Similar powers have been vested with the Financial Police and the Customs Administration. Under Articles 34 and 35 of the Law on Financial Police, as well as Article 48 of the Law on Customs Administration, the state administration bodies and other state bodies, institutions or legal and natural persons are obliged to submit data and records at the request of the Financial Police or the Customs Administration.

b) The investigative action of search has been defined in Article 21 (17) LCP as "a detailed inspection and search of a person, means of transportation or a home, according to conditions established by the law". In a more detailed way, search has been regulated by articles 181-193 LCP. By these provisions, the search can be extended also to IT systems and computer data. In any case, a search is a compulsory measure justified by the likelihood of finding traces of the criminal offence or objects that are important to the criminal procedure. In case of search of apartments or computers, the LCP requires a court's warrant issued upon request of the public prosecutor or judicial police.

c) The powers to take witness statements are regulated by Art. 212 – 232 of the CPC. As a general rule persons that are likely to provide information about the criminal offence or the perpetrator and other important circumstances, are summoned as a witness and are obliged to appear and testify. However, this obligation does not concern selected categories of persons (Article 213 CPC) due to legal privileges (e.g. keeping state, military, defence, professional secrets) or inability to testify caused by the early age or mental state. Some categories of persons can also be excused from the duty to testify in exceptional circumstances provided for in Article 214 CPC. The witnesses can be summoned by the state prosecutor, the Judicial Police or the Customs Administration.

d) As a general rule, any objects serving as evidence are temporarily seized and returned to their owner following the completion of the criminal proceedings (Article 119(3) CPC) The specific provisions of the LCP are generic and do not differentiate between seizure to keep evidence and seizure of property to secure further confiscation. Both types of seizure are regulated by Articles 194-195 CPC which refer to the objects to be seized either in accordance with the Criminal Code or serving as evidence in the criminal procedure. In any case, the seizure is mandatory and associated with the obligation imposed on the owner of the objects to hand them in. The seized objects are handed to the public prosecutor or police officers or their safekeeping is ensured in another manner.

**Criterion 31.2** - Special investigative techniques have been addressed by Chapter IX of the LCP. The LCP introduced several prerequisites for the application of the said techniques such as the inability to obtain evidence by other means and justified suspicion of commission of one of the offences listed in Article 253 (2) LCP (the list includes money laundering and terrorist financing offences) or criminal offences subject to a prison sentence of at least four years, that has been prepared or committed by an organized group, gang or another criminal enterprise. The special investigative techniques such as: monitoring and recording of the telephone and other electronic communications; surveillance and recording in homes, closed up or fenced space that belongs to the home or office space designated as private or in a vehicle and the entrance of such facilities in order to create the required conditions for monitoring of communications; secret monitoring and recording of conversations with technical devices outside the residence or the office space

designated as private; secret access and search of computer systems; automatic or in other way searching and comparing personal data of citizens are ordered by the preliminary procedure judge, upon an elaborated motion submitted by the public prosecutor (art.256 LCP) The rest of the techniques i.e. inspection of telephone or other electronic communications; simulated purchase of items; simulated offering and receiving bribes; controlled delivery and transport of persons and objects; use of undercover agents for surveillance and gathering information or data; opening a simulated bank account and simulated incorporation of legal persons or using existing legal persons for the purpose of collecting data are ordered by the public prosecutor with a written order. Any data, reports, documents and objects obtained through the use of special investigative measures, under conditions and in a manner established in this Law, may be used as evidence in the criminal proceedings:

a) Undercover operations have been addressed by Article 252 section 1, items (10)–(12) of the LCP.

b) Intercepting of telephone and electronic communications has been addressed by Article 252 section 1, item (1) of the LCP.

c) Accessing computer systems has been addressed by Article 252 section 1, item (4) of the LCP.

d) Controlled delivery has been addressed by Article 252 section 1, item (9) of the LCP.

### ***Criterion 31.3***

a) There are procedures in place to identify whether natural or legal persons hold or control accounts in the Republic of North Macedonia. In the case of a public prosecutor, Articles 284 and 287 of the LCP apply and provide that the competent prosecutor has to file a request with a financial institution to identify the account held by a natural or legal person. The police officers of the Ministry of Interiors however can access the database of the Central Register and identify the bank accounts of the legal entities in question. The MOI police officers and the FIU can also inspect through the KIBS where the legal entities and natural persons opened their accounts. Apart from that, under Article 12, paragraph 1, item 2 of the Law on Financial Police, the Financial Police is authorised to receive data on individuals and legal entities holding accounts in response to the request sent to the commercial banks. The same applies to the Customs Administration acting under Article 48 of the Law on Customs Administration. The LEAs and public prosecutors are capable to identify banking accounts held by natural or legal persons. The access to the Central Register concerning legal persons, ensures the fastest identification of their banking accounts. The other ways of identification require “pre-identification” of a bank or other financial institution which should be filed with a request of a competent state authority seeking information on holders of the account. The wide access to the relevant information through the dedicated data bases ensures identification of the owners of the accounts in a timely manner.

b) Most of the data concerning assets held by natural or legal persons are stored in databases which can be accessed by the state authorities without alerting the owners.

***Criterion 31.4*** - Competent authorities conducting investigations of money laundering, associated predicate offences or financing of terrorism are able to ask for all relevant information held by the North Macedonia’s FIU. The AML/CFT Law as well as the Criminal Procedure Code provide two scenarios of requesting the information. As a principle, the LEAs as well as the public prosecutor, acting in line with article 117(7) AML/CFT Law, may request information collected by the FIU in its databases. To that end, a written request must be submitted to the FIU, which may also decide to share the requested information on its initiative. A systemic interpretation of that provision suggests that under art.117(7) of the AML/CFT Law, information may be requested

only after the LEAs or a public prosecutor initiated FIU's analytical works on identified money laundering or terrorist financing scheme.

If such analysis has not been commenced, the LEAs and the public prosecutor are still in a position to request information from the FIU by reference to articles 287 CPC, Article 35 paragraph 1 and paragraph 2 of the Law on Financial Police and Article 48 paragraph 2 of the Law on Customs Administration.

#### *Weighting and Conclusion*

**R. 31 is rated Compliant.**

#### ***Recommendation 32 – Cash Couriers***

North Macedonia was rated PC with the former SR.IX. The following deficiencies were noted: bearer negotiable instruments were not covered by the declaration system; no clear procedures for the Customs Administration regarding cases of non-disclosure or false declaration of currency over the threshold were in place; no specific legal provision dealing with the unusual movement of gold, precious metals and stones nor a methodology describing how to proceed in cases such assets are identified at the border were in place. The exit follow-up report concluded that the amendments to the legislation had a positive impact on compliance with the requirements of SR.IX, hence not all deficiencies were rectified by them.

**Criterion 32.1** – As regards physical cross-border transportation of currency and bearer negotiable instruments, Article 29 of the Law on Foreign Exchange Operations (LFEO) applies. It requires residents and non-residents of the Republic of North Macedonia to declare when crossing the borders, to the competent customs bodies, the amount of domestic or foreign currency, cheques and monetary gold that exceeds the amounts determined with the acts from paragraphs 1 and 2 of this Article. According to Art. 1 of the Government Decision 77, issued on the basis of Article 29 paragraph 1 LFEO, the residents are allowed to bring in the country cash in foreign currency up to 10,000 euros. The sums above that threshold must be declared to the Customs Administration. On leaving the territory of the country, taking out cash in foreign currency above €10,000 is forbidden. The residents are obliged to declare the amounts in foreign currency and cheques of values between €2,000 and €10,000. As regards non-residents they are allowed to “bring in and take out of the Republic of North Macedonia cash in foreign currency up to the sum of €10,000”. The amount which non-residents may take out on leaving the state cannot exceed the amount declared at the entrance. Although the declaration system as described above is compulsory, it does not encompass bearer negotiable instruments (BNIs) except cheques. Moreover, regarding physical cross-border transportation, the declaration system omits transports through mail and cargo. In respect of mail, some elements of disclosure systems have been set out in Articles 33,34,35 of the Law on Customs Administration. The Customs Administration is in a position to inspect all postal items and other objects whenever there is a suspicion of violating the provisions of the Customs Law or other Laws for the implementation of which the Customs Administration is responsible. It seems however that such inspections are not made on regular basis and seem not to be targeted at currency and bearer negotiable instruments.

#### ***Criterion 32.2***

a) N/A

b) Under Article 29 (5) LFEO, both residents and non-residents of the Republic of North Macedonia upon crossing the state border are required to submit a declaration to the customs

administration which indicates the amount of domestic and foreign money, cheques and monetary gold. The thresholds that trigger the duty to submit a declaration are prescribed in the Government Decision, issued based on Article 29 paragraph 1 LFEO. They have outlined above in the analysis regarding Criterion 31.1. In any case, the thresholds do not exceed 15 000 EUR. The declaration is not required for BNI's other than cheques.

c) N/A

**Criterion 32.3 - N/A**

**Criterion 32.4** - Upon discovery of a false declaration or disclosure or a failure to declare or disclose currency over the statutory threshold, the customs officers follow "The instruction for working with the application for foreign exchange controllers of the Customs Administration". Under Item 6 of the instruction, the customs officer who discloses the illegal transport of currency is obliged to request a written statement of the person who takes in or brings out the cash, clarifying the origin of the currency and the intended use of undeclared/undisclosed currency. The instruction does not require any written statements in respect of the BNIs.

**Criterion 32.5** - Making a false declaration or disclosure has been sanctioned under Article 56-a (1) item 22 of the LFEO which provides for the penalty of a fine in the amount of between EUR 1000 and EUR 1500. (Article 56-a (7) of the LFEO) Furthermore, the undeclared amount of money above the statutory threshold is confiscated on a mandatory basis. (Article 57 (1) of the LFEO). Thus, the set of sanctions provided for failure to provide truthful declaration is proportionate and dissuasive.

**Criterion 32.6** - Information obtained through the declaration process is made available to the Macedonia's FIU through reports sent electronically to the FIU within three working days from the registration. (Article 141 paragraphs 3 and 4 of the Law on Prevention of Money Laundering and Financing of Terrorism). Reports are delivered on a mandatory basis.

**Criterion 32.7** - The cooperation of the stakeholders involved fight against money laundering and financing of terrorism, is based on the Memorandum of Cooperation signed between the Ministry of Interior, Public Prosecutor's Office and the Ministry of Finance - FIU, Financial Police Office, Customs Administration. An additional forum for cooperation is the Council for Combating Money Laundering and Financing of Terrorism set up under Article 125 of the Law on Prevention of Money Laundering and Financing of Terrorism. The principal task of the Council is the coordination of activities for conducting national risk assessment and promotion of the system for combating money laundering and financing of terrorism. The membership of the Council includes inter alia the representatives of the Ministry of Interiors the Customs Administration. Other platforms for interagency cooperation are still in the pipeline. Although the avenues for cooperation among authorities involved in the AML/CFT system are in place, the information provided by the Macedonia's authorities implies that issues related to the implementation of Recommendation 32 have not been yet taken on board.

**Criterion 32.8**

a) Whenever the disclosure of currency or a false declaration submitted to the Customs Administration justifies the suspicion of money laundering or terrorist financing, a criminal investigation is launched in the course of which provisional measures can be applied. Based on Article 202 LCP a temporary seizure of currency detected by the Customs Administration may be imposed. The temporary seizure is applied through a decision rendered by a criminal court recognizing the motion of a prosecutor. In the decision, the court designates the value and the type of property, or object, and the period for which seizure is applied. The duration of seizure has been prescribed in Article 202 of the LCP. It lasts 3 months since imposition thereof. If the

investigation is instituted before this period expires, the seizure is valid until the completion of the criminal proceedings before the first instance court at the latest. Taking that into consideration, it is fair to say that the currency or BNIs can be restrained for a reasonable time.

b) Making a false declaration or disclosure meets the criteria of a misdemeanour under Article 56-a (1) item 22 of the LFEO. Given the general rules of confiscation and temporary confiscation in respect of misdemeanours, as prescribed in Articles 40 and 71 of Law on Misdemeanours, temporary seizure of not declared or disclosed currency, cheques and monetary gold can be applied.

**Criterion 32.9** - The FIU provides information on filed cash declarations and any other information connected with the implementation of R32 in the course of international information exchange, in line with provisions of Articles 127-129 of the AML/CFT Law.

a) Under Article 126 (1) and (5) of the AML/CFT Law each taking in and taking out of cash and physically transferable means of payment in the amount that exceeds the maximum allowed threshold, over the customs state border is recorded by the Customs Administration.

b) Despite the broad formulation of Article 126 (1) of the AML/CFT Law which concerns “each taking in and taking out of cash and physically transferable means of payment”, there is no explicit requirement in place to record instances of detection of false declarations or false disclosures.

c) Under Article 126 (4) of the AML/CFT Law whenever instances of suspicion of ML/TF are detected by the Customs Administration they are reported to the FIU.

**Criterion 32.10** - Requirements concerning the confidentiality of all information obtained in connection with cash controls have been prescribed in the Law on Customs Administration (Article 49) which makes reference to the Law on Data Protection. The scope of definition of the personal data as it stands in the latter piece of legislation (Article 4.1.1.) does not however cover all the elements which are collected in the declaration system. In fact the data protected include personal identifiers of natural persons without specific information concerning cross-border transportation of currency or bearer negotiable instruments. The rules on confidentiality of information do not imply any restrictions in trade payments between North Macedonia and other countries, or freedom of capital movements.

#### **Criterion 32.11**

a) Cross-border transportation related to ML/TF or predicate offences is subject to the sanction provided under the ML offence, which is deprivation of liberty for a term of between 1 and 10 years (Art. 273 CC). Concerning the range of imprisonment provided for in Article 273 CC, the sanctions for the ML/TF related cross-border transportation are dissuasive and proportionate.

b) The general rules on seizure and confiscation described under R.4 apply.

#### *Weighting and Conclusion*

The Republic of North Macedonia operates the state border declaration system for cash, cheques and monetary gold. Missing coverage of some BNIs affects to some extent the implementation of criteria 32.1 and 32.2. The existing mechanism of cooperation among authorities involved in the AML/CFT should be tested in respect of coordination among customs, immigration and other related authorities on issues related to the implementation of Recommendation 32. **R.32 is rated Largely Compliant.**

### *Recommendation 33 – Statistics*

In the 2014 MER, North Macedonia was rated Partially Compliant with former R.32. The deficiencies identified were authorities not maintaining adequate statistics to review the effectiveness of the system for combating ML/TF; no statistics on provisional measures; statistics on predicate offences only being available for final convictions; no statistics indicating autonomous/third party laundering cases; lack of complete and integrated AML/CFT supervision statistics; statistic on MLA not being comprehensively maintained; and statistic on rogatory letters not containing reliable information on criminal offences, investigative measures, foreign states and number of refused requests.

#### **Criterion 33.1**

a) The FIU maintains statistics on STRs received and cases disseminated (AML Law Article 137, paragraph 1).

b) North Macedonia keeps data on the number of ML and TF investigations, prosecutions, and convictions. The data can be broken down by predicate offences (AML Law Article 137, paragraph 3).

c) North Macedonia keeps statistics on the property frozen; seized and confiscated (AML Law Article 137, paragraph 3).

d) North Macedonia keeps statistics on the MLA and other international requests for cooperation made and received (AML Law Article 137, paragraph 3).

#### *Weighting and Conclusion*

As per the current legislation, all requirements for keeping statistics are in place. Hence, this is still to be implemented in practice (see respective IOs). Given that Recommendation is about technical compliance, which is in place, the **Recommendation 33 is rated Compliant**.

### *Recommendation 34 – Guidance and feedback*

North Macedonia was rated Partially Compliant on former Recommendation 25 in the 4th round MER. The main factors underlying the rating: guidance on TF inspection was weak; no guidance on unusual transactions reporting; insufficient feed-back to the private sector; no sector specific guidelines for the application of the AML/CFT requirements other than STR reporting; the feedback from the supervisors and the FIU to the DNFBP sector was made on ad-hoc basis; as well as a number of effectiveness issues.

**Criterion 34.1** - Pursuant to Article 11, paragraph 7 of the AML/CFT, the supervisory bodies are obliged to prepare instructions for conducting a risk assessment for the entities for which they are supervising.

The following articles from the AML/CFT Law put obligations on FIU for providing instructions/guidance and feedback: article 19 paragraph 10; art.32 para.3; art.43 para.4; art.65 para. 8; art.66, para. 1, indents 2 and 4; art.75, para 3, indents 16, 17, 19 and 20; art.137 para.2 and para.6. Article 155 paragraph 3 allows supervisory agencies prescribe a manner for proper application of the AML/CFT measures for the entities they are in charge to supervise.

The above-mentioned articles of the Law refer to either FIU solely or supervisory agencies, not all competent authorities.

Some supervisory agencies (PRO, NBRNM, ISA, SEC) provided feedback via relevant guidance documents, but related to ML/TF risk assessment only. FIU has issued guidelines such as

guidelines on CDD measures regarding PEP, BO identification and special guidance on foundations, the RBA for all OE (umbrella guidance), on applying law on restrictive measures and reporting. MOF has prescribed Rulebooks on data submission, forms, etc., related to FIU. Guidelines already published cover many of the AML/CFT areas. FIU has published FAQ on the official website covering answers regarding obligations arising from AML/CFT law and related to BO owner identification and BO register.

Some examples of guidance provided by FIU include: Handbook for recognition STR for TF ; List of indicator; Strategic analysis (Strategic analysis on Proliferation Financing, Strategic analysis on foreign threats, Strategic analysis on legal entities, Strategic analysis on transfers from/ to Pakistan and three General Strategic analyses of the submitted reports to FIU (2019, 2020, 2022); -feedback on each received STR (after the completion of the case, the financial intelligence prepares feedback to the entity that submitted the STR, in which it states the outcome (submitted Report, Notice, spontaneous information to the FIU or the case is putted on temporary hold-ad/acta)) and annual feedback about quality of submitted STR and the quality (high, medium or low) of the STR; -Q&A ([https://www.ufr.gov.mk/?page\\_id=212](https://www.ufr.gov.mk/?page_id=212)).

### *Weighting and Conclusion*

The national legislation provides a formal guidance and feedback mechanism for FIU and supervisory authorities. Other competent authorities are not covered by the relevant AML/CFT Law provisions. FIU and supervisory agencies have provided guidance through adoption of the relevant documents and acts, which cover a large part of the OEs. There is a limited number of sector specific guidance for various types of OEs. **The rating of Recommendation 34 is Largely Compliant.**

### *Recommendation 35 – Sanctions*

In the 2014 MER, North Macedonia was rated PC with former R. 17. This was in part due to issues relating to the impossibility to withdraw licences for determinate activities, the absence of authorities to impose sanctions with respect to certain violations and issues with the procedure to be followed by the FIU to take action with respect to AML/CFT violations.

**Criterion 35.1** – The range of measures that can be imposed on OEs when there are breaches of AML/CFT obligations have already been set out under R. 27 and R.28. While the range of penalties that can be imposed with respect to each individual breach may be considered as quite wide, on one hand the mandatory application of a settlement procedure with the intent to lessen the burden on the law courts can restrict the effectiveness and dissuasive effect of any such penalties as it would result in the OE (or the authorised representative) being liable to pay only 50% of the minimum amount set for the particular breach under the relative provision of the AML/CFT Law. On the other hand, while under Article 186 provision is made for a sanction equivalent to 10% of the previous year's turnover to be imposed due to the repeated and systematic nature of the breaches in this article in question, no equivalent provision is present with respect to the remaining articles providing for misdemeanours under the AML/CFT Law.

In addition, it has to be remarked that the publication is only applicable with respect to breaches that have been determined on the basis of the misdemeanour procedure but not with respect to breaches in respect of which the OE has agreed to settle. One has also to remark that the provisions regulating misdemeanours under the AML/CFT Law do not make any reference to the possibility of there being imposed remedial actions together with the pecuniary fine, raising questions as to whether the authority imposing the same (the courts or the adjudicating authority) could order any such action to be taken.

With respect to any other sanctioning measure that may be applied for breaches of AML/CFT obligations under laws other than the AML/CFT one, as well as the conditions for revocation of licenses and imposition of bans, reference can be made to the analysis under c.27.4 and c.28.4(c).

With respect to the sanctions which may be imposed for the requirements of R.8, reference can be made to the analysis under c.8.4(b), where it is concluded to such sanctions are not effective, proportionate or dissuasive enough.

With respect to the sanctions which may be imposed for the requirements of R.6, pecuniary sanctions are provided for under Article 23 of the Law on Restrictive Measures, although there are concerns in regards to their proportionality, effectiveness and dissuasiveness when applied to legal entities (set at the equivalent of EUR 5,000) or individuals (set at EUR 1,000 – EUR 2,000), as the amounts are set independently of the nature and/or size of activities. The adjudicating authority therefore has some leeway to take into account the particular circumstances of the case only with respect to individuals. In addition, there do not seem to be the possibilities of there being any bans imposed on the legal entity or individual concerned nor the possibility for the adjudicating authority to actually impose to undertake remedial action.

**Criterion 35.2** – Under the AML/CFT Law, Articles 186 – 188 provide that a fine is also to be imposed on the ‘responsible person’ of the respective legal entity that is found to have committed a breach of AML/CFT requirements in line with the misdemeanour procedure. The ‘responsible person’ is defined by reference to the Law on Misdemeanours as ‘a person to whom, considering his function or on a special authorization in the legal entity, a certain scope of activities related to the execution of the legal regulations or the regulations adopted on the basis of law is entrusted; act of the legal entity in the management, use and disposal of property, management of the production or business enterprise, some other economic process or the supervision over them’. Thus, it can be said that the responsible person can be equated to the ‘directors and senior managers’ of the entity concerned.

The penalties that can be imposed are subdivided into ranges, depending on the breach concerned and its classification under any of the aforementioned articles and the classification of the entity involved. It does not seem that there is an option with respect to whether one is to be so charged and it is understood that in the case of each breach considered under the aforementioned Articles the responsible person will be charged together with the OE itself. As is the case with the OEs themselves, it is mandated that the settlement procedure is attempted prior to commencing the actual misdemeanour procedure. The result is that one may very well end up paying 50% of the minimum penalty considered for the given breach.

Together with the fine, any such individual may also be banned from exercising a given activity, business or duty. However, it is not stated whether any such ban would be temporary or permanent or whether it is left to the discretion of the adjudicating body or authority to determine as much.

With respect to the sanctions that can be imposed for breaches of R. 6, Article 23(2) of the Law on Restrictive Measures does provide for the responsible person to be subject to a misdemeanour procedure that may result in the imposition of a fine not exceeding EUR1,500. However, considering that the fine that may be imposed on the legal entity was not considered to be effective, dissuasive and proportionate, it is questionable whether the said amount can be so considered.

With respect to the sanctions that can be imposed for breaches of R. 8, it does not seem that the fines for misdemeanours provided with respect to failures by the NPO can be imposed on the responsible person or authorized person, except for articles 93(1) (failure to enter any changes

to the Register), 95-a (submission of proofs to the Register to acquire the status of a public interest organisation) and 97(1) (failure to file narrative and financial report) of the Law on Associations and Foundations.

#### *Weighting and Conclusion*

The mandatory settlement procedure and the absence of wider provisions providing for an increase in fines where the breach is repeated and systematic (besides breaches in Article 186) leads one to question whether the fines imposed can be considered as sufficiently effective, dissuasive and proportionate. In addition, there are remaining concerns as to what are the effective measures that supervisory authorities can take under sector specific legislation with respect to AML/CFT breaches. The fines imposed in the case of breaches of obligations under R.6 and R.8 cannot be considered as effective, dissuasive and proportionate. **R. 35 is rated Partially Compliant.**

#### *Recommendation 36 – International instruments*

North Macedonia was rated Largely Compliant with former Recommendation 35 and Partially Compliant with former Special Recommendation I. Deficiencies identified on these Recommendations included reservations about certain aspects of the implementation of the ML and TF Conventions.

**Criterion 36.1** - North Macedonia is a party to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (accession; 13 October 1993), the United Nations Convention against Transnational Organized Crime (signed on 12 December 2000, ratified on 12 January 2005)<sup>50</sup>, the United Nations Convention against Corruption (signed on 18 August 2005, ratified on 13 April 2007) and the International Convention for the Suppression of the Financing of Terrorism (signed on 31 January 2000, ratified on 30 August 2004). It should be noted that the country is also party to the 2005 CETS 198 (Warsaw Convention) and the Cybercrime Convention (CETS No. 185) of the Council of Europe.

It has made a declaration to the Palermo Convention, based on which “according to Article 5, paragraph 3, of the Convention, the Criminal Code of the Republic of Macedonia does not require an act of furtherance of the agreement for the purposes of the offenses established in accordance with Article 5, paragraph 1 (a) (i)”.

As regards the implementation of TF convention, the country has made a declaration based on which Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done on 10 March 1988; and Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988 are to be deemed not to be included in the Annex to the TF Convention.

**Criterion 36.2** – North Macedonia has broadly implemented the provisions of the Vienna Convention, the TF Convention and the Palermo Convention. In line with Article 2 of Palermo Convention, Article 122 paragraph 28 of the Criminal Code refers to “at least three persons forming an association for the purpose of committing crimes, including the organizer of the association”. The Criminal Code partially covers “Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, takes an active part in other activities of the organized criminal

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<sup>50</sup> With the following reservation: "In accordance with Article 35, paragraph 3, of the Convention, the Republic of Macedonia states that it does not consider itself bound by Article 35, paragraph 2, which stipulates that all disputes concerning the interpretation or application of the Convention shall be referred to the International Court of Justice."

group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim” stipulated by Article 5 (a)-(ii)-(b) of the Palermo Convention. The relevant provisions of the Criminal Code explicitly indicate such other activities of the organized criminal group only for money laundering, terrorist financing, terrorism and terrorist organizations, human trafficking, trafficking in juveniles and migrants offences.

Articles 53 and 57, as well as article 55 paragraphs 1, 2 and 8 of the Merida Convention are partially implemented, whereas article 27 paragraph 2, article 52 paragraphs 5 and 6, article 54 paragraph 1 (a) and 2 (c) and article 55 paragraph 1 (b) have not been implemented at all.). The process of aligning implementation of these provisions in North Macedonia’s legislation and practice was still on-going at the time of the on-site visit.

#### *Weighting and Conclusion*

North Macedonia has become a party to the Vienna, Palermo, Merida and TF Conventions. Whereas the country implemented the vast majority of provisions referred to in the footnote to this Recommendation, some parts of Merida Convention are still to be applied in North Macedonia. This presents a minor shortcoming. North Macedonia is rated **Largely Compliant with R.36**.

#### *Recommendation 37 - Mutual legal assistance*

North Macedonia was rated Largely Compliant with former Recommendation 36 and PC with Special Recommendation V. The main deficiency related to the technical shortcomings identified in relation to the criminalization of TF offence and thus the inability to provide MLA due to the dual criminality.

**Criterion 37.1** – North Macedonia has a legal basis allowing authorities to provide rapidly a wide range of mutual legal assistance in relation to ML, associated predicate offences and TF investigations, prosecutions, and related proceedings. It has to be noted that some aspects of Rec.5 (TF criminalisation) are not met, therefore MLA for some specific TF offences might not be rendered (see Rec.5). International cooperation regime is generally governed by the Law on International Cooperation in Criminal Matters (hereinafter: the Law) and international conventions ratified by North Macedonia. Based on Art. 2 this Law applies unless otherwise provided for in international agreements.

International cooperation is provided based on the principle of reciprocity (Art. 3 and 13 of the Law) upon the application / request submitted by a foreign competent authority. All issues addressing the international cooperation which are not covered by the Law shall be considered pursuant to the provisions of the CPC, the Law on Misdemeanours, the Law on Courts, the Law on Public Prosecution, and the Law on Fight against Corruption and Conflict of Interest.

The range of MLA which can be provided is broad and extends to enforcement of procedural actions (e.g. interrogation of a witness); submission of files, written evidence and objects related to the criminal proceedings in the sending state; voluntary information sharing; exchange of information, notifications, and regulations; temporary transfer of persons deprived from freedom; cross-border surveillance; forming joint investigative teams; application of special investigative measures; video and telephone conference interrogation; search of premises, persons, and objects; temporary securing and seizure of objects, property, and assets related to the crime, bank-deposit-box assets, tracing bank transactions, and temporary suspension of certain financial transactions, and submission of excerpts from criminal records. Urgency of action under MLA are addressed by articles 8 and 18 of the same law.

**Criterion 37.2** – The Ministry of Justice acts as the central authority in North Macedonia for dealing with MLA and extradition requests (Art. 7 of the Law). Most of the incoming requests are processed through the Ministry of Justice or are directly addressed to the Judicial Authority, which in its turn shall notify the Ministry of Justice about the receipt within 15 days. In case of an urgency, the Letter Rogatory or the Request may be submitted through the channels of the Organizational Unit for International Police Cooperation within the Ministry of Internal Affairs, and a copy of the Letter Rogatory or the Request is be submitted to the Ministry of Justice (Art. 7(5) of the Law). MLA request may also be submitted through the Eurojust channel with a copy of the MLA being sent to the Ministry of Justice (Art. 7(6) of the Law). For conducting and coordinating of criminal proceedings and proceedings for securing property in the part of tracing and identification of proceeds from or other property related to criminal offence communication is provided through the Assets Recovery Office (ARO, Art. 7(7) of the Law). Ministry of Justice is notified of any such assistance provided by ARO.

For monitoring of progress on requests, case management system LUIRS is maintained and used by the Ministry of Justice. It allows to prioritize cases based “urgency” option. If this option is selected, every notification regarding the case appears in red when opening the application. It is not integrated or linked with public prosecutors’ offices or the Asset Recovery Office. There is no case management system applied by Public Prosecutor’s Office and the Asset Recovery Office, but it is in the implementation stage.

**Criterion 37.3** – The grounds for the rejection of the execution of an MLA request are provided under Art. 11 of the Law. They are as follows and they do not include unreasonable or unduly restrictive conditions:

- Acting upon it shall be contrary to the Constitution of the Republic of North Macedonia or shall violate the sovereignty, the security or the safety of the Republic of North Macedonia;
- It refers to an act considered as a political criminal offence or an act related to a political criminal offence;
- It refers to a criminal offence of violation to a military law of other state, and by Law it is not considered as a criminal offence under the legislation of the Republic of North Macedonia.
- It can be reasonably assumed that in the timeframe of the extradition the person who is the subject of the extradition request was criminally prosecuted or is sentenced due to his/her racial, national and social affiliation or due to political or religion beliefs i.e. the position of the person shall be burdened due to one of the aforementioned reasons;
- For an identical criminal offence against the accused in the Republic of North Macedonia, due to material-formal grounds the proceedings is suspended or the person is acquitted or shall be released from sentencing or the sanctioning shall be enforced or shall fail to be enforced in accordance with the legislation of the state in which the verdict is passed;
- Against the accused, criminal proceedings for an identical crime is in progress in the Republic of North Macedonia, and
- The transfer of the criminal proceedings or enforcement of sanctions was exempted due to absolute statute of limitations in accordance with the legislation of the Republic of North Macedonia.

**Criterion 37.4** – The North Macedonia’s legislation does not provide for the possibility to refuse an MLA request based on the grounds of involvement of fiscal matters and secrecy or confidentiality requirements on FIs or DNFBPs.

**Criterion 37.5** – There is no explicit provision in the North Macedonia’s legislation that the same confidentiality requirements should apply to MLA as in the case of domestic investigations. However, Article 4 paragraph (3) of the Law on International Cooperation in Criminal Matters states that all issues addressing the International Cooperation in Criminal Matters, if not regulated by this Law, shall be considered pursuant to the provisions of the Law on Criminal Procedure, the Law on Misdemeanours, the Law on Courts, the Law on Public Prosecution, and the Law on Fight Against Corruption and Conflict of Interest.

Secrecy requirements to pre-investigative and investigative procedures are provided by the Law on Criminal Procedures (articles 289 and 299 respectively) thus largely covering the issue raised above.

In addition, in accordance with Art. 29 paragraph 1 of the Law, the Foreign Competent Authority may request from the Ministry of Justice the content of the Letter Rogatory to remain confidential, thus the confidentiality requirement is discretionary.

**Criterion 37.6** – Dual criminality is provided as a basic principle for international cooperation under Article 3 of the Law on International Cooperation in Criminal Matters Law. On the other hand, Article 11 of the Law does not list dual criminality among the reasons for rejection of international cooperation.

**Criterion 37.7** – North Macedonia’s legislation is silent on whether the requirement of dual criminality is satisfied regardless of whether both countries place the offence within the same category of offence, or denominate the offence by the same terminology, provided that both countries criminalise the conduct underlying the offence. Authorities advised that for dual criminality condition to be met it is necessary that the described conduct is criminalized in line with the Criminal Code, meaning that in practice they would apply this criterion. However, there is no formal statement in the legislation on this matter.

**Criterion 37.8** – Article 16 of the Law on International Cooperation in Criminal Matters, the International Legal Assistance envisages powers and investigative techniques that are required under Recommendation 31 to be also used in response to requests for mutual legal assistance and cover the production, search and seizure of information, documents, or evidence (including financial records) from financial institutions, or other natural or legal persons, and the taking of witness statements.. The Law also contains specific provisions regarding Temporary extradition and transit of person deprived of freedom (Article 24), Voluntarily Submission of Information i.e. Spontaneous Information (Article 26), Temporary Submission of Temporary Seized Objects, Documents or Files (Article 27), Temporary Measures (Article 28), Submission/delivery of Excerpts from the Criminal Records (Article 30), Notification on Regulations (Article 31), Interrogation via video-conference (Article 32), Interrogation via telephone-conference-call (Article 33), Cross-border Surveillance (Article 34), Establishing of a Joint Investigation Team (Article 35), Actions of the Joint Investigation Team (Article 36) and The Use of Data and Evidence obtained by the Joint Investigation Team (Article 37).

#### *Weighting and Conclusion*

Some shortcomings are noted with regard to dual criminality issue – cooperation with foreign jurisdictions which does not include application of coercive measures is not specified in the legislation and thus formally speaking dual criminality principle could be equally applied in these situations. The same applies to the requirement that to meet dual criminality requirements it is necessary that the described conduct is criminalised in line with the North Macedonia’s Criminal Code – whereas the authorities demonstrated the proper understanding of this principle, the same has not been explicitly stated in the legislation. **R.37 is rated Largely Compliant.**

### ***Recommendation 38 – Mutual legal assistance: freezing and confiscation***

In the 2014 MER, North Macedonia was rated Largely Compliant with former R.38. The deficiencies identified were no possibility to determine whether and to what extent North Macedonia provides effective and timely response to foreign requests due to lack of statistics; no consideration being given to establishing an asset forfeiture fund; and no arrangements for coordinating seizure or confiscating actions with other countries.

**Criterion 38.1** - North Macedonia is capable to provide mutual legal assistance in response to requests submitted by foreign countries to identify, freeze, seize and confiscate the assets. In principle, all the requests of foreign countries are processed by the Ministry of Justice as regular foreign Letters Rogatory, which are forwarded to the competent domestic judicial authorities (public prosecutor or a criminal court) for enforcement which is carried out pursuant to the criminal legislation of North Macedonia.

Expeditious execution of the Letters Rogatory is ensured by the Law on International Cooperation in Criminal Matters which requires the Ministry of Justice to act without any delay and sets deadlines for specific actions undertaken in the course of executions of the Letters Rogatory.

a) The legal framework of North Macedonia makes laundered property eligible for tracing, seizure and confiscation requested through the foreign Letters Rogatory. As outlined in the R.4 analysis, the provisions of the Criminal Code of the Republic of North Macedonia provide for appropriate legal grounds to confiscate laundered property either as the object of the ML offence or as the proceeds of the underlying predicate offence.

b) The requirements discussed under R.38.1 b) are covered for MLA purposes regarding identification, freezing, seizure and confiscation the assets. Under provisions of the Criminal Code of North Macedonia, further contemplated under R.4., all forms of direct and indirect proceeds of crime can be confiscated, despite their transformation or intermingling.

(c) and (d) Whereas the Law on International Cooperation in Criminal Matters sets out no obstacles to execute Letters Rogatory regarding the instrumentalities used in, or intended for use in money laundering, predicate offences, or financing of terrorism, there are some internal restrictions within the confiscation regime provided in the Criminal Code of North Macedonia. Those restrictions, as described in the R.4. section, may impede the effective applicability of the confiscation measures in respect of instrumentalities sought through the foreign Letters Rogatory.

e) North Macedonia can provide international co-operation to identify, freeze, seize and confiscate assets of equivalent value in respect to proceeds of crime, but not instrumentalities thereof. The Criminal Code of North Macedonia introduces value confiscation only in respect to benefits from crime. That feature of the North Macedonia's criminal law may hamper international cooperation as regards enforcement of confiscation measures on foreign requests.

**Criterion 38.2** - No restrictions exist in respect to providing mutual legal assistance which consists in seeking a non-conviction-based confiscation. The prerequisites for ruling on that type of confiscation, as envisaged in the Criminal Code of North Macedonia, observe the standard laid down in Criterion 38.2. The specific procedure for its application has been enshrined in the Law on Criminal Procedure.

In case of a Letter Rogatory requesting co-operation based on non-conviction-based confiscation, the general terms of legal assistance, as prescribed in the Law on International Cooperation in Criminal Matters, apply.

### **Criterion 38.3**

a) Arrangements for coordinating actions with other countries in respect of seizure and confiscation of property are addressed in Articles 7, 28 and 114 of the Law on International Cooperation in Criminal Matters. They involve a specialized channel of communication employed for sake of imposing seizure of property as well as identification and tracing thereof. The channel serves the Asset Recovery Offices to concert domestic and foreign criminal proceedings including procedures for identification, tracing and securing property related to criminal offences. Usage of the said arrangements is facilitated by the safety channel of communication offered by the EUROPOL. Moreover, the communication between AROs also involves expedited submissions of Letters Rogatory for a seizure and confiscation of property. To facilitate cooperation with AROs a contact person in North Macedonia is nominated. All judicial, financial, and investigative authorities in the Republic of North Macedonia, are legally obliged to provide legal and practical assistance to the contact person. The contact person is responsible for the coordination of processing requests for information and responses provided by the domestic judicial, financial, and investigative authorities, and for establishing and maintaining contacts with other AROs, but also, with judicial authorities of other member states of the European Union.

b) The mechanisms for managing, and disposing of, property frozen, seized or confiscated are addressed by The Law on Management of Confiscated Property, Property Benefit and Assets Seized in Criminal and Misdemeanour Procedure. That piece of legislation regulates the management, use and disposal of seized property, including property benefits as well as the property finally confiscated by a final judgment. The authority to apply those measures was assigned to the Agency for Confiscated Property Management.

**Criterion 38.4** - The principles of sharing the confiscated property with other countries are enshrined in Articles 95 (2) and (3) of the Law on International Cooperation in Criminal Matters. The Republic of North Macedonia applies a threshold approach concerning confiscated monetary assets. As far as the confiscated assets amount to no more than 10.000 EUR they fuel the national budget. Above that threshold, 50 % of confiscated money is transferred to the foreign state. Specific rules of asset sharing are applied in respect of confiscated property that does not represent money. As a principle, upon a decision of a Domestic Competent Authority, they are either sold or transferred to the foreign state. The sale revenues are disposed of in a manner applied to monetary assets.

#### *Weighting and Conclusion*

North Macedonia's law provides a robust basis for the timely and adequate rendering of assistance in the scope of international legal assistance addressing identifying, freezing, seizing, or confiscation property of criminal origin. Nevertheless, several shortcomings identified in respect of R.4 hinder the state's ability to provide such assistance in respect of all types of property subject to seizure and confiscation. **R.38 is rated Largely Compliant.**

### **Recommendation 39 – Extradition**

The country was rated LC with former recommendations 37 and 39 and PC with former SR V under the 3<sup>rd</sup> round evaluation. The main shortcomings related to insufficient criminalization of TF offence and dual criminality which resulted in deficiencies for extradition.

#### **Criterion 39.1**

a) All forms of international cooperation, including extradition, have been addressed in the Law on International Cooperation in Criminal Matters. (LICCM) As provided for in Article 47 (1)

of the LICCM, extradition is admissible in case of criminal offences that under domestic legislation are punishable by at least one year of imprisonment. Both ML and TF offences meet that formal criterion of statutory punishment. Nonetheless, Article 51 (1) item 4 of LICCM indicates dual criminality as one of the prerequisites for extradition. Due to the shortcomings identified under R.5, the dual criminality test might be failed as regards financing of acts of terror targeting the safety of maritime navigation.

b) By means of setting up deadlines for specific steps to be taken in the course of proceedings to approve foreign requests for extradition, the respective provisions of the LICCM ensure timely execution thereof. This applies to Article 8 LICCM setting up a general principle of urgency of action, and more specifically to Articles 60(3), Article 63(2), Article 64 (1), Article 67 (2), Article 68 (2) and Article 71 (4) LICCM which laid down either stringent timeframe for making procedural decisions or introduced a requirement to act without delay. Since January 2018, the Ministry of Justice operates a case management system named LURIS. LURIS covers all international legal assistance requests including the ones for extradition. Apart from the timeframe of execution of MLA/extradition requests, the system retains all documents and data produced in the life cycle of the case, from the receipt of the request to its execution. LURIS can be used to prioritize extradition cases when appropriate by distinguishing and marking them as urgent. So that, the current state of execution of requests might be tracked and checked at any moment. Nonetheless, no legal act or internal procedure sets out clear criteria of such prioritisation and provides for the assignment of a judicial or administrative body taking the decision to prioritize certain extradition requests.

c) Article 52 (1) of the LICCM reads that extradition will be refused in case of a person suspected of political criminal offences or criminal offences related to those political criminal offences. Under Article 52 (2) of the LICCM, the term of the political offence does not include assassination of a head of a state or a family member, criminal offence of terrorism and criminal offences against humanity and the International Law. Those provisions, when read together, lead to the conclusion that terrorist financing can be considered by the authorities of North Macedonia as a political offence and justify rejection a request for extradition. Moreover, due to some shortcomings in criminalization of terrorist financing, as contemplated in R.5., in case of specific acts of terror (prescribed in the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation) the dual criminality test required for admissibility of extradition (as per Article 51 section 1 (4) LICCM) would be failed and the extradition refused.

### ***Criterion 39.2***

a) The Constitution of the Republic of North Macedonia explicitly prohibits the extradition of citizens of the state to another country unless a ratified international agreement provides otherwise (Article 4 paragraph 2 of the Constitution). This constitutional standard has been reiterated in the LICCM whereby citizenship of the Republic of North Macedonia is a legal impediment to extradition. (Article 51 (1) item 1 of the LICCM).

b) Although the LICCM does not provide for the principle *aut dedere aut judicare*, the prosecution of citizens of the Republic of North Macedonia is ensured by the principle of legality enshrined in Article 18 LCP that puts the obligation on the public prosecutor to initiate criminal prosecution if there is evidence that a crime, which is prosecuted *ex-officio*, has been committed unless stipulated otherwise in this Law. Under these circumstances, Articles 117-118 of the Criminal Code also apply. Article 118 CC provides that “the criminal legislation applies to a citizen of the Republic of Macedonia who commits a crime abroad and finds him/herself on the territory of the Republic of Macedonia or is extradited”. The said provision covers money laundering offence and most of the predicate crimes. Simultaneously, Article 117CC provides for a limited list

of offences, including terrorist financing (Article 394-c CC), whereby prosecution does not depend on extradition of citizen of North Macedonia or his/her presence on the territory of the state. In any case, even if Articles 118 CC makes criminal liability of the citizens of North Macedonia conditional on their extradition, Article 18 LCP ensures that extradition should be as a principle sought by state authorities.

**Criterion 39.3** - Under Article 51 (1) item 4 of the LICCM, dual criminality is one of the prerequisites for granting the extradition. The language of that provision that requires the criminal offence the extradition request is based on, to be „related” to a criminal offence foreseen in the domestic legislation, implies that a strict coherence between those provisions is not essential. Similar language has been applied in Article 55 of the LICCM concerning violation of regulations, taxes, customs duties and foreign currency operations that requires “correspondence” between offences in the domestic and foreign criminal law for authorization of extradition. In summary, it seems that the conduct underlying the offences is decisive for granting extradition, instead of their denomination or terminology applied.

**Criterion 39.4** - A simplified extradition procedure can be applied under Article 75 of the LICCM. Under the said procedure it is admissible to abandon the principle of speciality provided that the extradited person declares so. Such declaration is irrevocable.

#### *Weighting and Conclusion*

In general, the legal system of North Macedonia provides state authorities with most of the necessary tools to satisfy the needs for international cooperation in the field of extradition.

Nevertheless, the potential lack of dual criminality as regards terrorist financing offence as well as restrictions regarding appropriate prosecution when it comes to not extradited Macedonia’s citizens impacts the compliance with the recommendation. **R.39 is rated Largely compliant.**

#### *Recommendation 40 – Other forms of international cooperation*

In the 4th round evaluation report, North Macedonia was rated LC for R. 40 and PC for SR V. The shortcomings included the finding that application of dual criminality in the CPC might negatively impact the ability of to provide MLA due to shortcomings in TF criminalisation; no legal provision for the FIU to exchange information on underlying predicate offence; technical issues in international cooperation by supervisory agencies; no safeguards on the use of information exchanged in all supervisory laws; some effectiveness issues.

**Criterion 40.1 – LEAs – MoI** can provide wide range of international of international cooperation in relation ML/TF and predicate offences both spontaneously and upon requests though the Sector for International Police Cooperation (SIPC). Cooperation takes place through the channels of INTERPOL, EUROPOL, SELEC, the contact point of the CARIN network, as well as the foreign police attachés/liaison officers or neighboring countries and based on Bilateral agreements on police cooperation. Financial Police (FP) cooperates though Ministry of Interior (MoI) channels on the basis of an MoU signed between these authorities.

*Customs Administration-* can provide cooperation in detecting and preventing customs offenses and criminal offenses in the field of customs operations in accordance with ratified international agreements (Art 10(19), Art. 22 Law on Customs Administration). Cooperation on ML and TF is possible based on legal regulations, bilateral agreements and protocols for cooperation (item 11 of the Guidelines of the Investigation Unit of the Customs Administration). Although no MoUs have been signed to some extent this is mitigated by being a member of World Customs Organization.

*FIU* – The FIU cooperates internationally with the foreign FIUs by exchanging relevant data, information and documentation, spontaneously or upon request, for the purposes of preventing and detecting ML/TF, regardless if the criminal offence is identified (Art. 142 AML/CFT Law).

*Supervisors*- exchange of information and cooperation is only possible if an MoU has been signed with the foreign counterparts (Art. 154 AML/CFT Law). For NBRNM cooperation and information exchange is governed by the Law on the National Bank (Article 34), the Banking Law (Article 127) and the Decision on Consolidated Supervision of Banks. The exchange of information and data for supervisory objectives is only enabled through the prescribed bilateral and multilateral agreements /MOU. ISA can submit information directly to financial supervisor (according to Insurance Supervision Law articles 232 and 233) or upon request to the FIU, which according to articles 125 and 127 of the AML/CFT Law can initiate communication with the relevant country/regulator. Article 225 in the Securities Law prescribes the international cooperation of the SEC through MOUs.

However, for all competent authorities there are no legal provisions that would prescribe rapid information exchange, timely prioritisation and execution of requests and a sound case management system. In relation to FIU the Procedure for International Cooperation provide for urgency-based prioritization of requests.

#### **Criterion 40.2**

a) Competent authorities have a lawful basis for providing international co-operation (see 40.1).

b) Nothing hinders competent authorities' capability to use the most efficient means to cooperate. In general, competent authorities can cooperate directly with their counterparts. However, for supervisory and law enforcement agencies, prior agreement/MOU is required. According to the authorities, in the case of the NBRNM there have been instances of cooperation and exchange of information even without a prior signed MoU, the latest one being with the National Bank of Kosovo\*.

c) The North Macedonia's authorities use clear and secure gateways, such as the Egmont Secure Web; Interpol; Siena Europol, SELEC, etc. Article 154 of the AML/CFT Law provides for the safeguards on confidentiality of the exchanged by supervisory agencies information and Article 143 – by the FIU. Article 29 of the Law on International Cooperation in Criminal Matters has the confidentiality provision for the Letter Rogatory.

d) There are no mechanisms or legal provisions for the prioritisation and timely execution of international cooperation request among competent authorities (except for the Letter Rogatory to be executed without delay pursuant Article 18 of the Law on International Cooperation in Criminal Matters) of the requests. Procedure for international cooperation of the FIU provides for urgency-based prioritization of requests.

e) In the SIPC the exchange of information takes place through established secure communication channels (I-24/7 on INTERPOL, Siena on EUROPOL, as well as the SELEC platform). The FP stores and protects the data provided by the international cooperation in the same way as the domestic data (Guidelines for manner and technical handling of archival and documented material). The Customs Administration keeps records of data in accordance with the Law governing the protection of personal data also for international cooperation (Article 49 of the Law on Customs Administration).

The FIU is obliged to use the data, information and documentation provided in the framework of international cooperation in accordance with the restrictions and conditions set by the FIU of the State (Art. 144 AML/CFT Law). Received data, information, and documentation can be exchanged

with other competent authorities in accordance with their limitations and conditions and after consent from the sending FIU.

The NBRNM may exchange confidential information with other foreign supervisory authorities, which will be used only for supervisory purposes and be treated as confidential by the receiving party (Art. 34 of Law on NBRNM). The data and information may not be disclosed to third parties without the prior written consent of the supervisory authority that provided the information, except in cases provided for by law (Article 74 paragraph 2 of the Law on NBRNM) and can be used only for the purposes for which they were obtained (Article 34 of this law).

**Criterion 40.3** – FP can cooperate only in the field of financial crime exchange data with foreign police state bodies, organizations and from other countries and international organizations on the basis of bilateral agreements and ratified international agreements (Art. 36 of the Law on Financial Police). There are no MoUs signed by the FP. This is to large extent mitigated by Article 35(3) of the Law on Financial Police, which provides a basis for international police cooperation with INTERPOL and EUROPOL through the channels of MOI – Sector for International Police Cooperation, based on the MoU signed between FP and MoI.

The Customs Administration has signed about 20 MOUs for international cooperation with a diverse number of foreign counterparts.

The signing of cooperation agreements is not a precondition for the FIU to establish international cooperation with financial intelligence units of other countries and international organizations involved in fight ML and TF (article 142 para 4 of the AML/CFT Law).

The NBRNM has signed bilateral cooperation agreements with most of the European and neighboring countries. ISA has signed 14 MoU with foreign regulators from neighboring jurisdictions. SEC cooperates by virtue of IOSCO membership.

**Criterion 40.4** – There are no specific legal provisions explicitly regulating the provision of feedback to the authority from which assistance is sought. However, there are no provisions which would pose an obstacle for competent authorities to provide feedback in a timely manner upon request. Pursuant to Article 147 of the AML/CFT Law, the FIU, at the request of the FIU of another State, provides feedback on the use of the submitted data, information and documentation. NBRNM, ISA, SEC and other supervisors are also not prevented by the legislation from providing feedback to foreign counterparts.

**Criterion 40.5** – In general, North Macedonia does not prohibit, nor place unreasonable or unduly restrictive conditions on, the provision of exchange of information or assistance.

a) For the FIU, law enforcement and supervisory authorities there are no grounds for refusing the execution of a request for assistance involving fiscal matters.

b) The Financial and professional secrecy do not inhibit the exchange of information (See R.9).

c) In general, there are no restrictions on providing information and assistance to the requesting state on the grounds of an ongoing inquiry, investigation, or proceeding unless a request for exchange of data obstructs the investigation of another competent state body or criminal proceedings against the person for whom data is requested (Article 71 Law on Police; Article 9 Paragraph 2 of Protocol 5 on Mutual Assistance in Customs Matters; Article 144(3)) AML/CFT Law).

d) For the law enforcement and supervisory authorities there is no clear provision allowing or prohibiting information exchange with different types of foreign counterparts. But there is no legal prohibition in this area either.

**Criterion 40.6** – The information provided by the FIU to foreign counterparts may be used only for the purposes defined and with the prior consent on the handling of the information. Similarly, the information provided by the foreign authorities to the FIU may be used only for the purposes defined and with the prior consent on the handling of the information in accordance with the AML/CFT Law and on the basis of the Egmont Group principles.

Item 80 of the Guidelines of the Investigation Department of the Customs Administration states that the data and information available to the customs inspectors from the Investigation Unit, and those conducting financial investigations, is used only for the prevention and detection of crimes and customs offenses due to which they are treated as information with a certain degree of confidentiality due to which it is necessary to have an appropriate security certificate issued by the Directorate for Security of Classified Information in accordance with the Law on Classified Information. However, there are no specific safeguards for the international information exchange and obtaining prior consent.

Article 154 paragraph 4 of the AML/CFT Law, prescribes all supervisory agencies use obtained information, data, and documents only to perform its competencies in accordance with AML/CFT Law requirements. Paragraphs 5 and 6 state that supervisory bodies may not disclose and exchange these data, information, and documentation with third parties without the express consent of the supervisory body that has provided such information, data or documentation nor may they be used for any purpose other than that for which the authority has given its consent. The obligation to maintain the secrecy or confidentiality of the data applies to all persons who work or have worked in the supervisory body.

In relation to LEAs the information protection mechanisms and requirements on its authorized use are provided in Article 37 of the LICCM.

**Criterion 40.7** – Protection of confidentiality of information by the FIU is regulated on the basis of Article 148 of the AML/CFT Law. The FOI also has internal procedures that make it take measures to protect the submitted data, their confidentiality and manner of use.

In case of police and customs' international cooperation, the exchange of information is carried out in accordance with the Law on Personal Data Protection, the Law on Classified Information, as well as the rules for data processing that are regulated within the international organizations of which the Republic of North Macedonia is a member. Article 29 paragraph 1 of the LICCM states that the foreign competent authority may request the Ministry and the domestic judicial authority to keep the content of the request confidential. However, paragraph 2 indirectly allows for non-execution of this request by obligating the local authorities to inform the foreign competent authority about it without delay.

In relation to supervisory authorities data protection and confidentiality of information exchanged is ensured by Article 154 (5)- (6) of the AML/CFT Law for National Bank; Article 232 and Article 233 of the Insurance Supervision Law for ISA; Section 10 and 11 in the MoU of IOSCO for SEC.

**Criterion 40.8** – Article 16 of the LICCM provides the extensive list of actions that can be taken within the framework of international legal assistance. There are no limitations or stricter conditions on obtaining information for international information exchange for law enforcement and prosecutors.

Pursuant to Article 7 paragraph 1 of Protocol 5 on mutual assistance in customs matters as part of the Stabilization and Association Agreement between the country and the European Community, as stated in the Agreement, in order to respond to the request for assistance, the requested authority shall act within its competencies and available means, as if acting on its own behalf or at the request of other bodies of the same Contracting Party, by providing information in its possession, by conducting appropriate investigations or by organizing them. This provision is applied by any other body to which the request is sent by the requested body when it cannot fulfill it independently. Customs Administration, i.e., the Investigation Unit further acts in accordance with Article 10 paragraph 18 of the Law on Customs Administration where cooperation with other state bodies is foreseen. However, it is not clear what is the mechanism in place for such cooperation with non-European Community jurisdictions.

In addition to the provisions of Articles 127-134 (new Articles 142-150) of the AML/CFT Law, the international exchange of data carried out by the FIU is regulated in more detail by internal rules - Procedure for the exchange of data and information with the Financial Intelligence Units of other countries. This procedure refers to the process of exchange of data and information provided by the FIU in the framework of international cooperation in accordance with the AML/CFT LAW. This procedure unequivocally defines that the Data Collection Procedure and the Data Analysis Procedure (to be provided to the FIU in another country) are identical to the data collection procedure from the Data Collection, Processing, Analysis and Submission Procedure. according to which it is acted upon in an analysis initiated by STR submitted by an entity.

In relation to supervisory authorities being able to conduct the inquiries on behalf of foreign counterparts please see analysis in c.40.15.

**Criterion 40.9** - The FIU has legal basis for providing co-operation on ML and TF (AML Law Article 75, paragraph 3, Articles 142 – 150).

**Criterion 40.10** - The FIU provides feedback to foreign counterparts upon request on the use of the information provided and the outcome of any analysis or investigation (AML Law Article 147).

**Criterion 40.11**

a) The FIU has the powers to exchange all information available, including information in STRs, CTRs, and other available information (AML Law Articles 142 – 150).

b) other information the FIU is able to obtain domestically (AML Law Article 145).

**Criterion 40.12** – With respect to the NBRNM, Article 34 of the Law of the NBRNM provides that the NBRNM can: (i) cooperate with other supervisory authorities in and outside North Macedonia; and (ii) exchange confidential information with them. The NBRNM seems therefore to enjoy quite an extensive legal basis for international cooperation, including the possibility to authorise a foreign authority to carry out supervisory examinations of any subsidiary or branch of a foreign bank located in North Macedonia.

In the case of the ISA, its legal basis for international cooperation is Article 233 of the Law on Insurance Supervision. However, it is not clear how extensive the said provision is as (i) the only form of cooperation that is considered under the said provision is that of exchange of information, with the ISA being able to exchange information both domestically and internationally for supervisory purposes; and (ii) the information that is listed under Article 233(1) and which it is entitled to exchange does not seem to refer to information on supervisory processes other than when this refers to supervisory measures contemplated under Article 164 of the same law and only once these have been completed. Thus, it would not be possible for ISA to rely on Article 233(1) of the Law on Insurance Supervision to exchange information on on-going supervisory

measures nor information on supervisory examinations as neither are referred to under the said provision.

With respect to the SEC, Article 225 of the Securities Law authorises it to exchange information with its counterparts abroad and to cooperate and coordinate for supervisory purposes, subject to the conclusion of an MOU and the principle of reciprocity. The SEC is a party to IOSCO's MMOU and has been exchanging information with its foreign counterparts on the basis of the said MMOU.

As regards the MAPAS, it has indicated that it has the ability to exchange information with its counterparts abroad on the basis of Article 55 of the Law on Voluntary Fully Funded Pension Insurance. However, the said provision lays down the powers of MAPAS to collect data, information and documentation for the purposes of its own supervisory purposes rather than exchange information with foreign counterparts.

In so far as the FIU, Article 154 of the AML/CFT Law allows it to exchange information and cooperate with foreign AML/CFT supervisory authorities. The FIU may do so spontaneously or upon request. This same provision is applicable with respect to all other AML/CFT supervisory authorities. Thus, the issues referred to above can be considered as otherwise sanitised with respect to AML/CFT-related data, information and documentation. However, while the said provision makes reference to information related to 'performing supervision over the entity', it is not clear how extensively this wording is to be interpreted.

**Criterion 40.13** – Financial supervisors are able to exchange domestically available information with foreign counterparts, including information held by financial institutions. Deficiencies identified in c.40.12 in relation to ability of ISA, MAPAS and FIU to exchange information are also applicable to this criterion.

**Criterion 40.14** – Article 154 of the AML/CFT Law provides the FIU, NBRNM, SEC, ISA and MAPAS with the necessary legal basis to exchange information with their foreign counterparts with respect to AML/CFT issues. Under the said provision, it is possible for the said AML/CFT supervisors to provide their foreign counterparts with information, data and documentation on any of the following matters: (i) regulations in the area in which the supervised entity operates as well as other relevant supervisory regulations; (ii) the sector in which the entity supervised by the supervisory body operates; (iii) performing supervision over the entity; and (iv) transactions or persons suspected of being involved in money laundering or financing of terrorism or other related criminal offenses on the basis of which proceeds of crime may be obtained for the purpose of money laundering or financing of terrorism. However, while the said provision makes reference to information related to 'performing supervision over the entity', it is not clear how extensively this wording is to be interpreted and whether it can be considered as including the actual documents of the financial institution concerned.

With respect to the individual supervisory authorities *qua* prudential supervisors, no information has been provided with respect to MAPAS under this criterion. In the case of the NBRNM, Article 34 of the Law on the NBRNM allows it to exchange any kind of information for supervisory purposes. The same applies to ISA, which under Article 233 is empowered to exchange information, data and documentation that would fall under para (a) and para (b), with the exception of information on any on-going or proposed supervisory activity as it can only communicate information with respect to concluded processes. In the case of the SEC, reference was made to the IOSCO MMOU of which it is a signatory and in terms of which it would be possible to provide its counterparts with the information, data and documentation referred to under para (a) and para (b).

**Criterion 40.15** – In so far as the ability to collect information on behalf of foreign counterparts is concerned, the only authority that seems to have some form of basis to do so is the SEC as the IOSCO MMOU provides for as much under Clause 7(b). With respect to ISA, reference was made to its Supervisory Manual which sets out the modalities for international cooperation. However, it has to be noted that Article 16 thereof refers to the exchange of information when ISA itself is exercising its supervisory activities and is silent with respect to the possibility of ISA actually conducting inquiries to assist foreign counterparts who are in the process of undertaking supervisory activities in their own right.

In the case of the NBRNM, reference has already been had to the possibility under Article 34 of the Law of the NBRNM to authorise the carrying out of supervisory activities by foreign counterparts with respect to banks present in North Macedonia through a subsidiary or a branch. This in itself would imply the ability of the counterpart authority, if so authorised, to make inquiries itself with the respect subsidiary or branch as may be necessary for the carrying out of group supervision. As also referred to, the said Article 34 is not limited to banks but covers the whole spectrum of financial institutions subject to supervision by the NBRNM.

**Criterion 40.16** – Article 154 of the AML/CFT Law regulates the exchange of information and cooperation between the AML/CFT supervisors in North Macedonia and its counterparts abroad. In this regard it is to be noted that Article 154(4) provides that any information or documentation obtained from a foreign counterpart may be used only for the purpose of AML/CFT supervisory functions and in the context of related proceedings and any further use or dissemination thereof would not be possible without the prior express consent of the disclosing foreign counterpart (Article 154 AML/CFT Law).

In the context of prudential supervision, any information shared between the NBRNM and its foreign counterpart authorities can only be used for supervisory purposes and cannot be disclosed (Article 34(3) of the Law on the NBRNM). While the said provision does not regulate how the said information may be further disseminated or further used, it is understood that it is possible for the NBRNM to do so upon the consent of the disclosing counterpart authority which would waive the confidentiality provided for under sub-article 3.

With respect to the ISA, Article 233(2)(10) sets out that amongst the data it collects and processes for supervisory purposes under the Law on Insurance is data obtained from its foreign counterparts. While Article 233(3) sets out how the data collected in terms of Article 233(2) can be shared within the context of domestic and foreign cooperation, Article 233(4) provides for an exception with respect to the sharing of data that is not ISA's own but is obtained as described under Article 233(2)(10). In such cases, the further dissemination and sharing of the said data requires the prior consent of the disclosing counterpart authority.

In so far as the SEC is concerned, North Macedonia has made reference to Article 10 of the IOSCO MMOU which is the basis for the SEC's international cooperation and exchange of information. In terms of the said Article, any information communicated on the basis of a request for information made under the said MMOU can only be used for the purposes for which it was requested or for purposes related thereto. Should the requesting authority, in this case the SEC, wish to use the said information for some other purpose or disseminate it further it would have to seek the prior consent of the requested authority. In addition, the said MMOU does provide under Article 11 that should there be a legally enforceable request to disclose any such information, the requesting authority, i.e. the SEC, would be able to abide thereto as long as it notifies the requested authority prior to complying with the demand, and asserts such appropriate legal exemptions or privileges with respect to such information as may be available. The requesting authority is to use its best

efforts to protect the confidentiality of any information received under this Memorandum of Understanding that is not public.

No information was provided as to what is the position of MAPAS in this regard.

**Criterion 40.17** - As described in c.40.1 and c.40.2 the MoI can exchange domestically available information with foreign counterparts for intelligence as well as for investigation purposes (Article 12 of the Law on Police). The legal basis for FP cooperation is regulated in Article 35(3) of the Law on Financial Police in a way that the FP can cooperate on the basis of signed bilateral agreements and this cooperation is limited to financial crimes. There are no bilateral agreements signed by the FP. This is to large extent mitigated as Article 35(3) also provides a basis for international police cooperation with INTERPOL and EUROPOL through the channels of MOI – SIPC, based on the MoU signed between FP and MoI.

Pursuant to Article 10, item 19 of the Law on Customs Administration, the Sector for Control and Investigation, i.e. the Investigation Unit cooperates with foreign customs administrations and international organizations, in the detection and prevention of customs misdemeanors and crimes, which implies exchange of data for intelligence and investigative purposes related to ML/TF. Within the framework of international cooperation, the Customs Administration submits and receives requests and provides answers to requests and information through the following networks and platforms: SELEC, CENcomm2, CENcomm3, RILO, GRAN, GLOBAL SHIELD, ARCHEO, ContainerComm, Environet, BALKAN INFO.

**Criterion 40.18** - As members of the judicial police, MoI, FP and Customs Authority have the same competences and use the same investigative techniques for international cooperation as for domestic investigations (Article 16 of the Law on International Cooperation in Criminal Matters and Article 21(9) and Article 46 of the Law on Criminal Procedure). For the provision of data, documentation, which have probative value and will be used in court proceedings, and especially on the basis of Article 15 of the LICCM, judicial police act exclusively on the basis of a Request for International Legal Aid. Upon requests of foreign authorities, submitted through the channels of INTERPOL, EUROPOL, SELEC and liaison officers, the Ministry of Interior is competent to act within its powers, to perform checks and submit information, depending on the needs and objectives of the requests. All restrictions imposed by the requesting country shall be fully complied with. According to Art.3 of the MoU signed between MoI and FP for purposes of mutual professional and technical assistance, joint use of technical means and equipment and exchange of information and data with foreign counterparts the FP uses channels of MoI (INTERPOL, EUROPOL, SELEC).

**Criterion 40.19** - Articles 16 and 35 of the LICCM provide for the establishment of joint investigation teams as one of the actions covered by international legal aid. Article 115 of the Law on Police states that a police officer could be sent to work abroad on the basis of international police cooperation agreements ratified in accordance with the Constitution. This is not explicitly covered for the Financial Police. As for Customs, this possibility is stipulated under the Customs Agreement. Articles 16 and 35-37 of the Law on International Cooperation in Criminal Matters establishes framework for joint investigation teams. Joint investigation teams can also be set according to the Council of Europe Convention on Mutual Legal Assistance in Criminal Matters between the Member States and the provisions of other respective multilateral arrangements to which North Macedonia is a party.

**Criterion 40.20** - The police officers from the Ministry of Interior, in accordance with their authorizations, can indirectly provide data and information, upon request from the SIPC or

conduct an order by a competent Public Prosecutor, from the institutions that have the requested data and information. The FP uses MoI channels for Interop and Europol exchange.

The NBRNM may exchange confidential information with other domestic or foreign supervisory authorities, which may only be used for supervisory purposes and the same shall be treated as confidential by the receiving party (Art. 34 of Law on NBRNM).

The FIU may indirectly exchange data, information and documentation with bodies in charge of detecting and preventing ML/TF of other states. However, such exchange must be done through the FIU of the state through secure electronic international communications systems (Art. 149 AML/CFT Law).

#### *Weighting and Conclusion*

North Macedonia has legal basis for international co-operation and the FIU, law enforcement agencies and supervisory authorities can provide a wide range of assistance in international cases. However, some deficiencies still remain: i) most authorities require MoUs for cooperation, however, some authorities have not signed any (Customs Authority, FP). This is to large extent mitigated by their participation in international organizations such as INTERPOL, EUROPOL and WCO; ii) for all competent authorities there are no legal provisions that would prescribe rapid information exchange, timely prioritization and execution of requests and a sound case management system; iii) there are no specific legal provisions explicitly regulating the provision of feedback to the authority from which assistance is sought; iv) some issues in relation to information exchange of supervisory authorities in particular on collection of information on behalf of foreign supervisory authorities remain.

The rating for **R.40 is Largely Compliant.**

## Summary of Technical Compliance – Deficiencies

### ANNEX TABLE 1. COMPLIANCE WITH FATF RECOMMENDATIONS

Recommendations	Rating	Factor(s) underlying the rating
1. Assessing risks & applying a risk-based approach	LC	<ul style="list-style-type: none"> <li>• Legislation does not explicitly link enhanced measures to manage and mitigate risks to the cases when a higher risk is identified.</li> <li>• Not all supervisory authorities issued risk assessment guidelines for their relevant OEs.</li> </ul>
2. National cooperation and coordination	LC	<ul style="list-style-type: none"> <li>• Operation and coordination of policies on combating the financing of proliferation of WMD issues need to be further developed.</li> </ul>
3. Money laundering offences	LC	<ul style="list-style-type: none"> <li>• Concealment action is limited to the origin, location, movement and ownership, leaving out the motions of „true nature” and “disposition.”</li> <li>• There are some limitations in inferring knowledge from objective factual circumstances.</li> <li>• Liability of legal persons is subject to significant limitations.</li> </ul>
4. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>• Confiscation of instrumentalities is conditional and in principle discretionary.</li> <li>• Value based confiscation is admissible in respect of income from a punishable crime, but not for instrumentalities of crime.</li> <li>• There is also limited protection of the rights of bona fide third parties.</li> </ul>
5. Terrorist financing offence	PC	<ul style="list-style-type: none"> <li>• Not all acts which constitute an offence within the scope of and as defined in the Treaties listed in the annex to the TF Convention are covered by the TF offence.</li> <li>• Collection and funding of an individual terrorist for any purpose and financing the travel of individuals for terrorist purposes are not within the scope of TF offence.</li> <li>• Definition of funds does not cover ‘economic resources’.</li> <li>• Some serious restrictions with regard to the liability of legal persons for TF are in place and sanctions for legal persons are not proportionate and dissuasive.</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	PC	<ul style="list-style-type: none"> <li>• The legislation does not explicitly provide for the competent authorities responsible for identification of targets against the UNSCR criteria.</li> <li>• No formal domestic procedures regarding adherence to the UN Procedures are in place.</li> <li>• There is no explicit requirement for all natural and legal persons to “freeze” without delay and without prior notice, the funds and other assets of designated persons and entities.</li> <li>• North Macedonia did not identify any public procedures to submit de-listing requests to competent authorities.</li> <li>• FIU guidelines do not cover what specific information could be provided to the client and there are no procedures to facilitate review provided by competent authorities themselves.</li> <li>• Licences can be granted to designated persons or entities to access funds based on some but not all of the criteria set out in UNSCR 1452 and 1373.</li> <li>• Authorities did not evidence how UN mechanisms (including no-objection procedures) are incorporated.</li> </ul>
7. Targeted financial sanctions related to proliferation	PC	<ul style="list-style-type: none"> <li>• There is no explicit requirement for all natural and legal persons to “freeze” without delay and without prior notice, the funds and other assets of designated persons and entities.</li> <li>• The obligations to prevent funds and economic resources being made available do not apply to all national persons or entities.</li> <li>• Not all legal and natural persons are subject to sanctions for failures in the implementation of restrictive measures.</li> </ul>

<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
		<ul style="list-style-type: none"> <li>No publicly available procedures or guidance for submitting de-listing requests to Competent Authorities was provided.</li> <li>Licences can be granted to designated persons or entities to access funds based on some but not all of the criteria set out in UNSCR 1718 and 1737.</li> <li>Authorities did not evidence how UN procedures and approvals are incorporated.</li> <li>There is insufficient information to confirm whether (i) and (ii) of c.7.5(b) are fully met and the authorities did not evidence whether notice is given to the UN Sanctions Committee.</li> </ul>
8. Non-profit organisations	LC	<ul style="list-style-type: none"> <li>There is a varied application of the NPO legislative rules and not all NPOs share annual reports with the public.</li> <li>There is no public supervisory or monitoring authority for NPOs for a RBA regarding TF.</li> <li>Sanctions applicable to NPOs or other legal entities are not necessarily effective, proportionate and dissuasive.</li> <li>Other agencies and entities that hold relevant information on NPOs, besides the FIU, MoI, IA and NSA, are not engaged in co-operation mechanisms and do not possess TF expertise.</li> <li>There is insufficient information to confirm whether the 3 scenarios in c.8.5(d) would be fully met.</li> </ul>
9. Financial institution secrecy laws	LC	<ul style="list-style-type: none"> <li>The different terminology used between the Banking Law (“banking secrecy”) and the AML/CFT Law (“business secret”) can lead to possible misunderstandings and/or misapplications.</li> <li>The AML/CFT Law does not set out whether data, information and documents collected by FIs to comply with AML/CFT obligations would be accessible to authorities other than the FIU and supervisors.</li> <li>It is not made clear in the AML/CFT Law whether in general an FI would be able to disclose information categorised as classified information to competent authorities.</li> <li>Article 188(3) of the Law on Securities fails to make reference to situations where information may be required to be disclosed due to an obligation under another law.</li> </ul>
10. Customer due diligence	LC	<ul style="list-style-type: none"> <li>Article 13(c) of the AML/CFT Law requires to perform CDD when occasional transactions that constitute transfers of funds in the amount higher than EUR 1 000, but not to those amounting to EUR 1 000.</li> <li>The identification of the customer who is a legal entity and verification of its identity is not required through: (i) the powers that regulate and bind the legal person; (ii) the address of a principal place of business that is different from registered office.</li> <li>Identification of the customer who is a legal arrangement and verification of its identity is however not explicitly required through the name of the legal arrangement.</li> <li>Article 16(3) of the AML/CFT Law does not make any distinction between the beneficiaries that are identified and specifically named and the beneficiaries that are designated by characteristics, class or other means.</li> <li>There is no specific provision in the AML/CFT Law that would require to include the beneficiary of a life insurance policy as a relevant risk factor, nor is it required to take enhanced measures in case that the OE determines that a beneficiary who is a legal person or a legal arrangement presents a higher risk.</li> </ul>
11. Record keeping	LC	<ul style="list-style-type: none"> <li>OEs are not obliged to make the transactions records covered under Article 62(2) of the AML/CFT Law available at the request of the supervisory bodies.</li> </ul>
12. Politically exposed persons	LC	<ul style="list-style-type: none"> <li>Measures of Article 42(2)-(3) of the AML/CFT Law do not include a direct reference to consider making a STR when the beneficiary and/or the beneficial owner of the beneficiary is a PEP and higher risks are identified.</li> </ul>

<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
13. Correspondent banking	<b>LC</b>	<ul style="list-style-type: none"> <li>• OEs are not required to satisfy themselves that respondent financial institutions do not permit their accounts to be used by shell banks.</li> </ul>
14. Money or value transfer services	<b>LC</b>	<ul style="list-style-type: none"> <li>• The amount of the fines to be imposed to unlicensed or unregistered MVTs providers is not stipulated on the Law on providing fast money transfer services, but reference is made to Article 96-a of the Criminal Code instead, which covers any kind of committed crime, thus not allowing to make a conclusion in terms of proportionality and dissuasiveness.</li> </ul>
15. New technologies	<b>PC</b>	<ul style="list-style-type: none"> <li>• NRA 2016 and 2020 did not assess the ML/TF risks that may arise in relation to the development of new products and new business practices.</li> <li>• The VA and VASPs risk assessment analyses ML/TF risk exposure of the VASP sector to a limited extent.</li> <li>• The Working Group formed within the MoF did not set specific timeframe for realization of recommended actions, nor is it clear who is responsible to monitor their implementation.</li> <li>• There is no licensing regime for VASPs.</li> <li>• The registration regime, supervision, obligation to implement preventive measures and sanctions provided by the AML/CFT Law in relation to VASPs were not yet legally enforceable.</li> <li>• The registration regime of the AML/CFT Law would apply only to VASPs that operate as legal entities.</li> <li>• There are no measures to prevent criminals or associates from holding or being BO of a significant interest or managing a VASP.</li> <li>• No requirement to identify or sanction unlicensed or unregistered VASPs (either natural or legal persons).</li> <li>• Supervision would not apply to VASPs that are natural persons.</li> <li>• The power to withdraw, restrict or suspend a VASP license or registration is not covered by the legislation.</li> <li>• Deficiencies under R.26, R.27, c.35.1 and c.35.2 also apply.</li> <li>• There is no obligation to provide specific feedback or guidelines to VASPs and they have not been informed about the sectorial risk assessment results.</li> <li>• Sanctions for failures to comply with AML/CFT requirements would not be applicable to VASPs that are natural persons.</li> <li>• Requirements of the LRM without compliance with the AML/CFT Law cannot lead to proper compliance with c.15.10.</li> <li>• There is no information on supervisory cooperation of the FIU regarding VASPs.</li> <li>• Deficiencies in R.37-40 impact MLA capabilities of relevant authorities in relation to VASPs.</li> </ul>
16. Wire transfers	<b>PC</b>	<ul style="list-style-type: none"> <li>• The terms “to provide” of Article 50 of the AML/CFT Law and “to forward the data” of Article 50(4) are not equivalent to the data having to accompany the transfer.</li> <li>• Article 50 of the AML/CFT Law does not require to ensure that the information on the originator and beneficiary is accurate.</li> <li>• There is no specific provision that regulated the possibility, or lack thereof, of wire transfers bundled into a batch file.</li> <li>• It is unclear whether a <i>de minimis</i> threshold is being applied.</li> <li>• There is no provision empowering the law enforcement authorities to be able to compel immediate production of information accompanying the domestic wire transfer.</li> <li>• There is no provision not allowing FIs to execute wire transfers that do not comply with the requirements of c.16.1-c.16.7.</li> <li>• There is no requirement for intermediary financial institutions regarding beneficiary information.</li> <li>• There are no provisions requiring intermediary and beneficiary FIs to have risk-based policies and procedures for determining when to execute, reject or suspend transactions and the appropriate follow-up actions.</li> <li>• Beneficiary FIs are not required to adopt other measures, including post-event or real-time monitoring, where feasible.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
17. Reliance on third parties	LC	<ul style="list-style-type: none"> <li>• Shortcomings detected in R.6 are also applicable.</li> <li>• Shortcomings identified in R.18 negatively impact this Recommendation.</li> </ul>
18. Internal controls and foreign branches and subsidiaries	PC	<ul style="list-style-type: none"> <li>• The compliance officer's (authorized person) level/position in the structure of OEs is not explicitly prescribed by law.</li> <li>• The requirement to include an independent audit function only covers OEs that are required to establish a special AML/CFT department.</li> <li>• Article 48(1) of the AML/CFT Law does not cover majority-owned subsidiaries or all branches in North Macedonia itself.</li> <li>• Neither Article 48(1) of the AML/CFT Law nor Article 119(2)(4) of the Banking Law explicitly require implementation of group-wide programs against ML/TF that include all the necessary elements required by c.18.2.</li> <li>• There is no explicit requirement for financial groups to apply appropriate additional measures to mitigate ML/TF risks when a country hosting a branch or majority-owned subsidiary does not permit the proper implementation of AML/CFT measures consistent with the home country requirements.</li> </ul>
19. Higher-risk countries	C	
20. Reporting of suspicious transaction	C	
21. Tipping-off and confidentiality	C	
22. DNFFBPs: Customer due diligence	LC	<ul style="list-style-type: none"> <li>• Shortcomings identified in R.10, R.11 and c.15.1-c.15.2 are also applicable to DNFFBPs.</li> </ul>
23. DNFFBPs: Other measures	LC	<ul style="list-style-type: none"> <li>• Shortcomings identified under R.18 are also applicable to DNFFBPs.</li> </ul>
24. Transparency and beneficial ownership of legal persons	PC	<ul style="list-style-type: none"> <li>• North Macedonia has not yet finished the ML/TF risk assessment of the types of legal persons that can be created under its laws and foreign entities that have links to the country.</li> <li>• No requirement for legal entities, besides LLCs and JSCs, to retain a copy of documents submitted to the Central Register.</li> <li>• With respect to other legal persons, besides trade companies, only associations are required to keep a register of members.</li> <li>• There are no timeframes for trade companies to submit to the Trade Register any changes to the information and documents of the initial registration, besides the book of shares and stocks.</li> <li>• It is unclear whether the obligation to register changes covers all the data, information and documents filed for initial registration, in particular the statutory documents.</li> <li>• It is not clear how the accuracy of any data or information provided to the Central Register is ensured.</li> <li>• Regarding other legal persons other than trade companies, only associations and foundations can be sanctioned for failures to submit to the Central Register any changes to the information or documentation initially provided to it; and cooperatives are not even under obligation to report any changes.</li> <li>• There are no controls to ensure that legal entities update their BO data and that they have correctly determined who the BO is.</li> <li>• Safeguards in place to ensure that the correct information is included in the Register with respect to BOs do not extend to foreign, non-resident, individuals.</li> <li>• It is unclear whether the authorised representative of a legal entity can be contacted by competent authorities to assist them and to obtain basic and BO information.</li> <li>• There are no requirements in relation to nominee shareholders and directors, even if a formal legal provision is missing.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
25. Transparency and beneficial ownership of legal arrangements	PC	<ul style="list-style-type: none"> <li>• Sanctions in the Law on Trade Companies and the AML/CFT Law are not proportionate, effective or dissuasive, considering the application of the mandatory settlement procedure.</li> <li>• Other types of legal entities, besides trade companies, cannot be sanctioned for failing to retain any of the information of c.24.3.</li> <li>• It is unclear whether the failure by a BO to make available the necessary information could be sanctioned.</li> <li>• There are no ulterior measures, other than pecuniary fines, for legal persons refusing to disclose BO information.</li> <li>• Only the FIU assesses the quality of the assistance received, although limitedly to beneficial ownership data, and does not maintain any statistical records.</li> <li>• It is not explicitly stated that the information to be obtained and retained by a trustee would include that in relation to other regulated agents and service providers involved with the trust.</li> <li>• There is no express requirement for a trustee to disclose to an OE in what capacity it is acting.</li> <li>• There is no requirement obliging trustees or other OEs to hold information on other service providers to a trust, therefore the information may not be accessible to FIU or other supervisors.</li> <li>• There are concerns about the proportionality, effectiveness and dissuasiveness of the sanctions to be applied: (i) to a trustee located in North Macedonia or any other OE for failures to fulfil its' AML/CFT obligations or hold beneficial ownership information; and (ii) for failures to reply to requests for information by the FIU.</li> <li>• There is no information as to what would be the applicable sanctions for failures to reply to requests received from an authority other than the FIU or the public prosecutor.</li> </ul>
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> <li>• The Banking Law, as it currently stands, may pose a restriction on the NBRNM's ability to effectively assess reputation.</li> <li>• Only 'unconditional' convictions are considered when assessing the reputation of a qualifying shareholder.</li> <li>• The concept of 'associate' under Article 2(7a) of the Banking Law is quite limited, and the restrictions with respect to associates of criminals are only applicable with respect to appointments to the Management Board of banks. For other FIs, there are no prohibitions against associates of criminals holding a director position (SEC) or a qualifying shareholding (ISA).</li> <li>• The ISA: (i) does not have powers to remove a shareholder who becomes convicted or members of the Supervisory Board that no longer meet the appointment requirements; and (ii) does not apply controls to key personnel of insurance companies (besides actuaries) or to Board members of agents and brokers.</li> <li>• In relation to the SEC Regulations setting the requirements for appointments to the Board of Directors, it is unclear: (i) if they would apply to two-tier board systems; (ii) how extensively the categories of offences are interpreted; (iii) if any other information would be considered; and (iv) if a director could be removed if no longer meeting the requirements.</li> <li>• The fit and proper checks conducted on other FIs are either limited (MVTs providers, exchange offices, leasing and financial companies, pension fund management companies) or non-existent (micropayment intermediaries).</li> <li>• There is no assessment in relation to the IOSCO Principles of footnote 78 of the FATF Methodology.</li> <li>• It is unclear whether supervisors have the ability to carry out group supervision (besides for banks).</li> <li>• It is unclear how requirements of Article 152 of the AML/CFT, which do not include information on the controls applied by OEs, are reflected in the supervisory procedures and practices or in the frequency and intensity of supervision.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
27. Powers of supervisors	LC	<ul style="list-style-type: none"> <li>• The supervisory approaches adopted for MVTs providers and exchange offices cannot be considered to be risk-based.</li> <li>• The frequency of supervision and allocated staff by the ISA could benefit from further improvements.</li> <li>• There is no information with respect to how the country ML/TF risks are taken into account and influence the risk understanding and supervisory plans of supervisors.</li> <li>• The AML/CFT Law does not make any express reference to any periodical review of an OE or a group's risk assessment unless there are changes to its management or its business model.</li> <li>• The SEC's risk categorisation methodology was not yet formally adopted at the time of the onsite.</li> <li>• The law does not stipulate timeframes for adjudicating authorities to conclude misdemeanour processes.</li> <li>• The mandatory settlement procedure has effects on the proportionality, dissuasiveness and effectiveness of the sanctioning regime of the AML/CFT Law, as also laid out in R.35.</li> <li>• The FIU is not empowered to seek the revocation of a FI's license for misdemeanours of Articles 187-188 of the AML/CFT Law.</li> <li>• The courts or adjudicating authorities are not allowed to impose remedial actions on a FI as part of their decisions for misdemeanour procedures.</li> <li>• The NBRNM, SEC and ISA do not have powers to revoke a license to a FI on the basis of AML/CFT breaches detected by the FIU.</li> <li>• There is need for further clarity in the banking legislation as to when the NBRNM can initiate the process for the revocation of a bank license due to breaches of the AML/CFT Law.</li> <li>• The legal basis for MAPAS to withdraw licenses of pension funds management companies due to AML/CFT breaches could not be traced, and it is not clear whether it would be able to take measures other than license withdrawal.</li> </ul>
28. Regulation and supervision of DNFBPs	PC	<ul style="list-style-type: none"> <li>• There are no measures to prevent criminals or their associates from holding (or being the BO of) a controlling interest, a management function, or being an operator of a casino.</li> <li>• Only unconditional convictions are taken into account as requirements to be met to be appointed as a notary.</li> <li>• Regarding market entry controls of auditors and accountants: (i) only criminal convictions are considered for legal persons and prohibitions from exercising a profession for individuals; (ii) there is no ongoing monitoring to ensure that the conditions are met and there is no possibility to remove individuals or entities; and (iii) no checks are carried out with respect to BOs or holders of a controlling interest or a management function.</li> <li>• There is no requirement to consider criminal convictions or any other information for anyone applying for an advocate license nor is this a ground for the Bar Association to revoke a license.</li> <li>• There are no market entry requirements in place for real estate agents, TCSPs and tax advisors.</li> <li>• Article 153 of the AML/CFT Law does not mandate supervisors to obtain and consider information on convictions, instead allowing them to 'at any time obtain this data ex officio'.</li> <li>• There are concerns about the proportionality, effectiveness and dissuasiveness of the sanctions applicable to DNFBPs, both legal entities and individuals or persons exercising public powers.</li> <li>• The ban to carry out specific activities of Articles 189-190 of the AML/CFT Law is not always mandatory, it is unclear whether it would be temporary or permanent and there is no possibility to increase it in the case of a repeated or systematic breach.</li> <li>• It is unclear if non-pecuniary sanctions can be imposed to DNFBPs other than notaries, accountants, auditors and lawyers.</li> <li>• There is no supervisory methodology applied for all DNFBPs so as to allow to determine how supervisory activities, and their frequency and intensity, are conducted on a risk-sensitive basis.</li> </ul>

<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
		<ul style="list-style-type: none"> <li>No supervisory authorities were in possession, at the time of the onsite, of credible risk profiles that would allow to assess how OEs are applying AML/CFT obligations in accordance with risks.</li> </ul>
29. Financial intelligence units	<b>LC</b>	<ul style="list-style-type: none"> <li>There is no regulation, apart from general rules, with regard to dedicated, secure and protected channels for dissemination of information from the FIU.</li> <li>There are some concerns regarding the possible interference of Minister of Finance in the work and management of the FIU.</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	<b>C</b>	
31. Powers of law enforcement and investigative authorities	<b>C</b>	
32. Cash couriers	<b>LC</b>	<ul style="list-style-type: none"> <li>Transportation of some BNIs is not covered by the legislation.</li> <li>Some aspects of physical cross-border transportation through mail and cargo are not covered by the law.</li> </ul>
33. Statistics	<b>C</b>	<ul style="list-style-type: none"> <li></li> </ul>
34. Guidance and feedback	<b>LC</b>	<ul style="list-style-type: none"> <li>Articles of the AML/CFT Law refer to either the FIU solely or supervisory agencies, not all competent authorities.</li> <li>PRO, NBRNM, ISA and SEC provided feedback via guidance documents, but related to ML/TF risk assessment only.</li> </ul>
35. Sanctions	<b>PC</b>	<ul style="list-style-type: none"> <li>The mandatory application of a settlement procedure can restrict the effectiveness and dissuasive effect of any penalties, including those for 'responsible persons'.</li> <li>There are no equivalent provisions to that of Article 186 of the AML/CFT Law with respect to the remaining articles of the law providing for misdemeanours.</li> <li>There is no possibility to impose remedial sanctions together with a pecuniary fine as part of a misdemeanour procedure.</li> <li>Shortcomings under c.27.4 and c.28.4(c) are also applicable.</li> <li>Regarding sanctions that may be imposed for the requirements of R.8: (i) they are not effective, proportionate or dissuasive enough; and (ii) they cannot be imposed to 'responsible persons' of the NPO, except for Articles 93(1), 95-a and 97(1) of the Law on Associations and Foundations.</li> <li>There are concerns about the sanctions to be imposed for breaches of R.6, namely: (i) lack of proportionality, effectiveness and dissuasiveness of the pecuniary sanctions provided in Articles 23 and 23(2) of the Law on Restrictive Measures; and (ii) no possibility to impose bans or remedial actions</li> <li>It is not clear whether the ban to perform an activity that can be imposed to individuals would be temporary or permanent.</li> </ul>
36. International instruments	<b>LC</b>	<ul style="list-style-type: none"> <li>Not all articles of Merida Convention, as listed in the footnote, are covered in the legislation.</li> </ul>
37. Mutual legal assistance	<b>LC</b>	<ul style="list-style-type: none"> <li>Dual criminality - legislation is silent on application of non-coercive measures as per request by foreign jurisdictions.</li> <li>The principle that to meet the dual criminality requirement it is necessary that the described conduct is criminalised in line with the North Macedonia's Criminal Code, is not explicitly stated in the legislation.</li> </ul>
38. Mutual legal assistance: freezing and confiscation	<b>LC</b>	<ul style="list-style-type: none"> <li>Shortcomings identified in respect of R.4 hinder the state's ability to provide assistance in freezing and confiscating assets and instrumentalities.</li> </ul>
39. Extradition	<b>LC</b>	<ul style="list-style-type: none"> <li>Potential problems stand with the issue of dual criminality as regards TF offence as well as restrictions regarding appropriate prosecution against not extradited Macedonia's citizens.</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
40. Other forms of international cooperation	LC	<ul style="list-style-type: none"> <li>• International cooperation and exchange of data with foreign counterparts for all authorities is subject to signed MoUs. Nor many authorities have signed MoUs for international cooperation.</li> <li>• For all competent authorities there are no legal provisions that would prescribe to have case management system/mechanisms.</li> <li>• The Law on Personal Data puts certain limitations on dissemination of personal data to foreign countries that are not members of EU and European Economic Area (Chapter V of the Law), which may negatively affect, complicate, or even prevent international exchange of information that features personal data.</li> <li>• There are no mechanisms or legal provisions for the prioritization and timely execution of international cooperation request among competent authorities</li> <li>• There are no specific legal provisions explicitly regulating the provision of feedback to the authority from which assistance is sought.</li> <li>• For the law enforcement and supervisory authorities there is no clear provision allowing or prohibiting information exchange with different types of foreign counterparts.</li> <li>• There are no specific safeguards for the international information exchange and obtaining prior consent for using prior data.</li> <li>• It is not clear whether FIU, NBRNM, SEC, ISA and MAPAS according to Article 154 of the AML/CFT Law can actually exchange documents with foreign counterparts on the financial institution concerned.</li> <li>• In so far as the ability to collect information on behalf of foreign counterparts is concerned, the only authority that seems to have some form of basis to do so is the SEC as the IOSCO MMOU provides for as much under Clause 7(b).</li> </ul>

## GLOSSARY OF ACRONYMS <sup>51</sup>

	DEFINITION
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AMLD	EU Anti-Money Laundering Directive
AMLTFL	Anti-Money Laundering and Terrorism Financing Law (AML/CFT Law)
ANS	Agency for National Security
ARO	Assets Recovery Office
ASCS	Anti-Corruption State Commission
AT	Assessment Team
BO	Beneficial owner/Beneficial Ownership
BPO OCC	Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption
CA	Customs Administration
CARIN	Camden Asset Recovery Inter-Agency Network
CC	Criminal Code
CPC	Criminal Procedure Code
CPT	Council of Europe anti-torture Committee
CSD	Central Securities Depository
CTR	Cash Transaction Report
DIC SPO	Department of International Cooperation at SPO
DOOEL	Limited Liability Company (in Macedonia's)
DPKR	Democratic People's Republic of Korea
DPMS	Dealers in Precious Metals and Stones
DSOSC	Department for Suppression of Organized and Serious Crime
ECB	European Central Bank
EDD	Enhanced Due Diligence
ESW	Egmont Secure Web
EU	European Union
EUROJUST	EU Agency for judicial cooperation in criminal matters
Europol	European Police Office
FI	Financial Institution
FP	Financial Police
FTF	Foreign Terrorist Fighters
GDP	Gross Domestic Product
GRECO	Group of States against Corruption
GWP	Gross written premia
IA	Intelligence Agency
IAIS	International Association of Insurance Supervisors
ICO	Initial Coin Offering
ICP	International Core Principles
ILO	International Labour Organisation
IMF	International Monetary Fund
IOSCO	International Organization of Securities Commissions
ISA	Insurance Supervision Agency
ISIL/ISIS	Islamic State of Iraq and the Levant
JIT	Joint Investigative Team
JSC	Joint Stock Company
LCP	Law on Criminal Procedure
LEAs	Law Enforcement Authorities
LFEO	Law on Foreign Exchange Operations
LICCP	Law on International Cooperation in Criminal Matters
LLC	Limited Liability Company
LRM	Law on Restrictive Measures
MAPAS	Agency for Supervision of Fully Funded Pension Insurance
MER	Mutual Evaluation Report
MFA	Ministry of Foreign Affairs
MKD	Macedonia's Denar
MLA	Mutual Legal Assistance
MLRO	Money Laundering Reporting Officer
MMOU	Multilateral Memorandum of Understanding
MOE	Ministry of Economy
MOF	Ministry of Finance

<sup>51</sup> Acronyms already defined in the FATF 40 Recommendations are not included into this Glossary.

MOI	Ministry of Interior
MoJ	Ministry of Justice
NATO	North Atlantic Treaty Organization
NBRNM	National Bank of the Republic of North Macedonia
NCC	National coordination Centre for Combatting Organized Crime and Serious Crime
NGO	Non-governmental organisation
NRA	National Risk Assessment
NSA	National Security Agency
OE	Obligated Entities
OSCE	Organization for Security and Co-operation in Europe
PF	Proliferation Financing
PPO	Public Prosecutor's Office
PRO	Public Revenue Office
RAN	Rapid Alert Network
RILO	Regional Intelligence Liaison Office
SAA	Stabilisation and Association Agreement with the European Communities and their Member States
SCPC	State Commission for Prevention of Corruption
SDD	Simplified Due Diligence
SEC	Securities and Exchange Commission
SELEC	Southeast European Law Enforcement Centre
SIENA	Secure Information Exchange Network Application
SIPC	Sector for International Police Cooperation
SOCTA	National serious and organized crime threat assessment
SoF/SoW	Source of funds/Source of wealth
SOP	Standard Operating Procedures
SPO	Special Prosecutor's Office
SPO OCC	Special Public Prosecutor's Office for Organized Crime and Corruption
SREP	Supervisory Review and Evaluation Process
SWIFT	Society for Worldwide Interbank Financial Telecommunication
TFS	Targeted Financial Sanctions
TIN	Tax Identification Number
VA	Virtual Assets
VAT	Value Added Tax
WCO	World Customs Organisation
WMD	Weapons of Mass Destruction

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Anti-money laundering and counter-terrorism financing measures  
**North Macedonia**

*Fifth Round Mutual Evaluation Report*

This report provides a summary of AML/CFT measures in place in North Macedonia as at the date of the on-site visit (21 September to 6 October 2022). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of North Macedonia AML/CFT system, and provides recommendations on how the system could be strengthened.