

# Anti-money laundering and counter-terrorist financing measures

## Bosnia and Herzegovina

### Fifth Round Mutual Evaluation Report

December 2024



**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.

All rights reserved. Reproduction of the text in this publication is authorised provided the full title and the source, namely the Council of Europe, are cited. For any use for commercial purposes, no part of this publication may be translated, reproduced or transmitted, in any form or by any means, electronic (CD-Rom, Internet, etc.) or mechanical, including photocopying, recording or any information storage or retrieval system without prior permission in writing from the MONEYVAL Secretariat, Directorate General of Human Rights and Rule of Law, Council of Europe (F-67075 Strasbourg or [moneyval@coe.int](mailto:moneyval@coe.int))

The fifth round mutual evaluation report on Bosnia and Herzegovina was adopted by the MONEYVAL Committee at its 68th Plenary Session (Strasbourg, 2-6 December 2024).

## Contents

<b>EXECUTIVE SUMMARY</b> .....	<b>6</b>
KEY FINDINGS .....	6
RISKS AND GENERAL SITUATION .....	9
OVERALL LEVEL OF COMPLIANCE AND EFFECTIVENESS .....	9
PRIORITY ACTIONS.....	16
EFFECTIVENESS & TECHNICAL COMPLIANCE RATINGS.....	18
EFFECTIVENESS RATINGS .....	18
TECHNICAL COMPLIANCE RATINGS.....	18
<b>MUTUAL EVALUATION REPORT</b> .....	<b>19</b>
<b>1. ML/TF RISKS AND CONTEXT</b> .....	<b>20</b>
1.1. ML/TF RISKS AND SCOPING OF HIGHER RISK ISSUES .....	20
1.2. MATERIALITY.....	23
1.3. STRUCTURAL ELEMENTS .....	23
1.4. BACKGROUND AND OTHER CONTEXTUAL FACTORS .....	25
<b>2. NATIONAL AML/CFT POLICIES AND COORDINATION</b> .....	<b>36</b>
2.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	36
2.2. IMMEDIATE OUTCOME 1 (RISK, POLICY AND COORDINATION) .....	38
<b>3. LEGAL SYSTEM AND OPERATIONAL ISSUES</b> .....	<b>57</b>
3.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	57
3.2. IMMEDIATE OUTCOME 6 (FINANCIAL INTELLIGENCE ML/TF) .....	61
3.3. IMMEDIATE OUTCOME 7 (ML INVESTIGATION AND PROSECUTION) .....	77
3.4. IMMEDIATE OUTCOME 8 (CONFISCATION) .....	86
<b>4. TERRORIST FINANCING AND FINANCING OF PROLIFERATION</b> .....	<b>96</b>
4.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	96
4.2. IMMEDIATE OUTCOME 9 (TF INVESTIGATION AND PROSECUTION) .....	99
4.3. IMMEDIATE OUTCOME 10 (TF PREVENTIVE MEASURES AND FINANCIAL SANCTIONS) .....	105
4.4. IMMEDIATE OUTCOME 11 (PF FINANCIAL SANCTIONS) .....	112
<b>5. PREVENTIVE MEASURES</b> .....	<b>116</b>
5.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	116
5.2. IMMEDIATE OUTCOME 4 (PREVENTIVE MEASURES).....	118
<b>6. SUPERVISION</b> .....	<b>140</b>
6.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	140
6.2. IMMEDIATE OUTCOME 3 (SUPERVISION) .....	142
<b>7. LEGAL PERSONS AND ARRANGEMENTS</b> .....	<b>161</b>
7.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	161
7.2. IMMEDIATE OUTCOME 5 (LEGAL PERSONS AND ARRANGEMENTS).....	162
<b>8. INTERNATIONAL COOPERATION</b> .....	<b>172</b>
8.1. KEY FINDINGS AND RECOMMENDED ACTIONS.....	172

8.2. IMMEDIATE OUTCOME 2 (INTERNATIONAL COOPERATION) .....	173
<b>TECHNICAL COMPLIANCE ANNEX.....</b>	<b>189</b>
RECOMMENDATION 1 – ASSESSING RISKS AND APPLYING A RISK-BASED APPROACH .....	189
RECOMMENDATION 2 - NATIONAL COOPERATION AND COORDINATION.....	194
RECOMMENDATION 3 - MONEY LAUNDERING OFFENCE .....	196
RECOMMENDATION 4 - CONFISCATION AND PROVISIONAL MEASURES .....	198
RECOMMENDATION 5 - TERRORIST FINANCING OFFENCE .....	200
RECOMMENDATION 6 - TARGETED FINANCIAL SANCTIONS RELATED TO TERRORISM AND TERRORIST FINANCING .....	202
RECOMMENDATION 7 – TARGETED FINANCIAL SANCTIONS RELATED TO PROLIFERATION .....	206
RECOMMENDATION 8 – NON-PROFIT ORGANISATIONS.....	208
RECOMMENDATION 9 – FINANCIAL INSTITUTION SECRECY LAWS .....	210
RECOMMENDATION 10 – CUSTOMER DUE DILIGENCE.....	212
RECOMMENDATION 11 – RECORD-KEEPING.....	215
RECOMMENDATION 12 – POLITICALLY EXPOSED PERSONS.....	216
RECOMMENDATION 13 – CORRESPONDENT BANKING .....	217
RECOMMENDATION 14 – MONEY OR VALUE TRANSFER SERVICES.....	218
RECOMMENDATION 15 – NEW TECHNOLOGIES.....	219
RECOMMENDATION 16 – WIRE TRANSFERS .....	221
RECOMMENDATION 17 – RELIANCE ON THIRD PARTIES.....	223
RECOMMENDATION 18 – INTERNAL CONTROLS AND FOREIGN BRANCHES AND SUBSIDIARIES.....	224
RECOMMENDATION 19 – HIGHER-RISK COUNTRIES.....	226
RECOMMENDATION 20 – REPORTING OF SUSPICIOUS TRANSACTION.....	226
RECOMMENDATION 21 – TIPPING-OFF AND CONFIDENTIALITY.....	227
RECOMMENDATION 22 – DNFBPs: CUSTOMER DUE DILIGENCE .....	228
RECOMMENDATION 23 – DNFBPs: OTHER MEASURES.....	229
RECOMMENDATION 24 – TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL PERSONS .....	230
RECOMMENDATION 25 – TRANSPARENCY AND BENEFICIAL OWNERSHIP OF LEGAL ARRANGEMENTS.....	237
RECOMMENDATION 26 – REGULATION AND SUPERVISION OF FINANCIAL INSTITUTIONS.....	238
RECOMMENDATION 27 – POWERS OF SUPERVISORS .....	248
RECOMMENDATION 28 – REGULATION AND SUPERVISION OF DNFBPs .....	253
RECOMMENDATION 29 - FINANCIAL INTELLIGENCE UNITS.....	256
RECOMMENDATION 30 – RESPONSIBILITIES OF LAW ENFORCEMENT AND INVESTIGATIVE AUTHORITIES.....	259
RECOMMENDATION 31 - POWERS OF LAW ENFORCEMENT AND INVESTIGATIVE AUTHORITIES .....	260
RECOMMENDATION 32 – CASH COURIERS .....	261
RECOMMENDATION 33 – STATISTICS.....	262
RECOMMENDATION 34 – GUIDANCE AND FEEDBACK.....	263
RECOMMENDATION 35 – SANCTIONS.....	265
RECOMMENDATION 36 – INTERNATIONAL INSTRUMENTS.....	267
RECOMMENDATION 37 - MUTUAL LEGAL ASSISTANCE .....	268
RECOMMENDATION 38 – MUTUAL LEGAL ASSISTANCE: FREEZING AND CONFISCATION .....	269
RECOMMENDATION 39 – EXTRADITION .....	272
RECOMMENDATION 40 – OTHER FORMS OF INTERNATIONAL COOPERATION.....	273
<b>SUMMARY OF TECHNICAL COMPLIANCE – DEFICIENCIES.....</b>	<b>280</b>
ANNEX TABLE 1. COMPLIANCE WITH FATF RECOMMENDATIONS.....	280



## EXECUTIVE SUMMARY

1. This report provides a summary of the anti-money laundering and combating financing of terrorism (AML/CFT) measures in place in Bosnia and Herzegovina (BiH) as at the date of the on-site visit (12-28 February 2024). It analyses the level of compliance with the Financial Action Task Force (FATF) 40 Recommendations and the level of effectiveness of BiH's AML/CFT system and provides recommendations on how the system could be strengthened.

### Key Findings

- a) The authorities generally have a good understanding of money laundering (ML) risk but there are limitations in understanding of terrorist financing (TF) risk. Whilst several separate strategic and policy documents and action plans are in place, it is not clear that all risks are addressed. In general, the objectives and activities of competent authorities correspond with identified risks but there is a lack of adequate overall coordination on the implementation of AML/CFT policy at state level. At operational level, there are examples of good cooperation.
- b) Although there is a good level of cooperation and communication between the competent authorities, there are concerns with the effective use of the financial intelligence unit (FIU) in the overall AML/CFT system in BiH. The FIU successfully uses financial intelligence derived from suspicious transaction reports (STRs) and cash transaction reports (CTRs), whereas the use of other sources of information needs to be enhanced. Whilst the number and proportion of STRs disseminated to law enforcement authorities (LEAs) has increased during the period under review, they are only partially aligned with the risk profile of the country and relate overwhelmingly to tax related matters. The number of TF-related STRs is low, which is not in line with TF-related risks, but the quality of these reports is considered satisfactory. LEAs demonstrated effective use of ML-related financial intelligence gathered on their own initiative, though this has not been the case for TF. On the other hand, LEAs use of financial intelligence produced by the FIU to initiate investigations into ML/TF and predicate offences is insufficient.
- c) There is a robust system in place for the identification and investigation of ML offences at all levels (BiH, the Federation of BiH (FBiH), Republika Srpska (RS) and Brčko District of BiH (BD)). There have been a number of ML investigations and prosecutions initiated, and convictions achieved. ML investigations and prosecutions are partially in line with the country's risk profile with fraud being the most prevalent predicate offence. All types of ML offences are pursued however self-laundering is the most predominant type. However, there are limitations in the effectiveness of the system including: (i) no prioritisation mechanism in place in relation to ML offences; (ii) undue delays in ML criminal proceedings; and (iii) noticeable deficiencies in ML interpretation at entity and district level prosecutors and LEAs.
- d) Confiscation is pursued as a policy objective to some extent. However, there remain issues including delays in establishing a legislative framework for an effective asset



management system at the state level and the creation of a special prosecutorial department in FBiH. Authorities across BiH have seized and confiscate a commendable value of assets in relation to ML offences. Notwithstanding, major improvements are needed in relation to seizure and confiscation of proceeds of predicate offences. Asset management offices at entity level facilitate effective management of seized and confiscated assets. Sanctions applied for non-declared cash are minimal and not proportionate, dissuasive nor effective. Overall, confiscations carried out so far are partially consistent with the risk profile of the country.

- e) Given the TF risk profile of the country the achieved results (one conviction and one prosecution resulting in acquittal) are not in line with its risk profile. Moreover, the limited understanding of the judiciary and, to some extent, of LEAs and prosecutors of the TF offence is an impediment to achieving effectiveness. There are no reliable statistics on the overall number of TF cases identified and investigated during the period under review. The authorities did present three ongoing cases in relation to financing of foreign terrorist fighters (FTFs). The authorities are required to carry out financial investigations in all terrorism cases, yet outcomes related to such investigations are not clear. A terrorism-related strategy, and corresponding action plan have been developed and the outcomes of TF investigations have been integrated therein aiming to overcome identified deficiencies. However, there is scope for improvement regarding the use of TF cases to support designations.
- f) There are fundamental deficiencies related to targeted financial sanctions (TFS). For most of the period under assessment, a cohesive TFS framework was not in place. Whilst targets for designation in BiH are being identified for TF-related TFS, effectiveness of the process is undermined by significant delays. Banks and some other large financial institutions (FIs) and larger designated non-financial businesses and professions (DNFBPs) had a reasonable understanding of general TFS implementation (for TF and financing of proliferation of weapons of mass destruction (PF)). Supervisors considered TFS implementation as part of general monitoring of the application of systems and controls, including risk management. No assets or funds were frozen during the period under review. TF risks related to non-profit organisations (NPOs) and their vulnerability to TF abuse have not been sufficiently assessed. Outreach and initiatives for NPOs are lacking and risk-based oversight of the NPO sector is missing.
- g) Banks and virtual asset service providers (VASPs) have a good level of ML/TF risk understanding and AML/CFT obligations. Risk understanding is generally good amongst non-bank FIs but is limited among DNFBPs, including notaries. Banks effectively apply specific controls to mitigate risks, whereas measures applied in other sectors, for the most part, are based on monetary thresholds. FIs and some DNFBPs, including notaries, apply customer due diligence (CDD) measures adequately. FIs apply specific and enhanced due diligence (EDD) measures to a satisfactory degree, with some deficiencies noted for politically exposed persons (PEPs) and higher-risk jurisdictions. Other sectors, including notaries, do not apply EDD measures to address PEP risk.

- h) Controls implemented by core principles supervisors prevent criminals and their associates from holding or being the beneficial owner (BO) of a significant or controlling interest or holding a management function. Accreditation of notaries, lawyers and certified accountants prevents criminals from acting in these professional roles. Information has not been provided on other DNFBPs, except operators of games of chance. Core principles supervisors have a comprehensive understanding of ML risk, but in most other sectors, the concept of risk identification and assessment is still nascent. In line with shortcomings identified in national risk assessments, understanding of TF risk is less developed across all sectors. Application of a risk-based approach is generally well developed in the banking sector and important steps have been taken towards introducing risk-based AML/CFT supervision for DNFBPs, including notaries in the RS. There is evidence of a rather conservative sanctioning approach and the level of fines imposed on banks is not likely to dissuade others or to be effective at ensuring future compliance by the sanctioned institution. No remedial actions or sanctions have been applied to DNFBPs. A supervisory framework for VASPs has not been introduced in the FBiH or BD and VASPs have not been subject to risk-based supervision in the RS.
- i) Whilst BiH has conducted some analysis to understand ML risks pertaining to legal persons, there is a lack of adequate understanding of how they may be used in ML. No assessment of TF risks has been carried out. Mitigating measures taken to prevent misuse of legal persons are limited by the absence of overriding coordination at state level. Banks are the primary source for obtaining BO information by the FIU and a secondary source for LEAs. Whilst banks are generally applying effective CDD measures to legal persons, it has not been demonstrated that all legal persons established in BiH hold a bank account in the country. Use is also made by LEAs of basic information held in registers, including information on registered shareholders (which may also constitute BO information). However, there are doubts on the extent to which information accessible would always be up to date and accurate.
- j) BiH has a sound legal framework enabling provision of mutual legal assistance (MLA) and extradition in relation to ML, associated predicate offences and TF. There is no case management system for handling and following MLA and extradition requests. However, international feedback indicates that both MLA and extraditions are provided in a constructive manner. MLA and extraditions in relation to ML, associated predicate offences and TF are sought to some extent, when a transnational element is identified. Furthermore, the nature of MLA sought only partially corresponds with areas identified as presenting a higher threat in national risk assessments. International cooperation provided by the FIU, LEAs and core principle supervisors is of good quality. There is insufficient data to determine whether outgoing requests were in line with the risk profile of the country and LEAs were not pro-active in seeking international police cooperation with regards to TF. It is also recognised that the FIU should be more pro-active in seeking information from foreign FIUs.



## Risks and General Situation

2. The primary ML threats identified by the authorities are: (i) corruption, tax crimes, and organised crime (high threat); and (ii) illegal trafficking and production of narcotic drugs and fraud (medium/high threat). There is an increasing trend of proceeds of foreign predicates being laundered in BiH.

3. Domestic organised crime groups operate solely in the territory of BiH. Cross-border crime is impacted by BiH's geographical location along the Balkan route and largely consists of illegal drug trafficking and human smuggling. Additionally, continuous pressure from migrants poses a direct threat to the country's security. No terrorist acts were committed in BiH in the period under review. However, the country has faced issues with Bosnian nationals joining extremist groups in the Middle East.

4. Cash continues to be widely used in BiH. The share of the informal economy in GDP is estimated by the authorities to be between 30% and 35%.

## Overall Level of Compliance and Effectiveness

5. BiH has taken steps since its last evaluation to remedy the deficiencies identified during that process. The country has strengthened its legal and regulatory framework and conducted two assessments: (i) national risk assessment (NRA) covering the period from 2018 to 2022 - adopted by the Council of Ministers in August 2018; and (ii) NRA Addendum covering the period from 2022 to 2024 - adopted by the Council of Ministers in March 2023.

6. In most respects, the elements of an effective AML/CFT system are in place, but the practical application of the existing framework has still to be improved to reach a substantial level of compliance. These improvements should, inter alia, include: (i) deepening the understanding of TF threats and vulnerabilities; (ii) aligning FIU disseminations with the country's risk profile; (iii) establishing a policy to prioritise the identification, investigation and prosecution of ML offences in order to mitigate risks and overcome undue delays in criminal proceeding; (iv) applying seizing measures to secure assets subject to confiscation in all ML, predicate and TF cases; (v) developing understanding and interpretation of the TF offence in line with domestic legislation and international standards; (vi) understanding TF risks related to NPOs; (vii) ensuring effective implementation and functioning of legislative mechanisms to implement TF and PF-related TFS; (viii) developing DNFBP supervisors' understanding of risk; (ix) establishing a working group to promote coordination between authorities with responsibilities linked to transparency of legal persons; and (x) developing procedures on the effective and timely management and tracking of MLA and extradition.

7. In terms of technical compliance, the legal framework has been enhanced in many aspects. Nevertheless, a number of deficiencies remain with respect to: (i) measures to assess risks and apply risk-based approach (R.1); (ii) national cooperation and coordination (R.2); (iii) targeted PF financial sanctions (R.7); (iv) NPO sector (R.8); (v) PEPs (R.12); (vi) measures applied to virtual assets (VAs) and VASPs (R.15); (vii) transparency and BO of legal persons (R.24); (viii) regulation and supervision of FIs and DNFBPs (R.26 and R.28); (ix) statistics (R.33); (x) guidance and feedback (R.34); (xi) sanctions (R.35); and (xii) measures on international cooperation (R.36, R.38 and R.40).

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

8. BiH published its first national risk assessment in 2018 (NRA), followed by a full update in 2023 (NRA Addendum). These are complemented by risk assessments of legal persons (2024) and VAs (2024). Throughout, there has been an intensive level of coordination and cooperation to assess ML and TF risk and the level of knowledge of findings is generally high amongst competent authorities and obliged entities.

9. The authorities generally have a good understanding of ML risk, although there are variations amongst key stakeholders. However, understanding of cross-border ML risk is affected by a rather narrow approach in estimating the value of foreign proceeds of crime deriving from organised crime, and the impact of the size of the informal economy and use of cash on ML/TF risks needs further attention. Whilst the NRA Addendum identifies a broad range of threats related to TF which are thoroughly and well analysed, the assessment team (AT) does not consider that the risk assessment is adequately supported by an analysis of threats and vulnerabilities. Accordingly, there are limitations in understanding of TF risk.

10. The ML risk in the banking sector is now assessed as medium. The AT has a concern about this level of assessment of ML risk given, inter alia, that banks have become essential for ML and central role that is played by banks in the country's economy.

11. There are several separate strategic and policy documents and action plans that could allow the authorities to demonstrate that there are national AML/CFT policies and activities. However, it is not clear that all risks are addressed in these documents, e.g., corruption and TF, or that the documents present a joined-up and cohesive response to ML/TF risks identified in the NRA and NRA Addendum.

12. Regard must always be had to the results of national risk assessments when applying CDD measures.

13. In general, the objectives and activities of competent authorities correspond with the risks identified in the NRA Addendum. The authorities conduct financial investigations in all terrorism-related cases. However, procedures for investigating terrorism do not prioritise investigation of the TF component.

14. A mechanism for national AML/CFT coordination and cooperation is in place. However, there is a lack of adequate overall coordination on the implementation of AML/CFT policy at state level. At operational level, there is good cooperation between competent LEAs, between core principles supervisors, between core principles supervisors and the FIU, and between authorities combating terrorism and terrorism-related crimes, including TF. There is no permanent body in charge of co-operation and, where appropriate, co-ordination to combat PF.

15. Most FIs and DNFBPs are aware of the NRA process and FIs had a good understanding of national and sectoral risks set out in the NRA Addendum, such as those presented by notarial services and the real estate sector. Understanding of national risk amongst DNFBPs was mixed. VASPs were extensively engaged in the VA risk assessment and so were aware of the results of the process.

16. Although there is a good level of cooperation and communication between the competent authorities, there are concerns with the effective use of the FIU in the overall AML/CFT system in BiH, given its law enforcement position.

17. Investigative authorities have access to financial intelligence and other information which they use to establish evidence and trace the proceeds of crime linked to ML and predicate offences. This has not been the case for TF. Competent authorities use the FIU during investigations mostly to obtain information from the domestic banking sector or from foreign jurisdictions and this is useful. On the other hand, LEAs use of financial intelligence produced by the FIU to initiate investigations into ML/TF and predicate offences is insufficient.

18. Most STRs are received from banks, and the contribution from some higher risk sectors such as those linked to real estate remains limited. Both spontaneous disseminations and those made in response to requests are overwhelmingly linked to tax offences and so only partially in line with the country's risk profile. ML derived from predicate offences that are important in the context of the country such as corruption and organised crime are under-reported. In addition, suspicious activity related to TF is under-reported which has a bearing on the quality of financial intelligence in this regard.

19. Feedback from competent authorities is not provided to the FIU on regular basis and the FIU lacks resources devoted to both operational and strategic analysis. Both would be beneficial in ensuring that the FIU is effectively supporting the operational needs of competent authorities. The quality of financial intelligence has been affected by the lack of reporting on cross-border transportation of cash that raise suspicion of ML/TF. This is not in line with risk.

#### *Investigation and prosecution of ML*

20. BiH has a sound legal system and a robust institutional framework that allows authorities to identify and investigate ML offences. Nevertheless, ML investigations and prosecutions are not pursued as a priority, unless the offence emanates from corruption or organised crime. A variety of sources of information are used to identify and investigate ML offences. Nevertheless, no ML investigation arose from incoming MLA requests nor from cross border movements of cash. Authorities regularly conduct parallel financial investigations, and there is a mandatory instruction to do so. Even though there is no exact number of ML investigations triggered by results from financial investigations, there are case examples proving that they are used to identify ML cases. ML investigations and prosecutions achieved so far are partially in line with identified ML threats. Prosecutions and convictions are mostly for self-laundering offences, with individuals convicted when they are unable to prove the source of funds. Some competent authorities do not interpret the ML offence in line with domestic legislation or international standards. Still, some prosecutions are sought, and convictions being handed down for a standalone ML offence.

#### *Confiscation*

21. Confiscation in BiH is pursued as a policy objective to some extent, with some objectives yet to be met. The authorities conduct parallel financial investigations to identify assets in ML cases, but it has not been demonstrated that these investigations are routinely used to seize and confiscate proceeds from predicate offences. There is an overall lack of comprehensive and

reliable information and statistics. However, it can be concluded that commendable seizures and confiscations have been observed in ML cases, while major improvements are needed in relation to seizure and confiscation of proceeds stemming from predicate offences. Once assets are seized and confiscated by entity courts, there are effective measures in place enabling asset management (in FBiH and RS). Despite this, concerns persist regarding the effective management of assets seized and confiscated by the courts of BiH. At its borders, BiH is not effectively detecting non-declared and falsely declared cash, considering the country's risk and context. Overall, the consistency of confiscations carried out so far with the risk profile of the country has been demonstrated only to some extent.

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

22. The authorities recognise a medium TF risk. However, there are deficiencies in understanding TF risks and the incriminations of TF offences do not align with established standards. During the period under review, there was one TF conviction and one TF prosecution which resulted in an acquittal. Such results cannot be considered as commensurate with medium TF risk. However, the authorities were able to identify and investigate some TF cases. The exact number of investigations conducted during the assessment period is uncertain, but some information suggests there are three ongoing cases. While the authorities demonstrated some skills in TF identification and investigations, not all sources of information are used to identify this crime. In addition, it was observed that the interpretation of the TF offence by the authorities is inconsistent, with the judiciary demonstrating the most limited understanding. This has a cascading effect on LEA motivation and persistence to pursue TF cases which differ from the established interpretation. Recently, a strategy for the prevention and fight against terrorism, with related action plan, has been developed, and the results from TF investigations have been integrated into this strategy.

23. New mechanisms have been introduced to support implementation of TF- and PF-related TFS without delay, though these do not include direct sanctions for breaches. However, for the majority of the review period, a cohesive TFS framework was not in place. Whilst there has been one designation in BiH under United Nations (UN) Security Council Regulation (UNSCR) 1373, there are delays in the overall designation process, and it is not clear to what extent persons investigated for terrorism or TF are considered for possible designation. Implementation of TFS obligations varies amongst sectors. FIs, larger DNFBPs and VASPs (assessed under IO.4) demonstrated a good level of understanding of their obligations, unlike smaller DNFBPs. Supervisors considered TFS implementation as part of general monitoring of the application of systems and controls, including risk management. No assets or funds were frozen during the period under review.

24. Whilst NPOs have been considered in risk analyses, a comprehensive and adequate assessment has not been carried out to: (i) understand TF risks associated with the sector; (ii) identify the subset of organisations falling within the FATF definition of NPO; or (iii) understand the features and types of NPOs which are likely to be at a risk of TF abuse. Fundamental challenges exist with respect to risk-based monitoring of NPOs.

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

25. Banks and VASPs have a good level of ML/TF risk understanding and AML/CFT obligations and were able to recognise how their operations could be prone to risks identified at a national level. Risk understanding was less developed for other FIs and limited among DNFBPs,

and most gatekeepers for real estate or legal persons (which include notaries) did not recognise risks identified in national risk assessments. Understanding of AML/CFT obligations amongst non-bank FIs and DNFBPs is mixed.

26. Banks effectively apply specific controls to counter their exposure towards the main risks. Other non-bank FIs did not clearly demonstrate the application of mitigating measures commensurate with risk, and measures applied by DNFBPs and VASPs are, for the most part, largely based on monetary thresholds. Consequently, customer risk assessments, when performed, have a minimal bearing on the CDD measures applied, particularly for notaries. Notwithstanding, particular emphasis is placed on the use of cash.

27. All FIs and VASPs apply CDD measures adequately, with banks taking a more comprehensive, risk-based approach, while other FIs apply threshold-driven measures. FIs demonstrated a good understanding of the process to verify legal persons' existence and to identify BOs. Notaries and other professionals adhere well to identification and verification principles, though not always aligned to risk, with more limited application in other DNFBP sectors. Many obliged entities, including banks, link BO to shareholding thresholds and so may not be fully equipped to obtain and hold complete BO information in more complex cases. Despite rigorous onboarding and ongoing due diligence processes, some banks were unable to provide clear examples of how CDD measures had led to customer refusals or termination of relationships, and the number of refused or terminated relationships during the assessment period is low.

28. FIs apply specific and EDD measures to a satisfactory degree, with some deficiencies noted in smaller FIs application of measures related to PEPs (where there is often exclusive reliance on self-declarations to determine whether a customer is a PEP and, if so, their source of wealth) and high-risk jurisdictions. Some DNFBPs, including notaries, do not apply EDD measures to address PEP risk and, overall, outside the banking sector, the application of EDD measures to PEPs is not satisfactory. VASPs implement applicable EDD measures to an adequate level but are not required to apply the "travel rule" to transfers of VAs.

29. Reporting of suspicious transactions is covered above. In addition, rather than considering whether there are grounds for suspecting ML/TF when cash is used, DNFBPs, including notaries, rely on systematic threshold reporting to the FIU and there is a lack of understanding of reporting obligations. Annual feedback on STRs is given by the FIU, which may not allow reporting entities to react on a timely basis.

30. Generally, obliged entities apply internal controls that are proportionate to risk, context and materiality.

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

31. Controls implemented by banking supervisors prevent criminals and their associates from holding or being the BO of a significant or controlling interest or holding a management function. This is the case for other core principles supervisors, notwithstanding some shortcomings in the scope of underlying legislation. In the case of foreign exchange offices, which must operate under a contract with a bank, controls can also be considered effective taking account of complementary checks applied on owners and management by banks. Controls in place in the gambling sector are not effective. Accreditation of notaries, lawyers and certified accountants (but not other accountants) prevents criminals from acting in these professional

roles. Information has not been provided on other DNFBPs. Effective controls are in place for VASPs in the RS, but not otherwise.

32. Core principles supervisors have a comprehensive or good understanding of ML risks at institutional and at sectoral level. Information is collected through questionnaires and other supervisory engagement, and, in the case of banking entities, a risk matrix is used to calculate institutional risk. Fundamental changes are not needed to this approach. Use is also made of questionnaires to support risk understanding in some other sectors but, except for notaries in RS, the concept of risk identification and assessment is still nascent and so understanding is, at best, limited. DNFBP supervisors have recently taken steps to improve their risk understanding. The supervisor of VASPs in RS has demonstrated a good understanding of ML risks in the sector. In line with shortcomings identified in national risk assessments, understanding of TF risk is less developed across all sectors.

33. Application of a risk-based approach is generally well developed in the banking sector, where the frequency and scope of AML/CFT on-site supervision are risk-based and consider higher risk areas identified in risk assessments. There are elements of risk-based AML/CFT supervision in the insurance sector, notwithstanding the very limited number of inspections in the FBiH. The extent to which risk drives the frequency and scope of AML/CFT supervision in the securities sector is unclear. For DNFBPs, important steps have been taken towards introducing risk-based AML/CFT supervision, including for notaries in the RS. However, it is too soon to determine how effective these new measures will be.

34. There are no published policies on sanctioning practice, and there is inconsistent use of measures in practice amongst banking supervisors. There is also evidence of a rather conservative sanctioning approach. In particular, the level of fines imposed on banks is not likely to dissuade others or to be effective at ensuring future compliance by the sanctioned institution. Given the nascent state of supervision of DNFBPs and VASPs, no remedial actions or sanctions have been applied.

35. Supervision, in particular follow-up inspections, is making a positive difference to the level of AML/CFT compliance by FIs. However, supervisors do not measure the success of what they do at a more strategic level. Given the absence of supervision of DNFBPs for much of the period under review, it was not possible to demonstrate any effect on compliance. Core principle supervisors have proactively promoted understanding by FIs of AML/CFT obligations and risks. There has been little effort to promote understanding of AML/CFT requirements by DNFBPs until comparatively recently. However, initial inspections act as a form of bespoke training, helping to increase overall knowledge and awareness of AML/CFT requirements and compliance. As part of the registration process in the RS for VASPs, the supervisor has worked successfully with applicants to promote understanding of AML/CFT requirements.

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

36. BiH has conducted some analysis to understand ML risks pertaining to legal persons. This includes through the NRA, the NRA Addendum and a more recent stand-alone assessment which, inter alia, refer to “phantom” companies and use of nominee shareholdings. The risk of abuse of legal persons for TF has not been covered in these assessments. The effect of measures taken at state level and in the entities and district to prevent misuse of legal persons is limited by the absence of overriding coordination.



37. Banks are the primary source for obtaining BO information by the FIU and a secondary source for LEAs. Use is also made by LEAs of basic information held in registers, including information on registered shareholders (which may also constitute BO information). However, there are doubts on the extent to which information accessible in these registers would always be up to date and accurate for companies (including partnerships) and BiH does not have an effective system for recording basic information for associations and foundations.

38. Legal persons in BiH are required to hold an account with a bank in BiH. Measures applied by banks to determine who is the BO are deemed largely satisfactory and supervisors did not identify any significant shortcomings. In addition, registration of legal persons and subsequent changes to registered information must be notarised or reviewed by a lawyer. These mechanisms contribute positively to the prevention of the misuse of legal persons and to the availability of BO information in the country. However: (i) the authorities were unable to demonstrate that all legal persons hold a domestic bank account in practice; and (ii) oversight of compliance by notaries and lawyers with CDD requirements in the AML/CFT Law is nascent, limiting the extent to which reliance may be placed on BO information that is held.

39. Detailed statistics on measures applied for failing to comply with information requirements have not been provided.

40. BiH's legal framework does not recognise express trusts or similar legal arrangements.

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

41. BiH provides MLA and extradition in a good and constructive manner but evidence in this respect is limited. The main source for this conclusion is the overall positive feedback provided by foreign counterparts. There are shortcomings in relation to prioritisation mechanisms and the timely execution of requests. The country seeks foreign cooperation in relation to ML/TF and predicate offences to a limited extent, despite the growing foreign threat identified in the NRA Addendum. International cooperation sought is partially in line with threats identified in national risk assessments.

42. International cooperation provided by the FIU, LEAs and core principle supervisors is of good quality, which is acknowledged by counterparts in the international cooperation survey. However, neither the FIU, nor LEAs have established a prioritisation mechanism for providing cooperation in response to incoming requests. There is insufficient data to determine whether outgoing requests were in line with the risk profile of the country and LEAs were not pro-active in seeking international police cooperation with regards to TF. It is also recognised that the FIU should be more pro-active in seeking information from foreign FIUs. The AT also notes that the Indirect Taxation Authority (ITA) – BiH does not cooperate with foreign counterparts specifically for AML/CTF purposes.

## Priority Actions

- a) To support future analyses of TF risk, the authorities should deepen their understanding of threats and vulnerabilities in the following areas: (i) the broad range of threats already identified, including role of radical structures, ultraconservative and right-wing organisations; (ii) connection (if any) between criminal groups, corruption and TF; (iii) all main elements of the TF offence; (iv) use of NPOs; and (v) use of VAs.
- b) The FIU should develop a standard operating procedure on the processing of STRs as well as review its spontaneous disseminations to be more in line with the country risk profile and ensure the presence of all necessary elements therein.
- c) The authorities should establish a clear policy to prioritise the identification, investigation and prosecution of ML offences with a view to increase the number of cases in line with the risk profile of the country and overcome undue delays in criminal proceedings.
- d) The authorities should fully address confiscation policies by achieving its existing strategic goals including creating an effective asset management mechanism at the state level and establishing a special prosecutor's department to tackle organised crime and corruption at the federation level.
- e) LEAs, prosecutors, and the judiciary should develop an understanding and interpretation of the TF offence in line with the national incrimination and international standards (through holding regular training, providing legal interpretation, etc). TF cases should be proactively pursued on a timely basis using a variety of sources to identify TF activities in line with the risk profile of the country.
- f) The authorities should introduce legislative provisions which allow for the direct application of sanctions where breaches of TFS legislation are identified.
- g) The authorities should identify the subset of NPOs that fall under the FATF's definition and carry out a comprehensive risk assessment on these to understand: (i) TF risks related to NPOs; and (ii) the types and features of NPOs that are vulnerable to TF.
- h) Supervisors and the FIU should continue to provide guidance on the main national risks and typologies, particularly in the DNFBP sector where certain risks in relation to real estate and legal persons are under-estimated. Competent authorities should determine why reporting of ML suspicion by banks is not currently in line with threats established in national risk assessments.
- i) DNFBP supervisors should continue to develop their overall understanding of sectorial and institutional risks, where work has already started in this respect. In the case of: (i) operators of games of chance and notaries in FBiH; and (ii) real estate agents, dealers in precious metals and stones (DPMS) and corporate service providers (CSPs), supervisors should start with the collection of information to support risk analyses and risk assessment. All elements of AML/CFT supervision of DNFBPs should be coordinated and overseen at entity level to promote a consistent approach by supervisors across different sectors.

- j) The authorities should establish a working group under the permanent national AML/CFT coordination body to promote policy and operational coordination between the various authorities in the entities and district with responsibilities linked to transparency of legal persons.
- k) BiH should introduce a clear policy at state level, defining the obligation to systematically seek international co-operation when investigating criminal cases of ML, associated predicate offences and TF with a foreign element, in line with its risk profile.

## 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>
Moderate	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	Low	Low	

### 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>
PC	PC	LC	LC	LC	LC
<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	NC	LC	LC	LC	PC
<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>
C	LC	NC	LC	LC	LC
<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>
LC	LC	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>
LC	PC	LC	NC	C	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>
LC	LC	PC	PC	PC	PC
<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	PC	LC	PC		

<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 anti-money laundering and combating financing of terrorism (AML/CFT) measures in place as at the date of the on-site visit. It analyses the level of compliance with the Financial Action Task Force (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 12 February 2024 to 28 February 2024.
3. The evaluation was conducted by an assessment team (AT) consisting of (listed alphabetically): (i) Mr Piotr BRUDNICKI Chief Specialist, AML CFT Unit, Polish Financial Supervision Authority (financial evaluator); (ii) Ms. Jilly CHRISTIAN, Policy and Legislation Manager, Financial Services Authority, Isle of Man (legal evaluator); (iii) Mr. Dejan DJUROVIC, Chief Police Inspector, Police Directorate of Montenegro (legal evaluator); (iv) Ms. Canòlic MINGORANCE, Magistrate, Tribunal de Corts, Andorra (legal evaluator); (v) Mr. Zeljko RADOVANOVIC, Director, Administration for the Prevention of ML, Serbia (legal evaluator); (vi) Ms. Simona STANCA, Senior Supervisor, National Bank of Romania (financial evaluator); and (vii) Mr. Christopher VELLA, Head (Data Management & Analytics), Maltese Financial Intelligence Analysis Unit (financial evaluator).
4. The AT was supported by the MONEYVAL Secretariat (listed alphabetically): (i) Ms Ana BOSKOVIC (Administrator); (ii) Ms Medha DEBASHIS (Administrator); (iii) Mr Andrew LE BRUN, Deputy Executive Secretary; and (iv) Ms Hasmik MUSIKYAN (Administrator). The report was reviewed by (listed alphabetically): (i) Ms Tanja Frank ELER, European Delegated Prosecutor, European Public Prosecutor's Office; (ii) the FATF Secretariat; (iii) Ms Kate RABEY, Crown Advocate, Law Officers of the Crown, Guernsey; and Mr Bertalan VAJDA, Head of Department, AML Supervision Department, National Bank of Hungary.
5. Bosnia and Herzegovina (BiH) previously underwent a FATF Mutual Evaluation in 2014/2015, conducted according to the 2004 FATF Methodology. The 2014 evaluation report has been published and is available at: <https://rm.coe.int/report-on-fourth-assessment-visit-anti-money-laundering-and-combating-/1680715b43>.
6. That Mutual Evaluation concluded that the country was compliant with three Recommendations; largely compliant with 21; partially compliant with 22; and non-compliant with two. One Recommendation was not applicable.

## 1. ML/TF RISKS AND CONTEXT

7. BiH is situated in the western part of the Balkan Peninsula and is bordered by Croatia, Montenegro, Serbia, and the Adriatic Sea. Its land surface is 51 209 km<sup>2</sup>.

8. BiH is a parliamentary republic and consists of two entities: (i) the Federation of Bosnia and Herzegovina (FBiH); and (ii) Republika Srpska (RS). The Brčko District of BiH (BD) is a unique administrative unit of local self-government that is under the sovereignty of BiH. Legislative power at state level is vested in the Parliamentary Assembly, which is bicameral and consists of the House of the People and the House of Representatives. At state level, the executive authority of BiH consists of the Presidency and the Council of Ministers. The function of Head of State is collectively carried out by the three members of the Presidency of BiH. The position of Chairperson rotates every eight months among the three members, each elected for a four-year term. At state level, the judicial system consists of the Constitutional Court of BiH and the Court of BiH. Both entities and the district have their own constitution, president, government, parliament, court system, criminal law, and law enforcement and supervisory institutions.

9. BiH has a population of around 3.5 million<sup>3</sup> people (2021), and gross domestic product (GDP) of BAM 45.7 billion (2022) (approximately EUR 22.9 billion).

10. The state has limited jurisdiction in civil and administrative matters and, as a rule, civil legislation falls under the legislative competence of the entities. However, in criminal matters, the state has jurisdiction over the most serious criminal offences: all offences with an international element and those with elements of organised crime.

11. BiH is a member of the United Nations (UN) (since 1992), Council of Europe (since 2002), and Organisation for Security and Cooperation in Europe (since 1992). BiH has been a candidate for membership of the European Union (EU) since December 2022.

12. The currency of BiH is the convertible mark (BAM). Two marks is the equivalent of one euro (EUR).

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

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

13. The following offences generate the greatest amounts of "dirty" money in BiH: (i) high threat - corruption (with an increasing trend), tax-related offences (with a no change trend), and organised crime/criminal association (with a no change trend); (ii) medium/high threat - illegal trafficking and production of narcotic drugs (with an increasing trend) and fraud (with a no change trend), predominantly through social networks and the Internet; and (iii) medium threat - general crime (with a decreasing trend), predominantly property-related, other offences against the economy (except tax crimes) (with a decreasing trend) and criminal offences related to trafficking in human beings (THB) and human smuggling (with a decreasing trend).

---

<sup>3</sup> Made up of: (i) FBiH – 2.2 million; (ii) RS – 1.2 million; and (iii) and BD – 0.1 million.



14. Cross-border crime largely consists of illegal drug trading and THB. BiH is a transit area for the smuggling of: (i) large amounts of marijuana; (ii) heroin from Iran, including through the Balkan route, which is sold in Western Europe; and (iii) cocaine from South America through ports in neighbouring countries, which is sold throughout Europe. Organised criminal groups (OCGs) also participate in cross-border smuggling of cocaine. Constant migrant pressure represents a direct threat to the security of BiH. The most recent risk assessment identifies an increasing trend of proceeds of foreign predicates being laundered in BiH. OCGs from the wider Balkans region and beyond also operate in BiH through branches.

15. The threat from money laundering (ML) is primarily a domestic threat - assessed as medium/high, with a no change trend, while the threat of ML of foreign predicates is assessed as medium, with an increasing trend. Overall, the threat from ML is assessed as medium/high, with a no change trend. Taking account of vulnerabilities, the overall risk of ML is assessed as medium/high.

16. Banks and the real estate sector are rated as presenting a high ML threat. Notaries are rated as presenting a medium/high threat. A medium threat has been assessed for the remittance sector – through money transfer services. A low threat has been assessed for the insurance sector and leasing service providers. All other sectors present a medium/low threat. Overall, real estate agents and notaries present a high ML risk whilst microcredit organisations, insurance and leasing are assessed as having a medium-low or low ML risk. All other sectors, including banking, are assessed as presenting a medium ML risk.

17. No terrorist acts were committed in BiH in the period covered by this review and the threat of terrorist financing (TF) is rated as medium with a tendency to decline, leading to a medium TF risk rating. However, the country has had a problem with Bosnian nationals joining extremist groups in the Middle East (foreign terrorist fighters (FTFs)) and now faces the challenge of an organised return of BiH citizens from conflict zones. Despite this, there have been just two prosecutions for TF in BiH during the period under assessment. More recently, illegal migration has been identified as a TF threat. In terms of the financing of FTFs, the most abused sectors are banking, money transfer services and real estate.

18. The risk of ML through virtual assets (VAs) is assessed as high, whereas the risk of TF using VAs is assessed as medium.

19. Views regarding the reasonableness of the conclusions of risk assessments and on additional risks and factors which are considered significant but have not been actively taken into account are set out in Chapter 2.

### ***1.1.2. Country Risk Assessment & Scoping of Higher Risk Areas***

20. BiH's first ML/TF national risk assessment (NRA) covered the period from 2018 to 2022 (based on data for 2012 to 2016). A second assessment (NRA Addendum) covers the period from 2022 to 2024 (based on data for 2017 to 2021). Both used the World Bank assessment methodology and were adopted by the Council of Ministers. In both cases the assessment has been led by an AML/CFT Working Group and its work supported by eight sub-groups covering: (i) the threat of ML; (ii) vulnerability to ML; (iii) vulnerability of the banking sector to ML; (iv) vulnerability of the securities sector to ML; (v) vulnerability of insurance companies to ML; (vi) vulnerability of rest of financial sector to ML; (vii) vulnerability of non-financial sector to ML; and (viii) risk of TF. Technical assistance was received from the World Bank to undertake the risk

assessment. More information on the Working Group is set out in c.1.2 in the Technical Compliance (TC) Annex.

21. Assessments of risk presented by legal persons and virtual asset service providers (VASPs) have also been conducted. A risk assessment of the financing of weapons of mass destruction (PF) covering the period from 2023 to 2027 is underway.

22. In addition, a threat assessment for organised crime has been prepared (2022) in accordance with Europol's methodology.

23. 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.

24. The AT examined the comprehensiveness of the risk assessment process in measuring: (i) domestic threats linked to corruption and organised crime; (ii) the extent to which foreign predicates linked to these activities are laundered in BiH, and how; and (iii) the use of real estate, high value goods and cash to conceal the illicit origin of funds. The AT also considered the extent of any links between TF and OCGs. Given the low number of prosecutions and convictions for THB and environmental crimes, the AT also considered the extent to which these predicate offences are addressed within the criminal justice system. The AT considered how BiH has assessed TF risks linked to the number of Bosnians fighting or having fought abroad. The AT also considered how risks presented by ultra-conservative, ethno-nationalist and right-wing organisations have been measured.

25. The AT considered the extent to which the use of VAs and related service providers present a ML/TF risk in BiH.

26. Given that there is no functioning state-level body to define overall AML/CFT priorities, the country's complex legal and institutional framework, and the number of agencies involved in the oversight and enforcement of the AML/CFT framework, the AT considered the effectiveness of domestic cooperation and coordination at policy, strategic and operational level.

27. Given the extent of the threat and vulnerabilities highlighted above, the AT considered whether measures in place to: (i) fight corruption and related ML; and (ii) organised crime and related ML are effective and discussed the possible challenges that law enforcement authorities (LEAs) may face in investigating, prosecuting, convicting, and confiscating property. The AT also considered the outcome of suspicious transaction report (STRs) and other sources of intelligence relating to politically exposed persons (PEPs) that have been disseminated by the financial intelligence unit (FIU) to law enforcement. The AT looked at the link between organised crime and corruption and the ML risks that derive from this, including whether similar schemes serve laundering proceeds from both sources. The AT considered whether TF may be facilitated by corrupt behaviour, particularly low-level corruption, and extent to which OCGs may be using the proceeds of their criminal activities to finance terrorism.

28. Given that there have been just two TF prosecutions during the period under assessment, the AT considered: (i) whether TF cases have been properly investigated and, where necessary, prosecuted; (ii) the capacity of border forces to respond to developing risks; and (iii) the status of proposed nominations of terrorists to the United Nations (UN).

29. The AT focused on measures applied by banks, notaries, lawyers, and real estate agents to: (i) address risks presented by domestic PEPs; (ii) identify connections to OCGs; and (iii) identify and verify beneficial ownership (BO) in complex ownership structures. Given the level of use of cash in BiH, including to purchase real estate, the AT examined measures taken to combat the risk posed by financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) handling cash. Linked to the limited use of financial intelligence by law enforcement, the AT considered the number and content of STRs, particularly for banks.

30. Given the use of shell companies in ML typologies, the AT also considered the extent to which formation and ongoing management of such companies is overseen for AML/CFT purposes.

## 1.2. Materiality

31. The largest contributors to GDP are services and manufacturing. The financial sector accounts for less than 4% of GDP<sup>3</sup>. No information is available on the size of the DNFBP sector.

32. The most significant sector is the banking sector which accounts for about 90% of the financial market. Other financial sectors are under-developed. FIs with headquarters in BiH do not operate in branches in other countries. Less than 2% of customers reside outside the country.

33. The use of VAs in BiH is still at a low level and most recorded transactions involve exchanging one VA for another. Domestic VASPs are used initially to purchase VAs that are then transferred to wallets held with foreign VASPs.

34. Cash continues to be widely used in BiH. The authorities estimate that the share of the informal economy in GDP is between 30% and 35% and cash has been used extensively to purchase real estate. Limits are placed on its use through the AML/CFT Law (see section 1.4.4).

35. Most foreign trade is with Austria, Croatia, Germany, Italy, Serbia and Slovenia.

## 1.3. Structural elements

36. BiH has some of the key structural elements that are required for an effective AML/CFT system, e.g., a high-level commitment to address AML/CFT issues. However, there are several elements that present some concern.

37. BiH ranks 70th (out of 139 countries) in the Rule of Law Index 2022 and 110th (out of 180 countries) in Transparency International's Corruption Perceptions Index (CPI) 2022. According to the CPI, BiH ranks lowest in the region and the third worst in Europe. Worldwide Governance Indicators also show a constant decline since 2013 in BiH's control of corruption.

38. OCGs often work with corrupt officials at different levels of government to prevent the enforcement of legislation, including investigations, and the NRA explains that the interaction between corruption and organised crime is one of the most important factors endangering the development and economic stability of BiH.

39. In a report published in March 2023, the Council of Europe's Group of States against Corruption (GRECO) called on BiH to strengthen its efforts to overcome political blockages that have held back reforms to prevent corruption. The report notes that there is a legal vacuum in terms of corruption prevention policies. In a report published in October 2022, the European

Commission concluded that: (i) political leaders and judicial institutions had failed to tackle widespread corruption and had actively blocked progress; and (ii) all levels of government in BiH showed signs of political capture.

40. A national assessment of integrity and independence of financial crime investigation authorities (part of the NRA Addendum) concludes that the degree of freedom from external influences such as fear, intimidation, corruption and political pressure is medium. National assessments of prosecutors and judges processing financial crime conclude that there are high professional standards and work integrity. These assessments take into account that: (i) although the public assesses the work of the police as very weak and their efforts in the fight against corruption as insufficient, no cases of abuse of position or integrity violation had been recorded which would affect their operational independence; and (ii) competent authorities consistently apply the legislative framework that regulates disciplinary violations of prosecutors and judges.

41. Several prominent individuals have been designated under United States' sanctions against allegedly corrupt and destabilising officials, including the former president of the High Judicial and Prosecutorial Council (HJPC) (January 2022), former Chief Prosecutor of the Prosecutor's Office – BiH (April 2022), state prosecutor in BiH (September 2022), former director of the Intelligence and Security Agency - BiH (March 2023) and Minister of Justice – RS (July 2023).

42. The Secretary General of the Council of Europe has condemned the adoption of the Law on the non-application of decisions of the Constitutional Court of BiH in RS by the National Assembly of RS.

43. The HJPC of BiH appoints judicial office holders and establishes ethical and professional standards for the judicial professional community. It is an independent institution whose key task is to provide efficient, impartial, and professional justice. In an opinion on amendments to the Law on the HJPC (March 2021), the Council of Europe's Venice Commission identified four areas of concern, namely conflicts of interest and transparency, disciplinary procedures for judges and prosecutors, judicial review of HJPC decisions and removal of HJPC members. As a result of this opinion, new rules have been introduced on: (i) declaration of assets of HJPC members; and (ii) judicial review of HJPC decisions. Furthermore, disciplinary offences for judges and prosecutors have been revised and disciplinary offences for HJPC members defined.

44. In a report published in February 2016, GRECO concluded that the complexity of the four judicial systems in place in BiH and threats to judicial independence were deeply affecting the efficiency of justice and fuelling a very negative public perception of the judiciary. In June 2023, GRECO concluded that there had been insufficient progress overall in implementing recommendations in its earlier report.

## 1.4. Background and Other Contextual Factors

45. As a candidate for membership of the EU, BiH is expected to implement EU legislation. It has recently revised its AML/CFT Law in line with the current EU AML Directive<sup>4</sup> and supervision of core principles FIs is in line with EU prudential standards<sup>5</sup>.

46. BiH's financial system is dominated by the banking sector, a large share of which is foreign-owned (predominantly EU). The customer base is predominantly domestic and there is an absence of complex products. Given the country's constitutional competencies, supervision is conducted at entity and district level, and so there are many supervisors. Cooperation amongst core principles supervisors is good and regulations and supervision are broadly consistent. Supervision of DNFBPs for compliance with AML/CFT requirements is nascent.

47. As noted above, corruption presents a challenge.

48. In both entities, there is a requirement for banks to provide an account with basic services to natural resident persons<sup>6</sup>. Payments may also be made through post offices (money value transfer services (MVTs)) situated in smaller municipalities and towns and microcredit organisations (MCOs) are active throughout the country - offering small loans. Legislation has also recently been introduced to improve access to the financial system through: (i) e-money issuers; and (ii) entity-owned investment and development banks in parts of the country that are not served by commercial banks.

### 1.4.1. AML/CFT strategy

49. There is no national AML/CFT Strategy. Instead, risk assessments are complemented by ML/TF action plans. An action plan was published along with the NRA to eliminate identified ML/TF deficiencies. This has been superseded by an action plan for the period from 2022 to 2024, based on the NRA Addendum. There is also an action plan covering VAs.

50. BiH has also adopted several strategies, including: (i) Strategy for Combatting THB (2020 to 2023); (ii) Strategy for the Prevention and Combatting of Terrorism (2021 to 2026); and (iii) Strategy for the Fight Against Organised Crime (2023 to 2026), which builds on the results of the previous strategy (2017 to 2020). There is also a BiH Strategy for Preventing the Proliferation of Weapons of Mass Destruction (2018 to 2022).

### 1.4.2. Legal & institutional framework

#### *State level*

51. A **Working Group** has been designated to coordinate action in the field of AML/CFT and consists of 17 different authorities. The role of the Working Group is to: (i) increase the overall coordination of relevant institutions' work in relation to AML/CFT; (ii) develop an AML/CFT

---

<sup>4</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018.

<sup>5</sup> In October 2021, the European Commission adopted a decision which provides that the regulatory and supervisory frameworks in place in BiH are equivalent to relevant EU directives and regulations.

<sup>6</sup> Law on Internal Payment Transactions.

Strategy; and (iii) propose amendments to existing AML/CFT laws and regulations. This Working Group has not actively coordinated national AML/CFT policies or developed a strategy during the period under review. Instead working groups have been established to promote cooperation in distinct areas, e.g., for the purpose of drafting the NRA, NRA Addendum and action plans (see c.1.2 in the TC Annex) and development of strategies. The new AML/CFT Law introduces a requirement to establish a permanent AML/CFT coordinating body.

52. Inter alia, the **Ministry of Security** - BiH is responsible for the harmonisation of activities in combating organised crime, ML and terrorism. The State Investigation and Protection Agency (SIPA) (which includes the FIU) and the Border Police of BiH operate independently under the Ministry. The Ministry is also responsible for signing international agreements in matters of police cooperation and endorsing the guidance and decisions prepared by the FIU.

53. Inter alia, the **Ministry of Justice** - BiH is responsible for: (i) administrative functions related to judicial authorities at state level; (ii) international and inter-entity judicial cooperation (including mutual legal assistance (MLA) and contacts with international tribunals); (iii) extradition; and (iv) maintaining registers of associations and foundations established at state level.

54. The **High Judicial and Prosecutorial Council (HJPC)** - BiH is an autonomous and independent body that, inter alia, appoints and trains judges and prosecutors and conducts disciplinary proceedings against holders of judicial office.

55. The **Prosecutor's Office** - BiH has jurisdiction for proceedings before the Court of BiH, including against crimes stipulated by the Criminal Code (CC) - BiH and Criminal Procedure Code - BiH. Inter alia, the Office conducts investigations of criminal offences under the jurisdiction of the Court of BiH and handles requests for international legal assistance in criminal matters. The Office is not superior to entity prosecutor's offices.

56. The **State Investigation and Protection Agency (SIPA)** - BiH is an administrative organisation within the Ministry of Security, with all police and investigative powers. It is operationally independent. It assists the Court of BiH and the Prosecutor's Office - BiH in collecting information and executes their orders. Entity and cantonal ministries of internal affairs and the competent authorities of BD must cooperate with SIPA.

57. The **Financial Intelligence Department (FIU)** is the main organisational unit of SIPA. It operates at state level and is a member of Egmont. In line with the AML/CFT Law, the FIU receives, analyses and records data, information and documents and submits the findings of its analyses to prosecutor's offices and other relevant authorities in BiH and abroad. The FIU is involved in all major investigations into organised and economically motivated crime in BiH.

58. The **Intelligence and Security Agency** - BiH collects relevant intelligence related to threats to security both in the country and beyond, and analyses and transmits intelligence to counter threats.

59. The **Border Police** - BiH are responsible for border crossing controls and prevent, detect and investigate criminal offences against the security of the state's borders. Entity and cantonal ministries of internal affairs and competent authorities of BD must cooperate and provide assistance in the performance of tasks.



60. The **Indirect Tax Authority** – BiH (ITA) prevents, detects and investigates customs, tax and other violations and, in accordance with instructions of the competent prosecutor, conducts activities related to the investigation of criminal offences related to indirect taxation.

*Entities and district*

61. Inter alia, **Ministries of Interior** are responsible for the prevention and detection of terrorism, inter-cantonal crime (FBiH), drug trafficking, and organised crime, as well as the identification and apprehension of perpetrators of these criminal acts and their handover to competent authorities. In the FBiH, cantonal Ministries do not have hierarchical subordinate status towards the Federation Ministry of Interior and have full independence in implementation of their duties and tasks.

62. Inter alia, **Ministries of Justice** are responsible for administrative functions related to judicial authorities at entity level, and **Ministries of Administration and Local Self Government** for maintaining registers of associations and non-profit organisation (NPOs) operating in the entities.

63. The **Federal Prosecutor's Office** - FBiH is the “supreme“ prosecutor's office for ten Cantonal Prosecutor's Offices. The **Republic Prosecutor's Office** - RS is the “supreme“ prosecutor's office for six District Prosecutor's Offices. The office includes a Special Department for Combating Corruption, Organised and Most Serious Forms of Economic Crime. The **Public Prosecutor's Office** - BD prosecutes potential perpetrators of criminal offences in the district.

64. **Police agencies** are parts of Ministries of Interiors in the entities and, in the FBiH, cantons. Hence, the FBiH has a decentralised police system. The police agency in BD is not a part of any ministry. All agencies are responsible for the prevention, detection and investigation of criminal offences.

65. **Banking Agencies** in the FBiH and RS are independent supervisory bodies responsible for supervision and regulation of banks, electronic money institutions (EMIs), leasing companies and MCOs, including compliance with the AML/CFT Law, using powers given under sectoral laws. **Securities Commissions** in the FBiH, RS and BD are independent supervisory bodies responsible for supervision and regulation of the investment sector, factoring (RS only) and VASPs (RS only), including compliance with the AML/CFT Law, using powers given under sectoral laws. **Insurance Supervision Agencies** in the FBiH, and RS are independent supervisory bodies responsible for supervising the insurance market (insurance companies, agents, and brokers), including compliance with the AML/CFT Law, using powers given under sectoral laws.

66. Inter alia, independent **Agencies for Management of Seized and Confiscated Assets** in FBiH and RS manage illegally acquired property. This includes: (i) storing, safeguarding, selling, and leasing confiscated property; (ii) professionally assessing the value of confiscated property; and (iii) keeping records of property that is managed and administered.

67. There is no permanent body in charge of co-operation and, where appropriate, co-ordination mechanisms to combat PF.

68. AML/CFT measures are mainly regulated by criminal codes, the AML/CFT Law, sectoral laws (see R.26), and a whole range of regulations. More detail of implementation of requirements in the AML/CFT Law is provided in the Rulebook on the implementation of the AML/CFT Law.

69. The AML/CFT Law prescribes certain misdemeanours, while criminal laws in BiH provide for criminal offences of ML and TF. The criminal offence of ML is harmonised and there are identical provisions. The following activities in the CC – BiH are replicated at entity and district level: (i) financing of terrorist activities; (ii) public incitement to terrorist activities; (iii) recruiting for terrorist activities; (iv) training for carrying out terrorist activities; and (v) organising a terrorist group. Inter alia, the AML/CFT Law covers: (i) application of preventive measures; (ii) restrictions on conducting business with customers (including cash payments); (iii) reporting to the FIU; (iv) tasks and competences of the FIU; (v) physical transportation of cash; (vi) obligations of other authorities; and (vii) supervision of compliance with AML/CFT requirements.

70. Other key laws are: (i) Law on Criminal Procedure of BiH supplemented by Criminal Procedures Laws at entity level; (ii) SIPA Law; (iii) Law on the Directorate for the Coordination of Police Bodies and on Agencies to Support the Police Structure; and (iv) Law on Mutual Legal Assistance. At entity level, key laws include those organising police forces and providing for the confiscation of illegally acquired property.

71. Banking and other financial services laws are harmonised at the entity and district level. The most important are: (i) two banking laws at entity level; (ii) three securities market laws at entity and district level; (iii) two insurance laws at entity level; and (iv) three laws on internal payment transactions and foreign exchange operations at entity and district level.

72. A legislative framework for implementing PF-related targeted financial sanctions (TFS) was introduced in February 2024.

73. Whilst task forces, operational groups and monitoring bodies have been established to deal with important matters such as the assessment of ML/TF risk and fight against terrorism, monitoring of implementation of related action plans, and the adoption and implementation of various strategies, there is no functioning permanent state-level body that helps define overall AML/CFT policy priorities. However, effective inter-agency cooperation and information sharing is key given the numerous agencies involved in the oversight and enforcement of the AML/CFT framework.

74. The AML/CFT Working Group is responsible for supervising and monitoring the implementation of actions to address ML/TF risks (action plans), and for the annual revision of such plans. It is expected to report at least once a year to the Council of Ministers – BiH. In addition, there are several working groups which, as expert bodies of the Council of Ministers - BiH, are, amongst other things, in charge of creating AML/CFT policies: (i) working group for the development of the Strategy for the Fight Against Organised Crime (2023 to 2026); (ii) working group for the development of a Strategy for Prevention and Combatting Terrorism (2021 to 2026); and (iii) working group for the preparation of the risk assessment of PF (2023 to 2027).

75. The main task of these working groups is to coordinate the implementation of reference strategies through associated action plans, and to improve their interaction with other relevant strategies. These expert bodies periodically hold meetings where they exchange information on challenges to the implementation of strategic goals, measures, and activities, and are expected to report to the Council of Ministers – BiH at least once a year on the implementation of corresponding strategies and, if necessary, propose revising them.

76. The new AML/CFT Law introduces a permanent state-level AML/CFT coordinating body which, inter alia, will be expected to: (i) carry out a comprehensive assessment of the risk of ML/TF activities, as well as the assessment of PF risk in accordance with international standards; (ii) draw up an action plan and national strategy; and (iii) monitor the adoption of new or changes to existing international standards.

77. The Council of Ministers - BiH has formed a Working Group (Body for Oversight of the Implementation of the BiH Strategy for Preventing the PF) to assess the PF risk and to produce a related strategy and action plan, both for the period 2023 to 2027, involving relevant agencies and institutions at state and entity level and from BD.

#### **1.4.3. Financial sector, DNFBPs and VASPs**

78. The size and structure of the financial, DNFBP and VASP sectors at the end of 2023 is shown in the table below.

**Table 1.1:** numbers of registered obliged entities

<b>Type of Entity</b>	<b>Number registered or licensed<sup>7</sup></b>
<b>Banks<sup>8</sup></b>	21 (13/8/0)
<b>Lenders/leasing</b>	4 (4/0/0)
<b>Microcredit organisations</b>	28 (13/15/0)
<b>Securities firms – broker/dealer companies etc.</b>	11 (6/5/0)
<b>Life insurance companies</b>	9 (7/2/0)
<b>Life insurance agents and brokers</b>	67 (49/18/0)
<b>Investment fund management companies</b>	14 (8/6/0)
<b>Voluntary pension fund management company</b>	1 (0/1/0)
<b>Exchange offices</b>	177 (63/104/10)
<b>Real estate agents (individuals)</b>	624
<b>Dealers in precious metals and stones</b>	462
<b>Casinos and other organisers of games of chance</b>	94 (37/41/16)
<b>Lawyers (individuals and firms)</b>	1 970 (1 304/636/30)
<b>Notaries (individuals)</b>	180 (107/69/4)
<b>Accountants and auditors (individuals and firms)</b>	17 995 (10 262/7 675 <sup>9</sup> /58)
<b>VASPs</b>	5 (0/5/0)

79. The financial sector in BiH is dominated by banks. The five largest represent over half of banking sector assets. Except for one-state owned bank, FBiH banks are privately owned or predominantly privately owned. Most are in foreign ownership (Austria, Türkiye, Croatia, and

<sup>7</sup> Figures in parentheses are (in order) for: (i) FBiH; (ii) RS; and (iii) BD.

<sup>8</sup> Includes three custody banks.

<sup>9</sup> 6 683 certified accountants on 31 December 2023 and 992 firms (5 April and 31 December 2023).

Germany in descending order). In the RS, all banks are majority privately owned, around half by foreign shareholders (Austria, Italy, Serbia, Slovenia in descending order). There are no registered banks in BD.

80. All banks offer similar products and have a similar risk profile (the majority present a medium/intermediate risk). They do not offer private banking services and focus on deposit-taking and lending (retail and corporate). Asset management, custody and brokerage activities are limited. The customer base is quite similar across banks. Seven banks have links with currency exchange offices (three in FBiH and five in RS). Only a limited number offer MVTs as agent for global operators. Outside banks, most lending is through MCOs (with a domestic customer base).

81. The capital market is under-developed, and the insurance sector is small (share of insurance premia in GDP in 2016 was 2.12%). Life insurance premia account for around 20% of total premia. Investment periods are long-term, and take-up of unit linked insurance products with an investment component is very limited.

82. Currency exchange offices can conduct business only under a contract with a bank and operate, in practice, as an extension of the bank. Most currency exchange offices are small entities. There is a similar arrangement in place for the two global MVTs operators present in BiH (not shown in the above table), which must conduct activities under a contract with a bank. Whilst postal operators also provide MVTs they do so as sub-contractors of banks. Postal service operators do not make payments through the Universal Postal Union. There are no EMIs.

83. Whilst notaries continue to play an important role in the formation of legal persons, a Constitutional Court - FBiH ruling in 2019 rendered provisions of laws granting notaries exclusivity to provide certain services unconstitutional. This includes the Law on Registration of Business Entities - FBiH which mandates notarisation of foundation acts, documents regulating changes in business operations, and agreements for acquiring ownership rights.

84. There is no obligation to purchase or sell property through real estate agents, which do not handle cash.

85. There is just one traditional land-based casino in FBiH and none in the RS or BD. Other terrestrial "casinos" operate through gambling terminals. Online gambling is permitted, but winnings must be paid out through terrestrial premises.

86. No international law firms operate in BiH, and most legal activity is conducted through sole practitioners. The largest law firm has around 12 partners. Some global accounting firms are present in BiH, but most services are provided through small domestic concerns.

87. All DPMS are domestically owned and are small to medium-sized concerns.

88. CSP activity is conducted mostly through lawyers and accountants. Whilst some standalone CSPs operate in BiH, their role is mostly confined to redirecting business to lawyers, notaries, and accountants who would then proceed to onboard the client independently. Notwithstanding, the CSP may provide a temporary registered address.

89. The VASP sector is still nascent with five entities registered in RS at the end of 2023. There are no requirements to register VASPs in the FBiH or BD. As explained above, domestic VASPs are typically used to purchase VAs which are then transferred to wallets held with foreign VASPs. During 2022, total transactions volumes of the two VASPs registered at that time amounted to

only about BAM 20 million (approximately EUR 10 million)<sup>10</sup>. The customer base is mainly natural persons residing in BiH.

90. FIs established in BiH do not operate outside the country. FIs registered in one entity can perform activities in another entity or in the district through branches.

91. Banking is the most important sector, given its materiality and risk (assessed as medium-high in the NRA and medium in the NRA Addendum). The sector also generates the highest number of STRs. Public notaries are highly important given their high risk assessment in the NRA and NRA Addendum given their significant gatekeeper role for real estate transactions (and formation of legal persons).

92. The following are moderately important: (i) securities firms - given the under-developed nature of the market and medium risk assessment in the NRA; (ii) MCOs - given the limited level of lending outside banks and the medium-low risk assessment in the NRA; (iii) currency exchange offices - given that they operate under contracts with a limited number of BiH banks and are monitored for compliance therewith; (iv) postal service operators (as providers of MVTs) – taking account of the number of STRs generated, but also the medium risk assessment in the NRA Addendum, that they operate as agents of a limited number of BiH banks, and the very small fraction of MVTs they account for; (v) operators of games of chance – given their medium risk assessment in the NRA and NRA Addendum; (vi) real estate agents - given that they do not handle cash and are not involved in all real estate transactions, balanced with the high risk assessment of real estate in the NRA and NRA Addendum; (vii) lawyers - given their medium-high risk assessment in the NRA (linked to involvement in real estate transactions and formation of legal persons); (viii) accountants/tax consultants – given their limited role in CSP activities, limited interest in using BiH entities in complex group structures, and medium risk assessment in the NRA and NRA Addendum; and (ix) VASPs – given the limited level of domestic activities balanced with the nascent regulatory and supervisory framework in place.

93. The following are less important: (i) insurance – given that the market is small, life insurance is characterised by low premiums and long investment periods, and low risk assessment in the NRA and NRA Addendum; (ii) other lending (leasing and factoring) – given the limited level of lending and low risk assessment in the NRA Addendum; (iv) CSPs – given that activities linked to legal persons are predominantly conducted by lawyers and there is limited use of legal persons in BiH by non-residents; and (v) DPMS – given the level of activity and risk involved (assessed as medium in the NRA and NRA Addendum).

94. Non-resident customers of banks account for less than 2% of accounts. There is only limited use of legal persons in BiH by non-residents.

95. At the end of 2021, net assets in the banking sector were BAM 37 billion (BAM 27 billion in FBiH and BAM 10 billion in RS) (approximately EUR 18.5 billion). At the same time, assets of the leasing sector amounted to BAM 445 million (approximately EUR 223 million) and assets of MCOs amounted to BAM 711 million (approximately EUR 355 million). No information is available on the size of the DNFBP market.

---

<sup>10</sup> According to the Global Crypto Adoption Index, the volume of activities linked to BiH in 2022 was almost BAM 4 billion (approximately EUR 2 billion). Most of these transactions are processed by foreign VASPs.

#### ***1.4.4. Preventive measures***

96. As mentioned above, the AML/CFT Law is the main statutory instrument through which preventive measures are applied in line with the FATF Recommendations (see TC Annex). It is supplemented by decisions and guidelines issued by supervisors – see R.34 in the TC Annex.

97. Preventive measures extend to all categories of FI, with only minor shortcomings. The following FIs are subject to AML/CFT obligations only when conducting activities with an authorisation: (i) insurance companies for life insurance business; and (ii) currency exchange offices<sup>11</sup>. Issuing financial commitments is not subject to AML/CFT obligations. There are also minor shortcomings in the scope of application of customer due diligence (CDD) measures to accountants and trust and company service providers (TCSPs). Accountants are subject to the AML/CFT Law only when conducting services when registered. TCSPs (excluding lawyers and accountants) are subject to requirements only when “governed by foreign law” – when conducting activities described in the general glossary to the FATF Methodology except that the following are not covered: (i) the provision of nominee services to a company whose securities are listed on a regulated market to which data disclosure requirements apply in accordance with BiH legislation or international standards; and (ii) legal arrangements other than trusts.

98. Restrictions are placed on the extent to which businesses may use cash. Legal and natural persons engaged in selling goods (including real estate, vessels, vehicles, and aircraft) and providing services who are not obliged entities may not receive cash from a customer or a third party for payment if the amount exceeds BAM 30 000 (approximately EUR 15 000). The same requirements apply also to lending. Further, except for wholesale trade, business entities can make cash payments for goods and services to another business entity only if the amount of the transaction does not exceed BAM 500 (approximately EUR 250). Restrictions are also placed on the exchange of foreign currency and convertible marks between residents and non-residents.

99. The following are subject to the AML/CFT Law: (i) auditing firms; (ii) intermediaries in real estate in connection with transactions in which the monthly rent is equal to, or more than, BAM 20 000 (approximately EUR 10 000); (iii) offering and meditating in loan negotiations; (iv) trading in vessels, vehicles or aircraft; and (v) art dealers and persons acting as intermediaries in the trade of works of art. These additional requirements stem from BiH’s alignment, as an EU candidate country, with the EU acquis rather than any particular risk identified in BiH.

100. It is forbidden to establish or continue a correspondent business relationship with a bank that operates or may operate as a shell bank or other FI known for allowing the use of accounts of shell banks.

#### ***1.4.5. Legal persons and arrangements***

101. The operation, management and termination of companies is regulated at entity and district level by the following laws: (i) Company Law - FBiH; (ii) Company Law – RS; and (iii) Enterprises Law – BD. Legislation provides for the following types of legal person: (i) limited

---

<sup>11</sup> Article 5 of the AML/CFT Law extends to: (i) insurance businesses licenced for life insurance business (and not to any that may be conducting unauthorised life insurance); and (ii) authorised currency exchange offices (and not to any that may be operating outside the law).



liability companies; (ii) joint stock companies; (iii) general partnerships; and (iv) limited partnerships. These forms of entities are collectively referred to as companies.

102. The operation, management and termination of associations and foundations is regulated at both state and entity level by the following laws: (i) Associations and Foundations Law – BiH; (ii) Association and Foundations Law – FBiH; (iii) Associations and Foundations Law – RS; and (iv) Associations and Foundations Law – BD.

103. All the above types of legal person are relevant from an AML/CFT perspective.

**Table 1.2:** numbers of legal persons registered (all entities and district<sup>12</sup>)

Type of legal person	2023	2022	2021	2020	2019
<b>Limited liability companies</b>	66 433	62 608	59 758	56 970	54 825
<b>Joint stock companies</b>	2 643	2 639	2 646	2 640	2 634
<b>General partnerships</b>	162	162	162	161	161
<b>Limited partnerships</b>	6	4	4	4	4
<b>Associations</b>	23 704	22 659	21 878	20 938	20 120
<b>Foundations</b>	537	508	484	454	432
<b>Total</b>	<b>93 485</b>	<b>88 580</b>	<b>84 932</b>	<b>81 167</b>	<b>78 176</b>

104. Based on the number of resident legal persons formed between 2020 and 2022 with foreign ownership, most founders come from neighbouring countries. However, over 15% of legal persons established during that period have Middle Eastern ownership, most likely linked to the acquisition of real estate in BiH (since foreigners cannot directly own real estate in BiH).

105. It is not possible to create a trust or similar type of legal arrangement in BiH.

106. Information is not collected on trustees of foreign trusts or similar legal arrangements that are resident in BiH. There are no plans to do so in future.

#### **1.4.6. Supervisory arrangements**

107. The AML/CFT Law establishes which bodies are responsible for supervising FIs, DNFBPs and VASPs and establishes a general obligation to oversee compliance with the AML/CFT Law and other AML/CFT requirements (the scope of which extend also to countering PF). In the case of FIs and VASPs supervised by the banking agencies, securities commissions or insurance supervisory agencies in the entities or district, supervision is conducted under sectoral legislation. Otherwise, powers to compel the production of information or documents, impose sanctions and to revoke an authorisation are established through the AML/CFT Law. More information is provided at R.26 in the TC Annex.

---

<sup>12</sup> Excludes associations and foundations registered at state level as figures not provided. On 21 February 2024, 2 976 associations and 223 foundations were registered at state level.

108. Pursuant to the AML/CFT Law, the designated supervisors of lawyers are the Bar Associations of the FBiH and RS, and designated supervisor of notaries in the FBiH is the Notary Chamber. These self-regulatory bodies are not supervised by a competent authority in relation to supervisory functions under the AML/CFT Law.

109. Supervisory authorities are obliged to submit to the FIU: (i) a record of supervision performed; and (ii) action taken based on this supervision.

110. Supervisors in BiH do not act as consolidated home supervisor for any FI, DNFBP or VASP group.

111. A permanent Committee for Coordination of Supervision of the Financial System – RS, covers operational and strategic issues, and is composed of the Minister of Finance – RS and heads of the banking, securities, and insurance supervisors. There is no similar mechanism in place at federation level. In practice, there is good cooperation between banking supervisors in the entities, between securities supervisors in the entities, and between insurance supervisors in the entities. It has not been demonstrated that there is co-ordination of operational and strategic functions amongst other supervisors.

112. Companies and partnerships are obliged to register with the relevant entity/district-level competent registration court and information is held in three entity/district-level databases (competent court registries).

113. Associations and foundations are registered by: (i) the Ministry of Justice - FBiH; (ii) the basic courts in RS; and (iii) the Basic Court in BD. They can also register at state-level with the Ministry of Justice - BiH.

114. Powers are not available to competent authorities to request the records of legal persons to ensure that obligations under constitutive legislation are followed.

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

115. Cross-border ML/TF risks are summarised above.

116. BiH is attractive to criminals due to its strategic geographical position and close historical ties with countries in the region. Croatia, Serbia, and other surrounding countries appear in many ML cases due to their mutual connections, including investment in real estate in Croatia, and Türkiye is also important since it is located on the so-called Balkan drug smuggling route.

117. In accordance with the AML/CFT Law, the FIU is authorised to exchange appropriate intelligence data, information, and documentation with competent authorities abroad, which is implemented within the framework of Egmont.

118. In cooperation with the UN Office on Drugs and Crime, BiH participates in implementation of the Regional Anti-Corruption and Illicit Finance Roadmap on Western Balkan jurisdictions.

119. The Directorate for Coordination of Police Bodies acts as: (i) the National Central Bureau of Interpol; (ii) national contact point for cooperation with the Southeast European Law Enforcement Centre (SELEC) and other international police organisations dealing with crime suppression; and (iii) the central point of contact in the performance of international operational police and judicial cooperation in accordance with bilateral and multilateral international agreements and ratified conventions and protocols that regulate international cooperation. It

also: (i) exchanges information with the police and judicial authorities of other countries; (ii) acts on the requests of domestic and foreign judicial authorities in the process of providing international legal assistance in criminal matters; and (iii) coordinates international police cooperation on a multilateral basis through participation in the work of international organisations and institutions, as well as in projects related to international police cooperation. In addition to this, the National Joint Contact Point serves as a contact point for cooperation with Europol.

120. The Ministry of Justice - BiH is the central authority for MLA requests in criminal matters.

121. Multilateral cooperation is carried out based on many bilateral agreements, including with 11 FIUs.

## 2. NATIONAL AML/CFT POLICIES AND COORDINATION

### 2.1. Key Findings and Recommended Actions

#### **Key Findings**

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

- a) BiH published its first national risk assessment in 2018 (NRA), followed by a full update in 2023 (NRA Addendum). These are complemented by risk assessments of legal persons (2024) and VAs (2024). Throughout, there has been an intensive level of coordination and cooperation to assess ML and TF risk and the level of knowledge of findings is generally high amongst competent authorities and obliged entities.
- b) The authorities generally have a good understanding of ML risk, although there are variations amongst key stakeholders. Several shortcomings were observed in the risk assessment process, e.g. understanding of cross-border ML risk is affected by a rather narrow approach in estimating the value of foreign proceeds of crime and some out-of-date data was used to prepare the NRA Addendum. According to the NRA Addendum, ML risk in the banking sector is now assessed as medium (previously medium-high). This is linked to an assessment of reduction in the vulnerability of the sector on the basis that the sector is mature, assesses its risks and mitigates risks with good quality controls. The AT has a concern about this level of assessment of ML risk given, inter alia, that banks have become essential for ML and central role that is played by banks in the country's economy.
- c) There are limitations in understanding of TF risk, the effect of which may be to underestimate residual TF risk. Whilst the NRA Addendum identifies a broad range of threats related to TF which are thoroughly and well analysed, it does not elaborate these threats, e.g. those presented by radicalised individuals or groups and illegal migration, or comprehensively assess the effect of identified vulnerabilities.
- d) There are several separate strategic and policy documents and action plans that could allow the authorities to demonstrate that there are national AML/CFT policies and activities. However, it is not clear that all risks are addressed in these documents, e.g., corruption and TF, or that the documents present a joined-up and cohesive response to ML/TF risks identified in the NRA and NRA Addendum.
- e) Cases in which enhanced or simplified measures must or may be applied under the new AML/CFT Law are not fully supported by findings of national risk assessments. However, regard must always be had to the results of national risk assessments when applying CDD measures.
- f) In general, the objectives and activities of competent authorities correspond with the risks identified in the NRA Addendum.

- g) The authorities conduct financial investigations in all terrorism-related cases. However, procedures for investigating terrorism do not prioritise investigation of the TF component.
- h) A mechanism for national AML/CFT coordination and cooperation is in place. However, there is a lack of adequate overall coordination on the implementation of AML/CFT policy at state level. At operational level, there is good cooperation between competent LEAs, between core principles supervisors, between core principles supervisors and the FIU, and between authorities combating terrorism and terrorism-related crimes, including TF. There is no permanent body in charge of co-operation and, where appropriate, co-ordination to combat PF.
- i) Most FIs are aware of the NRA process and had a good understanding of national and sectoral risks set out in the NRA Addendum, such as those presented by notarial services and the real estate sector. Understanding of the results of the national risk process amongst DNFBPs was mixed since there were different levels of engagement in the process by sector. VASPs were extensively engaged in the VA risk assessment and so were aware of the results of the process.

### ***Recommended Actions***

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

- a) To support future analyses of TF risk, the authorities should deepen their understanding of threats and vulnerabilities in the following areas: (i) the broad range of threats already identified, including role of radical structures, ultraconservative and right-wing organisations; (ii) connection (if any) between criminal groups, corruption and TF; (iii) all main elements of the TF offence; (iv) use of NPOs; and (v) use of VAs and foreign VASPs.
- b) To support future analyses of ML risk, the authorities should deepen their understanding of threats and vulnerabilities in the following areas: (i) cross-border risk; and (ii) impact of the effect of the large informal economy and use of cash. In addition, the authorities should assess whether the current medium risk level assigned to the banking sector is adequate taking into account the involvement of banks in all analysed cases and materiality of the sector.
- c) The authorities should draw up an overarching AML/CFT strategy document, drawing on analyses of threats addressed through existing and proposed strategic and operational documents. As part of this process, the objectives and actions of each of the competent authorities involved in mitigation of risk should be clearly defined.
- d) The mechanism for national coordination and cooperation set out in the new AML/CFT Law should be launched, and the authorities should ensure that it has appropriate authority and resources to deliver its statutory remit, e.g. a secretariat. It should report periodically on its work to the Committee of Ministers – BiH.
- e) The authorities should establish a permanent body in charge of co-operation and, where appropriate, co-ordination to combat PF.
- f) In line with the NRA Addendum action plan, the authorities should review and revise

AML/CFT requirements and supervisory guidance to ensure that enhanced due diligence (EDD) measures are applied to higher risk areas, e.g., real estate. To promote greater use of the financial system, consideration should be given to identifying additional types of business relationship or transactions which may be considered to present a lower ML/TF risk based on risk understanding.

- g) The authorities should continue to improve the collection and availability of accurate and current statistics for use in future risk assessment processes.

122. 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)**

123. Corruption, tax crime and organised crime are seen as major ML predicates. The geographical location of BiH, being on the so-called “Balkan route”, determines other criminal threats, primarily illicit drug trafficking, smuggling of goods and weapons, trafficking in human beings and migrant smuggling. The threat of TF has mostly been identified in correlation with FTFs.

124. The financial sector in BiH is dominated by its banking sector, a large share of which is foreign-owned. The customer base is predominantly domestic and financial products and services provided are not complex. The size of the informal economy is large, and cash continues to be widely used.

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

#### ***Risk assessment process***

125. Significant work has been undertaken by the authorities to formalise their understanding of the risk of ML/TF.

126. BiH has carried out two full risk assessments: (i) NRA - covering the period from 2018 to 2022 - adopted by the Council of Ministers in August 2018; and (ii) NRA Addendum - covering the period from 2022 to 2024 - adopted by the Council of Ministers in March 2023. There was intensive inter-agency and inter-ministerial consultation and cooperation, and a multi-disciplinary approach adopted at state, entity, and district level involving more than 40 institutions and agencies. This was necessary to deal with the complexity of the AML/CFT system in BiH and its heterogeneity.

127. Both the NRA and NRA Addendum have very similar areas of focus and were conducted using the World Bank’s Risk Assessment Methodology and were based on a range of sources of information covering the period from 2012 to 2021, including: (i) responses to questionnaires; (ii) periodic and ad hoc reports; (iii) other national and regional risk assessments; (iv) open sources; (v) statistics held by competent authorities; (vi) surveys; (vii) academic research; (viii) ML/TF typologies observed in the country and in the region; and (ix) private and civil sector inputs, etc.). Both the NRA and NRA Addendum conclude on ML and TF risk at country level and ML risk at different sectoral levels. A comparison of the NRA and NRA Addendum shows that there has

been a significant improvement in terms of the scope of data gathered, as well as thoroughness of analysis in understanding threats and vulnerabilities.

128. The NRA Addendum considers wider regional perspectives and acknowledges, given the geographical location of BiH on the “Balkan route”, the country’s exposure to cross-border risks in relation to: (i) drug trafficking; (ii) migrant smuggling; (iii) human trafficking; (iv) smuggling of weapons; and (v) smuggling of goods (including excised goods). It considers the involvement of domestic and foreign OCGs in laundering foreign and domestic proceeds of crimes.

129. SIPA, including the FIU<sup>13</sup>, undertook a major role in the preparation of both the NRA and NRA Addendum under the direction of a temporary Working Group – an interdepartmental body of the Council of Ministers – BiH with support from eight sub-groups covering different thematic areas, e.g. vulnerabilities in the banking sector. Further information is provided under c.1.2 in the TC Annex. A summary of the NRA Addendum has been published on the website of the Ministry of Security - BiH.

130. The NRA and NRA Addendum are complemented by the Organised Crime Threat Assessment (OCTA) (2021) which identifies that OCGs in BiH are involved in: (i) drug trafficking; (ii) human smuggling; (iii) human trafficking; (iv) trafficking in weapons and military equipment; (v) corruption; (vi) economic crime; (vii) cybercrime; and (viii) property crime. The majority of OCGs operating in BiH are poly-criminal, i.e., engaged in several criminal activities at the same time. Both risk assessments have drawn on information and analyses from reports on state security provided by the Ministry of Security – BiH (2018 to 2022)<sup>14</sup>. These present comparative statistical indicators on trends of crime in BiH and consider measures taken by competent agencies.

131. The NRA Addendum presents a reasonably comprehensive assessment of threats and vulnerabilities. The assessment of threat has focussed on information on recorded domestic crime and has used information that has been gathered through a large number of questionnaires completed by LEAs. This information covers: (i) reports on offences; (ii) decisions taken not to investigate reports; (iii) investigations that were opened; (iv) investigations that were closed; and (v) prosecutions and convictions. Assessments also considered existing and expired strategies linked to criminal activities, including terrorism, and perceptions of crime – to estimate the level of unreported domestic crime. More generally, the assessment of threat also took account of information available as a result of: (i) engagement with international partners over the past 25 years (including financial intelligence); (ii) operational cooperation under the “EAST” initiative - which monitors migration (see section 2.2.5); (iii) activities of an operational team that investigates migrants (see section 2.2.4); (iv) long-standing activities to identify individuals and groups that can be linked to radical movements or who present a security threat or who may be linked to the illegal trade or storage of weapons, military equipment or explosives; and (v)

---

<sup>13</sup> FIU is organisationally positioned within SIPA.

<sup>14</sup> Information on the state of security is a presentation of comparative statistical indicators on trends of crime in BiH and considers measures taken by competent agencies. It is prepared based on data available from BiH police agencies. The report for 2018 and 2019 highlights that intelligence was collected on the time and manner of departure of FTFs, those who assisted the departure, and routes of departure.



detecting and documenting criminal acts related to the participation of BiH citizens on foreign battlefields.

132. However, several shortcomings were observed in the risk assessment process which may undermine the reliability of conclusions and appropriateness of risk rating assigned.

133. First, the assessment of threat has focussed on domestic criminal offences and proceeds of crime that are traced and located in the territory of BiH, and insufficient consideration has been given to sources that may help to determine the nature of the proceeds of foreign crime laundered in BiH. Whilst reference has also been made to some international reports, no explanation has been provided as to their relevance to BiH. Moreover, understanding of cross-border ML risk is affected by a rather narrow approach in estimating the value of foreign proceeds of crime. The authorities take account only of ML offences and proceeds of crime that are traced and located on the territory of BiH as domestic predicate offences and domestic proceeds of crime, thus omitting to take into full account the wider perspective, trans-national factors and cross border links between criminal networks. For example, when analysing the threat and risk of ML related to human smuggling, the focus is on the amount of money found in the possession of migrants in the territory of BiH, rather than on the overall trans-national picture of the migrant smuggling chain and overall proceeds of crime generated in the international environment. Consequently, the NRA Addendum identifies an increasing trend of proceeds of foreign predicates being laundered in BiH but does not explain why that is so and how proceeds are laundered.

134. Second, up-to-date data needed for the preparation of risk assessments was mostly unavailable according to the NRA Addendum<sup>15</sup>. The authorities have since clarified that this was not the case for financial sector data. As a result, the assessments may be lacking accurate data in some important areas, e.g., the value of seized and confiscated assets from ML/TF criminal proceedings, and the relation of seized and confiscated assets with predicate offences<sup>16</sup>. Furthermore, whilst comprehensive information sets were collected for FIs from both the private sector and supervisors, the same is not the case for DNFBPs.

135. Third, while the thoroughness of analysis in the NRA Addendum has clearly improved compared to the NRA, it is too limited for some ML/TF threats, and there is still a lack of in-depth analysis of the correlation between: (i) threats and vulnerabilities leading to specific risk ratings; and (ii) for TF purposes - organised crime, corruption and human smuggling. There is a need for further analysis of: (i) predicate offences - corruption, human smuggling, weapon smuggling and organised crime; (ii) porousness of borders and amounts of cross-border cash transfers; (iii) the use of cash, alternative means of payment and MVTSSs; (iv) the effect of the large informal economy; (v) the potential for misuse of legal persons; and (vi) the potential abuse of NPOs. Overall, both risk assessments have focused on the identification of threats and vulnerabilities and lack analysis how these correlate and affect ML/TF risk evaluation.

136. Fourth, notwithstanding intensive consultation and cooperation, and the multi-disciplinary approach referred to above, there was uneven involvement and share of responsibilities during the process of preparing the NRA Addendum, with inadequate

---

<sup>15</sup> NRA Addendum, page 107.

<sup>16</sup> NRA Addendum, page 94.

engagement of some parties<sup>17</sup>. In particular, the NRA Addendum identifies that: (i) most of the work for the preparation of the risk assessment was carried out by sub-group leaders; (ii) engagement of the judiciary in the process was not at the expected level; and (iii) some competent authorities were not willing to share the data needed to prepare the risk assessment. Sub-groups worked mostly by exchange of e-mail and met formally only on a limited number of occasions (up to four times).

137. Finally, TF risk is predominantly assessed from the perspective of the risk of terrorism.

138. Since the NRA Addendum, two further risk assessments have been completed: (i) assessment of ML risk associated with legal persons<sup>18</sup> (2024) (see IO.5); and (ii) risk assessment of ML and TF associated with VAs<sup>19</sup> (2024). The assessment of legal persons is largely based on insights from government authorities and, inter alia, took account of findings from a regional risk assessment<sup>20</sup> and explores: (i) common business activities; (ii) links to foreign countries; and (iii) use of cash among non-resident legal persons. The VA risk assessment was conducted in accordance with a methodology developed by the Council of Europe. Data was collected on the two VASPs operating in RS at the time of the assessment through tables and questionnaires (period from 2020 to 2022). As the data collected was limited, the risk assessment also considered information available on international trends, analyses from blockchain analytic companies, and risk assessments conducted elsewhere.

#### ML/TF risk understanding

139. The level of knowledge of findings is generally high amongst competent authorities and obliged entities.

140. According to the NRA Addendum, the overall threat of ML is **medium/high**, while the threat of TF is **medium**. Based on assessments of vulnerabilities, the risk of ML at state level is **medium/high**, and risk of TF is **medium**.

141. Banks, notaries and the real estate sector were assessed as presenting the greatest ML threat in the NRA (high threat). This is the case also for the NRA Addendum, except that notaries are now considered to present a medium-high threat. Combined with assessed vulnerabilities, public notaries and the real estate sector were assessed in the NRA as presenting a high ML risk, while banks and lawyers were assessed as presenting a medium-high ML risk. Under the Risk Addendum, banks and lawyers are assessed now as presenting a medium risk as a result of improved control mechanisms in the period between the two risk assessments (which have been clearly documented in the vulnerability assessment). As the change in risk assessment for the banking sector is significant, the AT expected to see an explanation for the decision to adjust the risk rating (distinct from the rating for sector vulnerability) from the working group overseeing

---

<sup>17</sup> NRA Addendum, page 107.

<sup>18</sup> Finalised but still to be adopted at the time of the on-site visit.

<sup>19</sup> BiH Risk Assessment of ML and TF associated with VAs (2024).

<sup>20</sup> Regional Project implemented in the Western Balkans, aiming to identify the strengths and weaknesses of the existing legal framework, threats, vulnerabilities, and the consequences of risks posed by various types of legal entities.

the overall risk assessment process, but this was not provided. For TF, the banking sector, MVTs and the real estate sector have been identified as presenting the greatest threats in the NRA.

142. Overall, in addition to the NRA and NRA Addendum, risk understanding is based on in-depth knowledge and experience of those involved, predominantly in the areas of corruption and OCGs, and illicit (cash) flows affecting primarily the financial and real estate sectors.

143. Details of authorities' risk understanding are analysed further below.

#### *ML risk*

144. The authorities generally have a good understanding of ML risk, although there are variations amongst key stakeholders. The highest degree of ML risk understanding was demonstrated (in order) by the FIU, supervisory authorities (in particular, those overseeing FIs), prosecutors and LEAs. In general, findings related to ML risk ratings in risk assessments fairly correspond with the country's risk and context, however, the AT has a concern about the level of assessment of ML risk for banks in the NRA Addendum – medium risk.

145. The authorities can present ML typologies fairly and explain how ML occurs for different types of predicate offences generating proceeds of crime. The understanding is mainly based on practical experience from investigations conducted, where proceeds of crime are most often used to purchase real estate and invested in property construction.

146. Corruption<sup>21</sup> offences present a high ML threat, with abuse of office or official authority identified as having the greatest impact on the rating. Organised crime also presents a high threat and more than 90% of known OCGs are involved primarily in trading illegal drugs, economic crime, THB and smuggling of persons, and property crime. OCGs are mainly poly-criminal, dealing at the same time with other offences related to firearms and cigarettes, car theft and sale of stolen cars and vehicle parts. OCTA identifies an increase in the number of almost all types of organised crimes and criminal groups are using corruption to facilitate ML, predominantly buying real estate in BiH.

147. Tax evasion and related criminal offences<sup>22</sup> also present a high threat and tax and customs fraud is a predominant criminal activity of OCGs - related to the abuse of "fictitious" companies, whereby fictitious input tax is declared and used as the basis for illegal value-added tax (VAT) refunds. These companies are usually used for trade, after which they are "shut down" or declared bankrupt avoiding the obligation of tax payment.

148. Illicit trafficking and manufacturing of narcotic drugs are rated as a medium/high threat and is the most common activity of OCGs given the country's geographical position on the so called "Balkan route" of various smuggling chains. Fraud is also rated as a medium/high threat and mostly related to fake or pseudonymous profiles on social media and foreign scams.

---

<sup>21</sup> Criminal offences are: (i) abuse of office or official authority; (ii) concluding a harmful contract; (iii) giving gifts and other forms of benefits/giving bribes; (iv) accepting gifts and other forms of benefits/accepting bribes; (v) embezzlement in office; (vi) influence peddling; and (viii) abuse of public procurement procedure.

<sup>22</sup> Criminal offences are: (i) smuggling; (ii) customs fraud; (iii) Organising a group or association for smuggling or distribution of goods on which duties are not paid; and (iv) failure to pay taxes.

149. THB and smuggling of persons<sup>23</sup> are rated as a medium threat with smuggling of persons having the greatest impact on the rating. On the other hand, OCTA identifies sexual exploitation of women as the main form of trafficking in persons, often with a cross-border element, where trafficked victims are increasingly BiH nationals, exploited in various ways, from begging, physical work to sex work. Sexual exploitation remains the main motive behind trafficking in persons, while the focus has lately shifted to exploitation of trafficked persons for the purpose of physical work. THB is closely related to migrant smuggling, where migrants often become victims.

150. There is a sound understanding of the ML threat arising from corruption, particularly from abuse of office or official authority, and organised crime, based on OCTA (2021) which is consistent with the NRA Addendum. The problem of corruption and links between OCGs from BiH, the region and other European countries is also understood. In general, there is a good understanding of the threats presented by BiH's geographical position – on the 'Balkan route', between the Middle East and Europe, on the crossroad of smuggling routes between east and west (mostly narcotics, goods (including excised goods), migrants, and weapons). There is also a good understanding of the countries that present threats<sup>24</sup>.

151. Even though environmental crimes were the third most frequently reported criminal offence during the period between 2011 and 2017, awareness about their seriousness is limited and sentences for committing such crimes are mild or non-existent. The authorities have explained that the amounts involved are not significant, but not provided any support for this conclusion. Based on analysis in the NRA Addendum, there is a rather narrow understanding of environmental crime - mostly related to the investigation and prosecution of forestry theft - and other major types, such as those linked to wildlife, illegal mining, and pollution have not been considered. Nor has the link with trans-national organised crime been explored.

152. The NRA Addendum identifies vulnerabilities at national level, which are rated as medium. Consideration has been given to: (i) size of the informal economy and difficulties of taxation thereof; (ii) comprehensiveness of asset seizure and confiscation legislation; (iii) capacities and resources available to competent authorities to effectively seize and confiscate proceeds of crime; (iv) integrity and independence of prosecutors and judges; (v) capacities of competent prosecutor's offices to pursue parallel financial investigations; (vi) effectiveness and efficiency of mechanisms for border control; (vii) effectiveness of customs' mechanisms for the control of cross border cash transfers; and (viii) availability of BO information.

153. Whilst understanding of these vulnerabilities is generally well developed, the direct and indirect impact of the size of the informal economy and use of cash on ML risks and related ML

---

<sup>23</sup> Criminal offences are: (i) organising a group or association for perpetration of smuggling of migrants; (ii) organising a group or an association for the purpose of perpetration of trafficking in persons and smuggling of migrants; (iii) smuggling of persons; (iv) trafficking in persons; (v) international trafficking in persons; and (vi) trafficking in minors/children.

<sup>24</sup> In terms of determining the threats from a geographical perspective, the NRA Addendum identifies several jurisdictions from which these threats originate, based on: (i) the number of cases investigated by competent authorities related to foreign countries; (ii) the value of crime originating from abroad that has been laundered or intended to be laundered in BiH; (iii) links between OCGs in BiH and abroad, (iv) ML typologies; and (v) the FATF grey list.

typologies needs further attention. Cash continues to be widely used in BiH and the authorities estimate that the share of the informal economy of GDP is between 30% and 35%<sup>25</sup>. Whereas the authorities acknowledge materiality and threats presented in general terms in this area, a combination of the following poses a significant challenge to understanding and mitigating ML risk: (i) the significant use of cash, including to purchase real estate; (ii) limited success in reducing the size of the informal economy; (iii) threat presented by corruption, tax-related crimes, and organised crime; and (iv) limited capacity of competent authorities.

154. Whilst the NRA and NRA Addendum do not assess the risk that free trade zones present in BiH, the competent authorities have not identified any forms of criminal activity related to such zones. Users benefit from reduced bureaucracy, lower taxes and fiscal levies, free rent of business space and the like, and separate customs arrangements, but otherwise requirements are no different to the rest of the country. There are four free zones operating in BiH and the predominant economic activity is the production of goods under customs control for export.

155. At national level, the ML risk presented by different sectors is generally well understood. Threats are greatest in the banking and real estate sectors, and vulnerability greatest in those sectors where there has been no, or little, supervision for compliance with long-standing AML/CFT requirements, e.g.: notaries, lawyers, and accountants. As explained above, ML risk in the banking sector is now assessed as medium in the NRA Addendum on the basis that the sector is mature, assesses its risks, and mitigates risks with good quality controls. However, the AT has a concern about this level of assessment of ML risk given: (i) that the NRA Addendum identifies that banks in BiH have become essential for ML and notes involvement of banks in all analysed cases (investigations, indictments and verdicts); (ii) the central role that banks play in the country, including for sectors that are highlighted as presenting a higher ML risk (most notably real estate); (iii) the disproportionately high number of STRs made by banks; and (iv) FIU reports for 2020 and 2021 that indicate that the banking sector is still highly exposed to ML risk. Nevertheless, this does not detract from the fact that there is a good understanding of ML risks present in the banking sector.

156. The risk assessment of VAs and VASPs highlights issues related to the inherent risks of new technology, combined with no or limited regulation and supervision in BiH. The assessment notes also that the level of adoption of use of VAs in BiH is still low and that domestic VASPs are predominantly used to purchase VAs that are then transferred to wallets held with foreign VASPs<sup>26</sup>. Although there were no registered cases of ML/FT crimes associated with VAs and VASPs during the assessment period (2020 to 2022), the risk of ML through VAs is assessed as being high.

157. Notwithstanding the recent introduction of a regulatory framework (in FBiH and BD this was during the AT's on-site visit) and absence of supervision during the period under assessment, the VA risk analysis presents a first and positive step in development of a thorough understanding of the domestic ML risks linked to VAs and VASPs and their potential misuse, especially misuse by individuals and OCGs. That understanding needs to be further enhanced, with a more in-depth

---

<sup>25</sup> EU Bosnia and Herzegovina 2023 report, Page 67, [e3045ec9-f2fc-45c8-a97f-58a2d9b9945a\\_en \(europa.eu\)](https://e3045ec9-f2fc-45c8-a97f-58a2d9b9945a_en.europa.eu) states [that the informal sector is estimated to still account for one third of GDP.](#)

<sup>26</sup> According to the data obtained from the Association of Banks - BiH, transactions with domestic VASPs account for 72% of all transactions with VASPs.

risk analysis on the potential use of VAs and VASPs in BiH taking account of: (i) input from all VASPs operating in the country (rather than the two registered in RS at the time of the risk assessment); (ii) more extensive use of foreign VASPs by residents; and (iii) threats identified in NRA Addendum.

158. ML risks pertaining to legal persons were analysed to some extent within the NRA and the NRA Addendum. Both identify the use of companies to evade valued-added tax (VAT) and to invest in real estate (which must can be held only by BiH nationals and through companies registered in BiH). These have been complemented by a more recent standalone assessment of ML risk. However, this report does not fully analyse: (i) the most common typologies identified in STRs and cases; (ii) the legal framework in place in BiH in which legal persons operate and effect that this has on reducing risk; or (iii) the availability and quality of basic and BO information from registers and obliged entities. Nor does the report rate the level of ML risk (unlike other assessments). Accordingly, the level of understanding of risk requires further development.

#### *TF risk*

159. There are limitations in understanding of TF risk, the effect of which may be to underestimate residual TF risk. Overall, the AT does not consider that risk assessments and more general risk understanding are adequately supported by an analysis of threats and vulnerabilities. Notwithstanding that there is separate consideration of the possibility of TF in all investigated cases of terrorism, the AT also considers that the overall TF risk rating has been “discounted” due to the small amounts of funds involved in such TF investigations, e.g., funds used to finance travel to foreign battlefields do not exceed BAM 1 000 (approximately EUR 500) which come mostly from personal savings.

160. According to the NRA Addendum, the threat of TF is rated as medium-low with a tendency to decline, and TF risk rated as medium.

161. The NRA Addendum considers security threats from: (i) self-radicalised individuals inspired for a number of reasons by the ideology of terrorist organisations<sup>27</sup>; (ii) activities of different persons of security concern from radical groups in BiH that may be involved in propaganda, recruitment, financing, and departure of citizens to foreign battlefields; (iii) activities of ultra-conservative and right-wing organisations and associations, all of which may also cause a potential TF threat; and (iv) quantities of illegal weapons and explosives left over from the conflict period in BiH. Linked to these areas, the NRA Addendum also considers the effect of illegal migration.

162. Overall, the NRA Addendum identifies a broad range of threats related to TF which are generally thoroughly and well analysed. They are realistically presented and target the most material issues for BiH, in particular, the issue of illegal migration, where the largest number of migrants originate from high-risk countries<sup>28</sup>, and where there is a reasonable possibility that

---

<sup>27</sup> Annex 2 of the Strategy for Prevention and Combatting of Terrorism (2015 to 2020) explains that research by domestic experts could not determine the existence of one dominant reason.

<sup>28</sup> According to NRA Addendum, the largest number of illegal migrants were from Afghanistan, Algeria, Bangladesh, Egypt, India, Iran, Iraq, Libya, Morocco, Pakistan, Palestine, Syria, and Türkiye who made up 95% of the total number of illegal migrants in the period from 2018 to 2021.

some will have fought on the side of terrorist organisations or had certain connections with such organisations. Combined with difficulties in confirming the identity of migrants and the significant sums of money that some may carry, the authorities highlight the threat that influxes of migrants may be infiltrated by terrorists and other radicalised persons, and that money carried over the border into BiH used to finance individuals or groups connected with terrorist opinions and activities<sup>29</sup> without any subsequent control.

163. Illegal movements of cash by BiH citizens and migrants are noticeable and recognised in the NRA Addendum as a threat. Significant amounts of money, mostly related to migrants, are brought into the country over which BiH has little control. Alternative means of payments, such as Hawala and the use of MVTs operators are identified as security threats. Funds are also received and paid to high-risk countries<sup>30</sup> through bank accounts, where there are significant differences between numbers of incoming and outgoing transactions.

164. The NRA Addendum also identifies significant quantities of illegal weapons and explosives left over from the conflict period in BiH<sup>31</sup> that are still in the illegal possession of individuals and criminal groups as a threat. The purchase price of weapons and explosives on the black market is relatively low and therefore relatively easily accessible to potential terrorists.

165. However, the NRA Addendum does not elaborate how the threat of radicalised individuals or groups, or ultraconservative and right-wing organisations contribute to TF risk. In particular, the authorities have not demonstrated an understanding of: (i) methods used to encourage BiH citizens to become FTFs<sup>32</sup>, whether these factors are still present, and whether these factors may support fundraising in BiH and abroad; (ii) the extent, if any, to which radicalised persons provide logistical support for terrorist activities in the country and/or abroad; (iii) the extent, if any, to which porous borders and large and uncontrolled cross-border cash flows can be used for TF purposes; or (iv) the extent, if any, to which illegal weapons and explosive materials in the possession of criminal groups and individuals may be used for TF purposes, including estimates on remaining stocks and uses. Nor is the extent, if any, of migrant infiltration (see above) clear, e.g. numbers of migrants crossing borders, or the ways used to enter BiH.

166. Even though OCTA identifies an increase of the involvement of OCGs in almost all types of crimes, including corruption, illegal trade in weapons, narcotics, human trafficking and human smuggling, which can also be used for the transit of terrorist groups and means for carrying out terrorist actions, the authorities have demonstrated an insufficient understanding of the extent, if any, OCGs and corruption contribute to the risk of TF. The authorities have concluded that there is no connection between criminal groups, corruption and TF based on an analysis of trends in criminal activity (information on the state of security between 2017 and 2021) and past investigations of cases by highly experienced officers, but no wider analysis of this point has been

---

<sup>29</sup> NRA Addendum, page 451.

<sup>30</sup> According to Global Terrorism Index.

<sup>31</sup> NRA Addendum, page 437.

<sup>32</sup> Communication over the Internet, use of social networking sites and chat applications, presence of radicalised individuals and groups, etc.



presented to the AT, e.g. on OCG activities that may be linked to TF, and the factors considered in reaching the conclusion that OCGs are not used for TF purposes.

167. Also, the authorities do not appear to have thoroughly and systematically considered other main elements of the TF criminal offence when assessing threats. Namely full consideration has not been given to: (i) collecting and providing other assets which can be used for terrorist activities; (ii) part use of legitimate funds or other assets for a terrorist act or provision to a terrorist organisation or individual; (iii) use of funds and assets for non-attack activity, such as organisational support including propaganda, radicalisation and recruitment, training, travel and logistics; or (iv) all the main aspects of TF phases, from raising, moving, storing to using funds or other assets to meet the needs of a terrorist or terrorist organisation. Whilst indicators on operational and financial support of terrorist activities - annexed to the Strategy for Prevention and Combatting of Terrorism (2015 to 2020) - define suspicious activities related to TF to be monitored, these are rather general, and many indicators are relevant also for countering ML.

168. For vulnerabilities, the NRA Addendum, complemented by the Strategy for Prevention and Combatting of Terrorism properly identifies, inter alia, shortcomings with regards to: (i) responsibilities of various services and agencies in relation to migrants; (ii) different approaches in dealing with migrants; (iii) information held on the methods used by migrants to transport money and sums involved; (iv) inability to establish the identity of migrants; and (v) lack of clear procedures and instructions, and insufficient cooperation in dealing with migrants, all of which present security issues in the context of terrorism. However, the NRA Addendum does not comprehensively assess the impact of these vulnerabilities, in conjunction with identified TF threats (especially related to corruption and OCG activities). Nor is the misunderstanding of the current TF offence by the judiciary (see IO.9) highlighted as a vulnerability.

169. Whilst risks have been identified through multi-year criminal intelligence activities and surveillance of some NPOs for law enforcement purposes (based on the list of suspicious activities developed as an Annex to the Strategy for Prevention and Combatting of Terrorism (2015 to 2020)<sup>33</sup>), BiH lacks a comprehensive assessment of TF risks related to the abuse of NPOs. Instead, the NRA Addendum presents findings from the Regional TF Risk Assessment of NPOs<sup>34</sup> in the countries of the Western Balkans and Türkiye. The regional risk assessment concludes that foreign financing of NPOs in the region that have religious, ethnic or cultural objectives present a very high risk. The NRA Addendum also identifies certain shortcomings in the NPO sector in BiH including: (i) lack of operational and functional register of associations and foundations; (ii) narrow scope of supervision in terms of financial operations (tax purposes); and (iii) absence of competent authority for NPOs at state level<sup>35</sup>.

170. There is only limited analysis of the risk of TF through VAs in the standalone assessment of VA and VASP risk. The risk of TF through VAs is assessed as being medium. According to the

---

<sup>33</sup> Annex 3 of the Strategy for Prevention and Combatting of Terrorism (2015 to 2020) includes operational and financial for terrorism. Whilst this Annex has not been renewed, it continues to be used.

<sup>34</sup> Council of Europe Regional Terrorist Financing Risk Assessment of the not for profit (NPO) sector in the Western Balkans and Türkiye -2020/2021 prepared by the Royal United Services Institute, Centre for Financial Crime and Security Studies, and Council of Europe expert.

<sup>35</sup> It is only possible to control the spending of the funds granted to an NGO from the budget of the state level of government, for NGOs that are registered with the Ministry of Justice - BiH.

assessment, there were no reported cases related to TF involving VAs in BiH. Nevertheless, it was estimated that the misuse of VAs for this purpose represents a medium level of inherent risk, primarily because there are certain risks of social media abuse for advertising and collection of 'donations' by organisations and individuals, often under the guise of humanitarian or charitable reasons. The risk assessment does not properly assess the TF situation from the perspective of international typologies and their applicability in BiH. Consequently, the medium assessment of risk is not supported by a sufficient analysis of threats or vulnerabilities and there is a limited understanding of key challenges the country faces in relation to TF risk.

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

171. There are several separate strategic and policy documents and action plans that could allow the authorities to demonstrate that there are national AML/CFT policies and activities. However, it is not clear that all risks are addressed in these documents or that the documents present a joined-up and cohesive response to ML/TF risks identified in the NRA and NRA Addendum.

172. Although BiH does not have an overarching national AML/CFT policy, risk assessments are complemented by action plans, reflecting key findings and recommendations. For example, there are actions for dealing with ML risks identified at national and sectorial level, including risks presented by the real estate sector, notaries, MVTs and legal persons (access to BO information). In addition, several national strategies are in place, accompanied by action plans, dealing with some specific ML threats and risks. These national strategies set medium term objectives and are consistent with assessments of ML/TF risk in the NRA. Whilst they have still to be adjusted to take account of findings in the NRA Addendum, the strategies still properly reflect analyses of risk findings given that findings had not changed significantly. Some entity strategies are in place, e.g., in respect of combatting cyber-crime (RS), but interaction between national and entity strategies has not been explained.

173. Overall, these action plans and strategy documents (in effect national policies) reflect the picture of risk in BiH to a large extent but the absence of an overarching national AML/CFT strategy (or policies) militates against the development of a uniform approach across all areas of AML/CFT, including reviewing plans and strategies, and the effectiveness and status of implementation. For example, it is difficult to ensure that investigations of the core criminal proceeds generating predicates are prioritised, highest risk sectors are prioritised for more intense supervisory actions etc.

174. Whilst various strategy and policy working groups have been established during the period under assessment, BiH lacks a functioning state-level body or inter-ministerial working group to help define AML/CFT priorities and to oversee the implementation of action plans and various strategies related to AML/CFT. Currently, responsibilities are spread among various temporary working groups in charge of producing documents and monitoring implementation, and, overall, there has been insufficient coordination, cooperation and information, which is an important shortcoming given the numerous agencies involved in the oversight and enforcement of the AML/CFT framework in BiH. As a result, most actions in the plan prepared after the NRA were not accomplished (and transferred to the action plan produced after the NRA Addendum, with new, extended deadlines for implementation). No information had been provided on: (i) membership details and number of monitoring meetings held for the various strategies; (ii)

timeframe for conducting monitoring work; or (iii) with one exception, details of any reporting on results, e.g., to the Council of Ministers - BiH.

175. Furthermore, the follow-up of NRA action plans has not been subject to sufficient government oversight at state level. A report should be submitted annually to the Council of Ministers - BiH on the implementation of NRA action plans. Just one such report has been made covering the period from August 2018 to September 2019.

176. Not all threats and vulnerabilities identified in the NRA and NRA Addendum are covered by a separate strategy (e.g. tax-related offences, illegal trafficking and production of narcotic drugs, and fraud) and some have expired, e.g., corruption. Other documents could be more specific and detailed in many areas of risk.

177. Even though corruption is highlighted as one of the main threats and there are calls for improvements to the legislative and policy framework for the fight against corruption, no national policy was in place at the time of the on-site visit and changes to the framework have been repeatedly delayed, largely due to the country's fragmented institutional framework and lack of firm and steady political support. The interaction between corruption and organised crime is evident and one of the most significant driving factors affecting security and economic stability of BiH, affecting citizens' quality of life.

178. The Strategy for the Fight Against Organised Crime - BiH (2023 to 2026) sets four key objectives and recognises several ML/TF threats and vulnerabilities. The strategy does not envisage production of an overall action plan and, instead, competent authorities have been expected to develop separate plans for their institutions. The report on implementation of strategic goals, along with reports by 13 competent authorities on separate action plans have been made available and, overall, provide evidence of implementation of plans.

179. The Strategy for Combatting THB – BiH (2020 to 2023) is generally in line with the NRA findings but does not address the threats posed by OCGs facilitating THB. Nor is there an action plan in place, even though it is envisaged by the strategy.

180. There is no national policy for addressing risks presented by legal persons. Nor are there overall policies for reducing the use of cash, though measures have been taken to mitigate risk, including in the new AML/CFT Law and regulations are in place in the entities.

181. In order to overcome deficiencies identified in the risk assessment, the action plan for combating ML/TF in BiH associated with VAs (2024 to 2027) is focusing on specific measures related to: (i) harmonisation of the legislative framework for AML/CFT; (ii) enhancement of human and material-technical capacities; (iii) enhancement of AML/CFT supervision; (iv) enhancement of inter-institutional and international cooperation; (v) investigation and monitoring of existing and new methods of committing ML/TF crimes; and (vi) increasing private sector awareness of ML/TF risks.

182. The Strategy for Prevention and Combating of Terrorism – BiH (2021 to 2026) also sets four key objectives linked to: (i) the prevention and combating of terrorism; (ii) prevention of violent extremism and radicalisation leading to terrorism; and (iii) hate crimes. The objectives are supported by relevant measures/actions which set deadlines and implementation responsibility. To a certain degree, the strategy deals with the TF threats and risks identified in the NRA and NRA Addendum, including: (i) training judges, prosecutors and members of LEAs on topics related to criminal offences of terrorism and TF; and (ii) more efficient monitoring of

suspicious money flows and conducting efficient financial investigations. Although the objectives are generally in line with the NRA Addendum findings, the related action plan is often formulated in very general terms and specific, measurable deliverables for accurate judgement on their effective implementation are missing. As an example, it is not explained what concrete and measurable actions are needed to enhance the capacity of relevant competent authorities, or for enhancing cooperation and coordination.

183. ML/TF risks have been addressed through several activities. The most noteworthy resulted in adoption of a new AML/CFT Law during the on-site visit. Amongst other things, the law: (i) now applies preventive measures to all VASPs; (ii) requires FIs, DNFBPs and VASPs to conduct a business risk assessment to support the application of a risk-based approach to the application of preventive measures; and (iii) additional restrictions are placed on the use of cash.

184. The authorities have also taken action to address serious gaps in the supervision of DNFBPs. In the case of notaries, some elements of risk-based supervision are already in place in the RS. More information is provided at section 6.2.3.

185. LEAs (including competent prosecutor's offices) have also developed operational documents at state, entity and district level in accordance with the conclusions of the Strategic Forum of Chief Prosecutors and Directors of Police Agencies (see R.2 in the TC Annex) (e.g., internal prosecutorial instructions for prioritisation of work on corruption and organised crime, financial investigations, and annual plans of operational activities) which serve to prioritise activities in line with risk findings. In addition, this strategic forum has also adopted instructions<sup>36</sup> applicable to all LEAs (including prosecutor's offices) in BiH regarding: (i) the detection and investigation of criminal offences with the highest level of ML threat; (ii) the application of special investigative measures; (iii) financial investigations; and (iv) temporary seizure and confiscation of property. Copies of these instructions have not been made available to the AT. The Forum has also taken action to increase capacity within police agencies.

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

186. National risk assessments have not been used to fully support the application of enhanced or simplified measures in the new AML/CFT Law to high-risk sectors. Exemptions in place are minor.

187. In line with the new AML/CFT Law, EMIs will not be required to conduct CDD measures where there is a low risk of ML/TF, and several strict conditions are met. The basis for this exemption is not explained in the NRA or NRA Addendum. In addition, the scope of the AML/CFT Law does not apply to all FIs of DNFBPs (see R.10 and R.22), however these are only minor shortcomings.

188. Specific provision has not yet been made to deal with ML/TF risks identified in the NRA or NRA Addendum, e.g., in the real estate and motor vehicle sectors and for lending. However, EDD measures must be applied by an obliged entity to a business relationship or transaction that

---

<sup>36</sup> These are: (i) Instructions on the actions of the Prosecutor and Authorised Official in the detection of the criminal offence, the perpetrator, and the conduct of the investigation; and (ii) Instructions on the conduct of Prosecutors and Authorised Officials in the application of special investigative actions.

presents a high level of customer risk, taking account of the obliged entity's business risk assessment which must consider the risk of ML/TF in BiH.

189. Simplified measures may be applied in situations outlined under c.1.8 in the TC Annex. These include: (i) real estate transactions equal to or exceeding BAM 30 000 (approximately EUR 15 000) carried out using a bank payment order or wire transfer; and (ii) in the case of banks in RS, customers coming from Member States of the EU or other countries that, according to the FIU, meet internationally accepted ML/TF standards (this concession was removed in March 2024). The former concession is not consistent with the NRA or NRA Addendum. However, a covered FI must also ascertain that the business relationship or the transaction presents a lower level of risk, taking account of the result of ML/TF risk assessments in BiH before applying simplified measures.

190. In cases where the customer of an obliged entity is a regulated FI (such as a securities firm or a VASP) acting as a nominee in respect of underlying customers, information is not always requested by the obliged entity on the underlying customer (notwithstanding that there is not a statutory basis for applying such an exemption). Such practice is commonly found in other countries and can be accommodated under R.1. The authorities are not aware of this practice, suggesting that it is not widespread.

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

191. In general, the objectives and activities of competent authorities correspond with the risks identified in the NRA Addendum. However, in the absence of a mechanism for the systematic and timely transposition of findings into strategic/policy document(s): (i) objectives and activities of the competent authorities may not be consistent with all ML/TF threats, vulnerabilities and risks; and (ii) there may be insufficient or inefficient allocation of resources. The authorities conduct financial investigations in all terrorism-related cases. However, procedures for investigating terrorism do not prioritise investigation of the TF component.

#### FIU

192. Whilst disseminations from the FIU are not generally in line with BiH's risk profile, the FIU prioritises threats identified by the NRA. For example, key threats/predicates are included as a criterion for prioritisation of incoming STRs in relevant internal procedures, including the Instruction on Intelligence and Investigative Work.

193. The FIU has also revised its indicators for assisting with reporting of suspicion of TF.

#### Judicial and law enforcement authorities

194. As noted above, competent prosecutor's offices have introduced obligatory internal guidelines, prioritising investigations related to corruption and organised crime. Furthermore, several LEA operational annual plans target, inter alia, areas identified as ML/TF threats or vulnerabilities in the NRA Addendum.

195. Other competent authorities at state, entity and district level are involved in various operational task forces under prosecutorial leadership and so indirectly apply the same prioritisation explained above.

196. In line with strategic and operational documents that have identified the need for enhancing capacities to conduct financial investigations, all competent LEAs have established

units specialised in conducting financial investigations (though a special department within the Prosecutor's Office – FBiH dealing with corruption has yet to be established). However, standard operating procedures for financial investigations in the different LEAs are not set out formally in writing and are conducted systematically based on prosecutors' instructions, and these do not necessarily target criminal offences that pose higher threats according to risk assessments. However, the FBiH Police has adopted an action plan with the Prosecutor's Office of Sarajevo Canton, defining a list of priority cases which include criminal offences that are marked as high risk in the NRA Addendum. This list is regularly expanded and updated.

197. As a response of SIPA to the migrant pressure facing BiH since the beginning of 2018, an operational investigative team has been formed dealing with illegal migration and now consists of 37 police officers and one civil servant (analyst). Information collected has been used to direct operational activities towards individuals and groups engaged in organised human smuggling, with some significant operational results.

198. Resourcing within these specialised units has been strengthened in the FIU and Federal Police Administration (FBiH Police).

#### Supervisory authorities

199. Both entity banking supervisors have formed specialist AML/CFT units to monitor compliance with AML/CFT requirements by banks (and leasing companies and MCOs). This recognises the higher ML threat that is presented by banks.

200. The results of the NRA are also considered when developing oversight plans for the banking sector – for both the scope of assessments (focussing on higher risk areas) and allocation of resources. Banking supervisors have also responded quickly to emerging issues using banking circulars. For example, during the COVID pandemic, banks were instructed to pay special attention to: (i) transactions related to the production and/or purchase of medical equipment; (ii) payment transactions whose source was public funds; (iii) the identification of transactions related to computer fraud; and (iv) transactions related to humanitarian work. More recently, in line with the NRA and NRA Addendum, banks have been instructed to monitor transactions making use of foreign payment cards.

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

#### *All competent authorities*

201. A mechanism for national coordination and cooperation is in place. However, there is a lack of adequate overall coordination on the implementation of AML/CFT policy at state level. At operational level, there is good cooperation between: (i) competent LEAs in the various jurisdictions; (ii) core principles supervisors at sectoral level in the jurisdictions; (iii) core principles supervisors and the FIU; and (iv) authorities combating terrorism and terrorism-related crimes, including TF and addressing risks presented by migration. There is no permanent body in charge of co-operation and, where appropriate, co-ordination to combat PF.

202. As explained under c.2.2 of the TC Annex, a Working Group has been designated to coordinate action in the field of AML/CFT of 17 different authorities. Inter alia, the role of the Working Group is to increase the overall coordination of relevant institutions' work in relation to AML/CFT and develop an AML/CFT Strategy. Notwithstanding the complexity of the institutional

framework in BiH, the Working Group has not actively coordinated national AML/CFT policies during the period under review. Under the new AML/CFT Law, a permanent coordination body comprising representatives of all public authorities at all levels of government in BiH that have specific AML/CFT responsibilities must be established, and its duties will include developing an AML/CFT strategy. At the time of the end of the on-site visit, this body had not yet been established.

203. As explained under c.2.3 in the TC Annex, working groups have been established to promote cooperation in distinct areas: (i) drafting the NRA, NRA Addendum and action plan for 2022 to 2024; (ii) preparation and adoption of the new AML/CFT Law; (iii) development of the BiH Strategy for the Fight Against Organised Crime (2023 to 2026); and (iv) development of the BiH Strategy for Prevention and Combatting of Terrorism (2021 to 2026). No information had been provided on: (i) membership details and number of monitoring meetings held (apart from the NRA groups); or (ii) frequency of work and timeframes. In the case of the working group established for the NRA and NRA Addendum, the basis for reviewing and renewing assessments of risk have not been explained, and group work is conducted on an ad hoc/case-by-case basis.

204. Overseeing the work of these various groups is the Ministry of Security – BiH which participates in almost all working groups. However, the basis and methodology followed for oversight of work was not explained and, in one case, there was insufficient coordination between ministries over renewal of the Strategy for Preventing the Proliferation of Weapons of Mass Destruction.

205. In RS, the Working Group for Reporting and Implementation of International Obligations in the Field of AML/CTF monitors, coordinates, and reports on activities related to the implementation of international obligations. This intersectoral working group is made up of representatives from ten ministries and agencies and meets regularly to monitor and coordinate activities linked to the implementation of international AML/CFT standards. Since 2016, the Working Group has held more than 32 meetings. Amongst other things, the Working Group has supported establishing a BO register.

206. Coordination and cooperation among competent authorities has also been supported by a twinning project run jointly by the Austrian Agency for European Integration and Economic Development and Slovenian Ministry of Interior: "Support to the Fight against ML" from April 2017 to January 2020. The Management Board for the project met on ten occasions and meetings involved representatives from all important ministries and competent authorities for AML/CFT issues.

#### *Judicial and law enforcement authorities*

207. The Strategic Forum of Chief Prosecutors and Directors of Police Agencies promotes cooperation between prosecutor's offices and police agencies in BiH and, since 2015, has held 30 meetings, though only limited information on its work has been made available by the authorities. Inter alia, it has adopted instructions on investigating criminal activity, adopted standardised rules and guidelines for dealing with COVID-19, established mechanisms for operational cooperation, introduced the practice of establishing joint investigative teams, and coordinated training on priority topics. Decisions taken at meetings are submitted to all members which are obliged to comply therewith.



208. The Strategic Forum also oversees operational fora at the level of individual prosecutor's offices and police agencies, which are arranged periodically. These operational fora prepare annual work plans, which are submitted to the Strategic Forum for review.

209. At operational level, two separate task forces led by state prosecutors have been established to enhance effectiveness in: (i) combating terrorism and terrorism-related crimes, including TF, and (ii) addressing risks presented by migration. Information gathered by the two taskforces is exchanged, to identify possible interconnections between migrant smuggling, terrorism and TF. As explained under c.2.3, the Task Force for Combating Terrorism has formed an investigative team for dealing with terrorism-related cases (including TF) and, between 2018 and 2022, held 64 operative meeting, exchanging numerous information. Even though the investigative team was expected to establish a terrorism-related database, it has not yet done so. Investigations have not produced any significant results. Also, on regular basis, BiH prosecutors form joint investigative teams made up by LEA representatives at state, entity and district level, to investigate and prosecute ML and serious and organised predicate crimes. The FIU participates in these investigative teams whenever appropriate.

210. SIPA, the Border Police of BiH and the Service for Affairs with Foreigners of BiH, with support from the Intelligence and Security Agency of BiH, cooperate closely under the "EAST" initiative which supports: (i) the exchange of operational information on migration, including on groups and individuals which could be linked to extremism and radicalism; and (ii) joint operational activities.

211. To support domestic and cross-border investigations, the Directorate for the Coordination of Police Bodies - Sector for International Operational Police Cooperation (SIOPC) and National Joint Contact Point for cooperation with Europol (NJCP) support international police cooperation on behalf of other LEAs.

212. In FBiH, there is cooperation between the FBiH Police and the Federal Agency for the Management of Confiscated Assets covering: (i) professional education; (ii) joint work on the analysis of legal liability; (iii) other issues related to the implementation of the Law on Financial Investigations and Confiscation of Property Benefits; and (iv) obtaining criminal offences. No further details have been provided on this operational forum.

#### *Supervisory authorities*

213. There is good ongoing cooperation between banking supervisors in the entities, between securities supervisors in the entities, and between insurance supervisors in the entities, and between all core principles supervisors and the FIU. This is supported by statutory gateways and memoranda of understanding and manifests itself through clear alignment of supervisory approach – both at prudential and AML/CFT levels (see Chapter 6 (IO.3)). Few opportunities for regulatory arbitrage were identified. There is also cooperation at entity level. A permanent Committee for Coordination of Supervision of the Financial System – RS, covers operational and strategic issues, and is composed of the Minister of Finance – RS and heads of the banking, securities, and insurance supervisors. Between 2018 and 2022, the committee held 16 meetings. Inter alia, the Committee organises joint supervisory activities. Notwithstanding the use of various memoranda of understanding, there is no similar formal mechanism in place at federation level. It has not been demonstrated that there is co-ordination of operational and strategic functions amongst non-core principles supervisors.

214. At policy level, there is no permanent body in charge of co-operation and, where appropriate, co-ordination to combat PF. Information has not been provided on specific operational coordination on PF matters.

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

215. Most FIs are aware of the risk assessment process and had a good understanding of national and sectoral risks set out in the NRA Addendum, such as notarial services and the real estate sector. Understanding of the results of the process amongst DNFBPs was mixed since there were different levels of engagement in the process by sector. VASPs were extensively engaged in the VA risk assessment.

216. All banks, MCOs and insurance companies, agents and brokers participated in the elaboration of the NRA, by responding to questionnaires requesting information about their products and services and customers, which served as the basis for conclusions on sectors' vulnerabilities and exposure to threats. Questionnaires were used also for other FIs, but response rates are not clear. Professional chambers and associations and representatives from different types of entities were also part of the different NRA and NRA Addendum working groups.

217. The NRA and NRA Addendum and accompanying action plans were: (i) distributed by the Working Group to all relevant authorities; and (ii) introduced by the Ministry of Security - BiH and FIU to a wider audience at ad hoc events (including banking, securities, and insurance sectors).

218. Summary reports were also published on the website of the Ministry of Security - BiH. Supervisors of banking entities (banks, leasing providers and MCOs), securities and insurance sectors, and foreign exchange operations have also: (i) circulated these summary reports to obliged persons; (ii) covered the reports at annual training events; and (iii) used close-out meetings following on-site visits to communicate risk findings. It is not clear whether supervisory bodies for DNFBPs have shared an overview of the main results of the NRA with obliged entities, including higher risk sectors such as real estate agents and notaries. Whilst the majority were aware of the NRA process, institutions in two sectors with a high ML vulnerability score had not been informed about the findings of the NRA with one institution admitting that their knowledge of the exercise and key findings had been limited to publicly available information. See section 5.2.1.

219. The authorities' assessment of private sector awareness of the results of the NRA were less positive where it was concluded that the sector was unaware of ML/TF threats, vulnerabilities and risks and measures needed to eliminate and mitigate risks<sup>37</sup>.

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

220. BiH has made significant efforts in carrying out two national risk assessments. The authorities have generally demonstrated a good understanding of ML risks, though several shortcomings were observed in the risk assessment process which may undermine the reliability of conclusions and appropriateness of risk rating assigned. There are also certain missing

---

<sup>37</sup> NRA Addendum, page 107.

elements in the country's understanding of TF risk, which may have the effect of understating that risk. Given the context of BiH, findings in respect of TF have been weighted heavily by the AT.

221. The AT has placed great importance on the various strategic and policy documents that can be considered to have a similar effect to national AML/CFT policies and activities. However, it is not clear that all risks are addressed in these documents, e.g., corruption and TF, or that the documents present a joined-up and cohesive response to ML/TF risks identified in the NRA and NRA Addendum. The latter point is of particular concern.

222. There has been significant interagency coordination and cooperation at state level for the purposes of assessing ML and TF risk, coordination and cooperation. There are also some very good examples of coordination and cooperation at operational level amongst LEAs and supervisors which the AT has attached importance to in its conclusions. Whilst information has not been provided on specific operational coordination on PF matters, this has not been weighted too heavily by the team given the context of the country.

223. Whereas understanding of the results of the risk assessment process amongst DNFBPs was mixed, core principle FIs had a good understanding. The latter has been weighted more heavily by the AT.

224. Overall, the AT considers that major rather than moderate improvements are needed. **BiH is rated as having a moderate 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) The FIU successfully uses financial intelligence derived from STRs and cash transaction report (CTRs), whereas the use of other sources of information should be enhanced. Access to financial intelligence by the FIU is adequate though it can be belated in respect of information on real estate for the purposes of protecting confidentiality of a case, particularly in corruption matters. Also, the state of play of registries to provide accurate and up-to-date basic information on legal entities may hamper the FIU's effectiveness in analysing financial flows which include these entities.
- b) LEAs demonstrated effective use of ML related financial intelligence gathered on self-initiative, whilst this has not been the case with TF. This notwithstanding, the LEAs use of financial intelligence produced by the FIU to initiate investigations into ML/TF and predicate offences is insufficient.
- c) Although there is a good level of cooperation and communication between the competent authorities, there are concerns with the effective use of the FIU in the overall AML/CFT system in BiH. The FIU is often used by other LEAs to assist in their ongoing investigations rather than as an independent body whose primary function would be to generate financial intelligence to then be used to trigger investigations into ML/TF and predicate offences.
- d) The value of STRs for subsequent analysis and financial intelligence disseminations on ML by the FIU is questionable, although there has been a noticeable growth in the ratio of STRs received and disseminations being sent based on them. The disseminations sent by the FIU to the competent authorities are not fully aligned with the risk profile of the country and relate overwhelmingly to tax related matters. The feedback mechanism on the use of FIU disseminations between the competent authorities and the FIU requires enhancement to better ensure that the FIU's intelligence products fit the needs of LEAs and other competent authorities.
- e) The number of TF-related STRs is low, which is not in line with the TF related risks. Notwithstanding the low quantity, the quality of TF-related STRs is considered as satisfactory.
- f) Whilst there is some limited evidence that strategic analysis has been undertaken by the FIU, a more structured approach in line with risks identified by the jurisdiction would be beneficial. Prioritisation of strategic analysis has not been sufficiently demonstrated and this is supported by the lack of dedicated employees within the FIU to conduct this type of work.
- g) There is no standard operation procedure (SOP) to regulate the process of operational analysis (including prioritisation). The FIU's operational analysis function would

benefit from enhancing technological resources in order to improve the usability of information obtained from sources where there is a lack of direct access. There has not been an increase in the number of operational analysts during the assessment period, despite the growth in STRs received and the jurisdiction's overall increase in ML investigations.

- h) Customs authorities were unaware of their obligation to report ML/TF suspicious activity related to cross border transportation of cash to the FIU, which resulted in a lack of relevant ML/TF disseminations from the FIU and subsequent investigations on this matter.

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

- a) There is a robust system in place enabling the identification and investigation of ML offences at all levels. A variety of sources have been used to identify ML offences such as parallel financial investigations, results of the predicate crimes investigations and FIU disseminations to a lesser extent. Nevertheless, no ML investigation arose from incoming MLA request nor from cross border movements of cash. Despite unreliable statistics, it can be concluded that a number of ML investigations have been initiated including complex cases. Overall, there is no prioritisation mechanism in place in relation to ML offences.
- b) ML investigated and prosecuted by the authorities are partially in line with the country's risk profile with fraud being the prevalent predicate offence. ML investigations and prosecutions stemming from corruption and organised crime, which pose high ML threat appear to be disproportionate with the number and volume of such crimes. Overall, the lack of comprehensive statistics impedes a full assessment of results against the risk profile.
- c) Although the authorities were able to demonstrate that all types of ML offences are pursued, self-laundering remains the predominant type. LEAs and prosecutors of BiH and FBiH pursue more standalone and professional ML, while such practices are less observed in RS and BD due to the uneven interpretation of the ML offence. Undue delays in ML criminal proceedings have been observed which influences the effectiveness. Despite identifying misuse of legal persons as a ML risk factor, the number of prosecutions and convictions does not appear to be in line with the country's risk profile.
- d) Sanctions imposed for ML offences for natural persons calls into question their full dissuasiveness, effectiveness and proportionality given that in majority of instances they are not fully commensurate with the gravity of the crime.
- e) The authorities have advised that extended confiscation is applied when it is not possible to secure an ML conviction. Due to the lack of information, it is not possible to determine to what extent this alternative measure has been used.

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

- a) Confiscation is pursued as a policy objective to some extent. While there is no overarching confiscation policy, the legal framework allows for the seizure and

confiscation of instrumentalities, proceeds of crime and property of equivalent value. However, issues remain at the policy level, including delays in establishing a legislative framework for an effective asset management system at the state level and in creating special prosecutorial department at the federal level to combat organised crime and corruption.

- b) The authorities managed to seize and confiscate a commendable value of proceeds related to ML offence. Examples have been provided of the seizure and confiscation of instrumentalities and property held by third parties. Parallel financial investigations are regularly conducted to identify and trace assets. However, assessment of the results achieved in seizing and confiscating proceeds of predicate offences indicate that major improvements are needed, especially in relation to those offences posing a high ML threat.
- c) Asset management offices in FBiH and RS facilitate the proper management of assets seized and confiscated by court orders in these entities. The authorities have demonstrated impressive results when managing income generating assets such as companies. However, the mechanism established at the state level is limited to the storage of seized and confiscated assets, rather than their effective management.
- d) BiH operates a declaration system for cash and bearer negotiable instruments (BNIs) over BAM 20 000 (approximately EUR 10 000). There are concerns about the effectiveness of detecting undeclared and falsely declared cash, given the risk profile of the country. Moreover, the sanctions applied for undeclared cash are minimal and therefore not proportionate, dissuasive nor effective.
- e) The consistency of confiscations carried out so far with the risk profile of the country has been demonstrated only to some extent.

### ***Recommended Actions***

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

- a) The FIU should develop a SOP on the processing of STRs as well as review its spontaneous disseminations to be more in line with the country risk profile and ensure the presence of all necessary elements therein.
- b) The overall process of sharing and use of financial intelligence should be improved across all competent authorities. This includes: (i) implementing the electronic exchange of intelligence between authorities; (ii) developing guidance for the use of financial intelligence during the competent authorities' operations, including systemically sending requests to the FIU; and (iii) developing and utilising the feedback mechanism for disseminations to domestic agencies relating to the quality of the dissemination and the outcome of the case.
- c) The FIU should enhance communication with the private sector by:
  - i. In cooperation with the competent supervisory authorities increasing the outreach it provides, particularly in order to cultivate STRs that contain information that is in line with the country risk profile. This is with the aim to

- disseminate more useful financial intelligence to a wider range of competent authorities in line with risks;
- ii. Enhancing the provision of targeted feedback to obliged entities on the quality and usefulness of reported information; and
  - iii. Enhancing the establishment of a better mechanism of communication with obliged entities to ensure timely receipt of reports and additionally requested information.
- d) The FIU should improve its operational analysis process by enriching information contained in STRs with information from other sources.
  - e) The FIU should ensure there is an effective division between activities conducted for intelligence purposes and activities which fall within the competence of an investigative body.
  - f) The FIU should increase human and technical resources dedicated to both strategic and operational analysis.
  - g) The FIU should evidence commitment to using STRs and other financial intelligence to develop strategic analysis. This includes adopting a structured approach to strategic analysis to identify and assess ML/TF related trends and patterns in line with the risk profile of the jurisdiction.
  - h) The FIU should improve the availability and quality of STR related data and statistics to aid strategic analysis and feedback with obliged entities and the competent authorities.
  - i) The customs authorities should enhance their understanding of ML/TF risks and report suspicions of ML/TF related to the cross-border movements of cash to the FIU.
  - j) FBiH and BD authorities should ensure that the FIU has swift access to information on real estate. To this end, the authorities could consider establishing registers for real estate and ensure access of the FIU thereto.

***Immediate Outcome 7***

- a) The authorities should establish a clear policy to prioritise the identification, investigation and prosecution of ML offences with a view to increase the number of cases in line with the risk profile of the country and overcome undue delays in criminal proceedings.
- b) The authorities should systematically collect statistics regarding ML investigations, prosecutions and convictions including: (i) types of ML (ii) ML emanating from different predicate offences (iii) ML triggered by different sources (e.g. MLA, cross border transportation of cash).
- c) The authorities should ensure proper interpretation and understanding of ML offence across all LEAs, prosecutors and judiciary in order to address identified gaps and increase the use of objective factual circumstances when proving ML offence.



- d) LEAs and prosecutors should analyse obstacles in achieving ML convictions against legal persons and increase efforts to achieve results in accordance with the identified risk.
- e) The authorities should consider analysing the sanctioning policy for ML offences to ensure that sanctions applied for ML offences are effective, proportionate and dissuasive.

***Immediate Outcome 8***

- a) BiH should fully address confiscation policies by achieving its existing strategic goals including creating an effective asset management mechanism at the state level and establishing a special prosecutor's department to tackle organised crime and corruption at the federation level.
- b) BiH should maintain reliable and comprehensive statistics on seizures, confiscations and asset recovery measures for ML, TF and all predicate offences across the country. This would enable the authorities to accurately assess threats and the effectiveness of the confiscation regime.
- c) The authorities should continue to apply freezing and seizure measures to secure the potential future confiscation of instrumentalities, proceeds of crime and property of equivalent value particularly in relation to predicate offences in line with country's risk profile.
- d) The authorities should develop guidelines and raise awareness amongst customs officers to ensure proper detection of false or undeclared cash. Proportionate, dissuasive and effective sanctions should be applied once the breach is detected.

225. 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)**

226. BiH has the potential characteristics of an effective system. There are no limiting legislative requirements and there is good cooperation between competent authorities. The FIU has access to numerous domestic databases with the exception of a register of real estate which, risks and context wise has a bearing on the FIU's ability to provide financial intelligence involving this sector. There is scope to further improve the usefulness of intelligence gathered from STRs and to obtain and disseminate intelligence to the competent authorities that is more in line with the country risk profile.

227. The lack of formal feedback from LEAs and a structured approach towards strategic analysis does not allow the FIU to further improve its disseminations and to contribute to more effective steps for both repressive and preventive systems.

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

#### Access to financial intelligence

##### FIU

228. The FIU has access to a wide range of financial and other types of information. The table below lists the databases which the FIU have direct access to.

**Table 3.1:** FIU's direct access to information

<b>N</b>	<b>Database</b>
1.	Database of STRs
2.	Database of CTRs
3.	Register of accounts of legal entities
4.	Central register of loans
5.	Criminal records
6.	Searches
7.	Operational records (including criminal intelligence database)
8.	Transfer of money across the state border
9.	Database of financial indicators of legal persons
10	Register of business entities
11	Record of motor vehicles
12	Records of identification documents
13	Records of the Service for Foreigners of BiH
14	Register of VAT payers
15	Register of VAT debtors

229. Where direct access is not available, the authorities and institutions at all levels of government in BiH submit information held without delay, and the FIU may also examine the documentation or collect information on the premises of such authorities and institutions.

230. Though the FIU did not express any concerns with the quality and timeliness of information that is available on databases in place, it indicated that it would also benefit from direct access to the database of tax authorities, and the establishment of such access was work in progress. The absence of a real estate database is reported to be an obstacle for timeliness of FIU action<sup>38</sup>. Though the FIU can obtain any information needed, where there is no direct access to

---

<sup>38</sup> To obtain information on real estate the FIU makes a request to the Chamber of Notaries or Tax authorities, and the Authority of Geodata Affairs – RS for real estate located in RS.

the required information, the FIU will not request information in order to protect the confidentiality of a case, particularly in PEP and corruption matters.

231. During operational analysis, the FIU routinely requests information from obliged entities, mainly banks. Information is reported to be provided in a timely manner and is useful for the competent authorities. However, there are slight delays in communication with obliged entities which are not connected to the online reporting system<sup>39</sup>. In urgent cases, the FIU requests information orally and reviews documentation on the obliged entity’s premises. Overall, the FIU expressed satisfaction with its collaboration with obliged entities and with the quality of provided information. The FIU has one recorded event where an obliged entity has refused to respond to a FIU request for information. In this case, a notary refused to respond and was subsequently referred by the FIU to the Prosecutor’s Office.

232. The FIU, in the majority of cases, accesses BO information from banks immediately, or at most within a week. When it comes to basic information registries are a key source of information. However, the online databases do not always capture all legal persons, are not always accessible, nor do they always present up-to-date and complete information. See IO.5. Moreover, with respect to associations and foundations, BiH does not have an effective system for recording basic information.

233. The FIU obtains financial intelligence also from foreign counterparts through the channels of the Egmont Group.

#### LEAs

234. LEAs have direct access to most of the databases listed under table 3.1 (with the exception of STRs and CTRs) to obtain financial intelligence and other relevant information to pursue ML/TF and associated predicate offences and trace assets without any legal impediments.

235. It is relatively easy for LEAs to access banking information through the FIU in pursuing ML/TF, associated predicate offences and tracing assets. The LEAs access STR and CTR databases via the FIU upon request. There was no indication of any concerns on financial intelligence available from the LEA part. The table below shows the frequency of requests sent to the FIU by different authorities on information it has or may obtain.

**Table 3.2:** FIU responses to requests of authorities<sup>40</sup>

<b>Authority</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Total</b>
<b>Tax Administrations</b>	238	214	520	569	645	<b>2 186</b>
<b>Cantonal Ministries of Internal Affairs</b>	6	14	90	120	60	<b>290</b>
<b>Ministry of Internal Affairs of RS</b>	16	29	58	57	59	<b>219</b>

<sup>39</sup> Under the AML/CFT Law entered into force in February 2024, obliged entities are required to harmonise their operations with the requirements of the Law within six months from the date of its entry into force. Obligated entities should be connected to the online reporting system in this timeframe.

<sup>40</sup> Table 3.8 does not include statistics on disseminations driven by STRs.

<b>Federal Police Administration</b>	14	22	31	46	42	<b>155</b>
<b>Indirect Taxation Authority</b>	18	20	39	42	31	<b>150</b>
<b>Financial Police</b>	0	0	0	0	43	<b>43</b>
<b>Police of BD</b>	2	6	9	7	9	<b>33</b>
<b>Border Police of BiH</b>	7	6	5	8	7	<b>33</b>
<b>Service for Foreigners' Affairs</b>	3	1	0	4	4	<b>12</b>
<b>Intelligence Security Agency</b>	0	0	3	5	2	<b>10</b>
<b>Municipal courts</b>	0	0	0	0	1	<b>1</b>
<b>Cantonal prosecutors offices</b>	0	0	0	0	1	<b>1</b>
<b>Foreign Exchange Inspectorate of RS<sup>41</sup></b>	0	0	0	0	1	<b>1</b>
<b>Total:</b>	<b>304</b>	<b>312</b>	<b>755</b>	<b>858</b>	<b>905</b>	<b>3 134</b>

236. LEAs also access and use financial intelligence from various sources, including their own operational work, information from on-going investigations, from informants, media, etc. In addition, they directly or indirectly access international bodies such as Interpol, Europol, Camden Asset Recovery Interagency Network (CARIN), SELEC, etc.

237. Similarly to the FIU, the LEAs obtains basic information on legal persons from registries to the extent available. BO information is sought from competent courts first, and if information is not available, court orders are then issued to banks to provide such information. Some delays could be encountered when these requests are sent to banks.

#### *Use of financial intelligence*

##### *FIU*

238. The FIU mostly uses information contained in STRs and the database of CTRs to produce financial intelligence on ML. The ratio of disseminations derived from STRs is shown under section 3.2.2 and cases 6.2 and 6.3. As mentioned, the FIU is cautious to seek information from existing databases for real estate where it has indirect access, particularly in cases when PEPs are involved. Therefore, intelligence available in such databases cannot be considered as particularly useful for ensuring the dissemination of actionable operational information to competent investigative authorities

239. The FIU also uses financial intelligence from foreign sources although the AT believes that the FIU is not pro-active in seeking information from foreign counterparts along with the increase in the cases of operational analysis (see IO.2 - section 8.2.3). Having said this, the FIU has provided a case where the analysis was triggered by foreign source information.

---

<sup>41</sup> The competence of this body during 2022 took over PURS.

### **Case study 3.1: Use of financial intelligence with an international element**

In 2018, the FIU opened a case based on information received through the Egmont Group and Europol. The information suggested that the German authorities were investigating fraudulent money transfers from a German company account to a BiH bank account of a legal person. The foreign company reportedly had received several fraudulent email messages, appearing to be from a legitimate supplier, containing new payment instructions. The funds equated to EUR 372 792.

The FIU conducted further analysis through the Egmont Group for BO information, account details and movement of funds. It was found that most of the funds were transferred from BiH to the accounts of legal entities in Croatia, Poland, Italy, and Germany. The FIU obtained financial intelligence from the BiH bank in which the accounts were held in relation to where the funds were forwarded and made requests to the jurisdiction. In addition, the FIU collected intelligence on the owner of the BiH based legal person. In particular, checks on border crossings showed that the person was a Serbian citizen who entered BiH only once when setting up the legal person (a shell company).

The case was forwarded to the Prosecutor's Office of BiH, and it resulted in a final conviction in October 2019 for ML. The subject was sentenced to one year in prison, a fine of EUR 1 500 as a secondary punishment and EUR 61 749 was confiscated.

240. There is limited evidence provided on the use of open-source information. Also, in the absence of reported suspicions by the ITA - BiH on cross-border transportation of cash the FIU was not in the position to develop relevant cases.

241. The FIU extensively uses information requested from the obliged entities and other public bodies, although no statistical data has been provided to substantiate this. This is true also for instances where investigative techniques were used to gather information.

242. As far as the use of financial intelligence in relation to TF is concerned the AT was not provided with enough evidence to consider it effective.

#### *LEAs*

243. To start with, LEAs have two types of sources of intelligence which they use to initiate investigations into ML, TF, predicate offences or to pursue the proceeds of crime. The first source would be the FIU and its financial intelligence, whilst the other one includes their investigations/application of investigative means and information/intelligence they come across, information from informants, media and other. As a general remark, the AT noted that the sources other than the FIU disseminations have been used more frequently in pursuing ML/TF/predicate offences and have contributed more to the effectiveness of LEAs work.

244. The use of financial intelligence produced by the FIU has been limited. In addition to the limited formal feedback provided by LEAs to the FIU in practice<sup>42</sup>, the authorities were unable to demonstrate effectiveness and provide critical numbers of cases where FIU disseminations have resulted in ML/TF/predicate offence investigations, with the aim to develop evidence and trace

---

<sup>42</sup> The AT notes that there is a new formal feedback mechanism in the new AML/CFT Law, however, this had not been implemented at the time of the on-site visit to be considered for effectiveness.

criminal proceeds. The comparison of statistics on FIU disseminations and initiated ML/TF/predicate offences investigations based on them is not available. Analysing the overall number of ML investigations (in total 343 for the period from 2018 to 2022), in conjunction with cases presented to the AT and discussions held on-site, it appears that only a small fragment of these investigations was triggered by FIU disseminations, and there were no TF investigations triggered by the FIU disseminations so far. As one of the reasons for this, LEAs and prosecutors met on-site advised that the FIU disseminations often lacked critical information which would be beneficial for pursuing further investigations. In view of this, some authorities also initiated meetings with the FIU for the purposes of improving the quality of its disseminations and inclusion of information/analysis which would be important for further actions. The case examples presented to the AT showed that often disseminations to LEAs lacked description of actions which would indicate a concrete ML/TF/predicate offence activity or a scheme. To establish these, LEAs and prosecutors needed to invest additional efforts and discuss the content of disseminations with the FIU, leading to these activities/schemes either not being established or being established at a very late stage with proceeds being gone. Whereas the reasons for this may be manifold, the AT noted that the ratio of STRs being 'translated' into disseminations by the FIU is exceptionally high (see table 3.4). This suggests that there is an overreliance by the FIU on content received in the STR and that the added value of the FIU's subsequent analysis put at LEAs disposal is limited.

245. As noted above, apart from the FIU's disseminations, LEAs uses other forms of intelligence to trigger investigations into ML/TF/predicate offences and to pursue the proceeds of crime. This aspect has also been touched upon IO.7. In course of their investigations, LEAs often come across financial intelligence that is then used for initiating ML/predicate offences<sup>43</sup> investigations. Once these investigations are triggered, the FIU is then involved in them. The FIU analytical work in response to LEAs' requests in investigations they initiate is relevant. In most, if not in all ML/TF cases, the FIU inputs/analysis were essential for developing evidence. As already noted, there are no statistics to substantiate this statement, however in most of the cases discussed, LEAs initiated parallel financial investigations where the FIU had a significant input. One of these cases is presented under IO.7 (see Box 3.4). This suggests that the FIU is able to provide good quality analysis.

246. The competent authorities very much value the FIU's capability to obtain banking information or information from foreign FIUs. This shows the FIU's usefulness in seeking information and, to some extent, also reflects on the role it has in investigating ML/TF/predicate offences. Where obtaining critical information is important, this practice also suggests that the FIU's analytical role is not significant. The AT is of the view that the fact that the FIU is often seen by LEAs as a body which should streamline its functions and work in line with LEAs priorities, rather than fulfil its core function: to provide high quality financial intelligence which triggers ML/TF/predicate offence investigations which are used to develop evidence.

---

<sup>43</sup> There have been only two TF related investigations so far. Both were triggered by intelligence/ information that LEAs obtained independently from the FIU.

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

247. The FIU is the authority acting as the national centre for the receipt and analysis of STRs and CTRs. The investigative authorities do not have direct access to these reports.

248. In accordance with the law, obliged entities provide to the FIU the following reports: (i) STRs related to attempted or conducted transactions, or suspicious funds regardless of the amount of the transaction, and any suspicious customer or person; (ii) CTRs (cash transactions equal to or exceeding BAM 30 000 (approximately EUR 15 000)); and (iii) linked cash transactions (those equal to or exceeding BAM 30 000) – using the online reporting system<sup>44</sup>, by mail, or by courier. In addition, some notaries voluntarily made reports where notarised loan agreements exceeded BAM 30 000.<sup>45</sup>

#### STRs

249. There is a practice of “late reporting” of STRs. There are cases where banks suspect a customer of ML/TF and monitor that suspicious customer (unbeknownst to the FIU) for an extended period and submit an STR once a suspicious transaction is undertaken. This practice is not in line with reporting obligations (which require suspicious customers or activity to be reported) and reduces the ability of competent authorities to act promptly. As “late reporting” is not identified as an issue by the FIU, no actions were taken to remediate this practice.

#### **Case study 3.2: A complex ML case showing late reporting**

In 2023 two domestic banks submitted STRs to the FIU in relation to two police officers identified as depositing cash into their bank accounts and receiving non-cash payments from several individuals totalling BAM 1 120 179 (approximately EUR 570 000). Bribes were paid to the Police Officers to facilitate employment in state institutions between 2016 – 2023. The FIU gathered financial intelligence from domestic banks for information in relation to the flow of funds and accounts and in order to identify other key persons. The FIU utilised direct access to information on vehicles. It also made requests in relation to real estate. Further intelligence was requested from three other FIUs to identify whether the subjects hold bank accounts or real estate in those jurisdictions. SIPA submitted the report to the Prosecutor’s Office of BiH and the investigation is in progress.

250. According to the statistics provided by the authorities, the total number of STRs submitted to the FIU in the period from 1 January 2019 to 31 December 2023 are contained within table 3.3.

**Table 3.3:** Total number of STRs submitted by obliged entities to the FIU<sup>46</sup>

Sector	2019	2020	2021	2022	2023	Total
Banks	407	476	859	1 254	1 036	4 032

<sup>44</sup> According to the newly adopted AML/CFT Law which was enacted during the on-site, all the obliged entities are obliged to submit their reports using the online reporting system.

<sup>45</sup> This type of reporting was later provided in the AML/CFT Law as a legal requirement.

<sup>46</sup> Sectors that are not listed in the table have not submitted a STR during the assessment period.

MCOs	168	179	82	134	123	686
Postal service operators (MVTs)	143	129	61	81	174	588
Currency exchange offices	2	0	10	15	14	41
Insurance companies	0	5	8	10	12	35
Notaries public	1	2	6	8	16	33
Leasing providers	6	7	11	2	1	27
Other MVTs <sup>47</sup>	4	10	7	0	0	21
Investment, pension funds and companies	5	3	2	0	1	11
Accountants	1	0	2	0	0	3
Others	0	0	0	0	2	2
Lawyers	0	1	0	0	0	1
<b>Total STR</b>	<b>737</b>	<b>812</b>	<b>1 048</b>	<b>1 504</b>	<b>1 379</b>	<b>5 480</b>

251. In line with the materiality of the sectors, most STRs are submitted by the banking sector (73%) (also the largest MVTs provider) and MCOs (nearly 12.5%). Brokers and dealers from the securities sector have reported a low number of STRs (included in bank reporting). The overall number of STRs has seen a considerable growth in number, which evidences the work undertaken by the FIU (particularly with the banking sector) to increase levels of reporting. In the case of MCOs, the NRA Addendum clarifies that the high level of reporting, which is not consistent with ML risk, stems from general low-quality reporting, and so the true level of suspicious reports will be lower. Scope for improvement remains as the absolute majority of STRs are generated by the banking sector and the DNFBP sectors report a very small number of STRs. Some sectors such as operators of games of chance have not submitted any STRs. Moreover, no STRs were submitted by real estate agents, which is not in line with the findings of the NRA where the real estate sector is assessed as presenting a high threat of ML. Similarly, notaries have submitted a limited amount of STRs relative to risk. Overall, the AT concludes that more reports should be expected from the DNFBP sectors.

252. VASPs were not obliged entities until the most recent AML/CFT Law amendments in early 2024, except in RS where they became subject to reporting requirements (indirectly) in January 2023; however, two VASPs reported seven STRs in the observed period which is positive.

---

<sup>47</sup> Non-regulated service provider linked to one global MVTs operator.



253. The authorities indicated that the quality of STRs has improved, in particular for banks and this may be part of the reason for the increasing ratio of disseminations triggered by STRs as shown in table 3.4.

**Table 3.4:** Ratio of STRs and FIU disseminations based thereon

	2018	2019	2020	2021	2022	2023
<b>Number of STRs</b>	455	737	812	1 048	1 504	1 379
<b>Number and ratio of disseminations</b>	246 (54%)	442 (59.9%)	565 (69.5%)	843 (80.4%)	1 197 (79.5%)	N/A

254. Some characteristics of the improving quality of STRs are: (i) defensive reporting not being a major issue for the banking sector anymore; and (ii) inconsistency between the customer profile and certain transactions triggering the majority of the STRs.

255. The FIU noticed a certain amount of over-reporting in banking and MCO sectors. In several cases, STRs have been reported without a reasonable suspicion of ML/TF and a number of STRs were related to less serious offences. Over-reporting was also related to foreign exchange offences not linked to ML. This was followed by outreach and supervisory action which has addressed this particular issue.

256. However, there is still room for improvement in the quality of STRs. The latter is supported by the following facts: (i) STRs do not always contain all the important findings of the obliged entities and (ii) STRs are partially aligned with the prevalent threats identified by the NRA and NRA Addendum.

257. Often, obliged entities fail to provide all necessary data as part of the STR which then requires the FIU to request additional information. Additional information requests are processed via the online reporting system when the reporting entity is a bank. In instances whereby the STR was submitted offline, it is not evidenced that the additional information can be received within an appropriate timeframe.

258. Though detailed statistics are unavailable, most of the reported STRs are related to suspicion of tax crimes, which is in line with the country's risk profile to some extent. However, there are only a limited number of STRs related to corruption and organised crime - which have also been assessed as presenting a high ML threat in the jurisdiction (case 3.3 illustrates one of the limited examples of STRs related to corruption). This raises concerns that the private sector is unable effectively to identify and report suspicions in line with their reporting obligations, particularly in areas of higher risk. This is considered under Chapter 5 (IO.4).

### **Case study 3.3: Use of an STR in a PEP corruption case**

The FIU received a STR in 2022 from a bank related to suspicions of corruption and ML by a PEP. The STR identified the account of a family associate of a prominent person being used to receive suspicious funds and later transferring those funds to the PEP. The FIU analysed the case by utilising bank documentation and database of CTRs, and obtained documentation related to real estate domestically and from authorities in another jurisdiction. The FIU obtained financial intelligence from open sources and adverse media. A dissemination was made to the Financial

Crimes Investigation Department in SIPA, which identified further cases in relation to the PEP. Following further analysis and checks, the Investigation Department made a dissemination to the Sarajevo Cantonal Prosecutor's Office.

The Prosecutor's Office took other evidentiary measures that revealed further criminal activities of the PEP, following which, based on court orders, temporary suspensions of financial transactions and searches of bank vaults were conducted. The PEP was arrested in a police operation and the investigation is ongoing.

259. In addition, during their operational analysis, the FIU has identified a number of cases where the obliged entity failed to report. In one such case, the bank was sanctioned and in another the manager of the bank that failed to report the STR was sanctioned by the supervisor based on information provided by the FIU.

260. The number of STRs related to TF between 2017 to 2021 was low (15) and does not correspond with the country's risk profile (medium assessment of risk). The low level of TF reporting is the direct consequence of the TF risk understanding (see IO.1). The FIU has developed TF indicators and a TF-related list of high-risk countries, which was shared with the obliged entities. There is limited evidence that these efforts contributed to an increased number of TF-related STRs.

261. According to the available information, the descriptions of four of the STRs show strong arguments for TF-related suspicion. In one such case the natural person was registered as co-debtor of a loan, and it was found out through the media that the person was arrested in a neighbouring country attempting to smuggle and transfer a significant amount of explosives. Other STRs were mainly made due to the link of transactions to high-risk jurisdictions which is also a reasonable ground for reporting given the context of the country. Overall, the AT concludes that the quality of TF-related STRs is satisfactory.

262. The FIU provides general feedback to obliged entities rather than formal STR and entity specific feedback. There is communication with obliged entities directly (via telephone, e-mail, written inquiries and meetings held on the FIU premises), but this communication is primarily related to obliged entities' obligations concerning the implementation of the AML/CFT Law, access to the online reporting system, and technical submission of STRs, rather than dedicated to a formal feedback on individual STRs in order to improve quality. The feedback that is provided is almost entirely provided to the banking sector with less emphasis put on under-reporting sectors.

#### CTRs and cash declarations

263. In accordance with the AML/CFT Law, the FIU also receives CTRs directly through the online reporting database. For a CTR to be accepted by the information technology (IT) system, the reporting entity must complete all necessary details. No concerns were recorded regarding the accuracy of these reports. CTRs do not trigger pro-active FIU analysis, although they are used by the FIU in work on specific cases. In addition to this, the FIU makes various queries of CTRs and thus detects certain suspicious indicators. The FIU reported it had opened nine ML cases by analysing CTRs that were then forwarded to other LEAs, though not evidenced by an example.

264. BiH has implemented a declaration system, where all cash or BNIs equal or exceeding the value of EUR 10 000 must be declared to customs authorities. The FIU should receive notifications about any declared physical transportation of cash or disclosed physical transportation of unaccompanied cash from the ITA - BiH, as well as undeclared cash (see under IO. 8) or transportations across the border that raise suspicions of ML or TF. Data on cash transfers across the border is submitted to the FIU within the legally set deadlines (3 days). The declarations are considered not to reflect the true picture of transportation of cash given the explanation provided under section 3.4.3 of IO.8. Moreover, the ITA - BiH was unaware of its obligation to inform the FIU about transportation of cash triggering suspicion of ML or TF and consequently reports of this nature have not been submitted. Considering the extensive use of cash in BiH and the fact that the country is on the Balkan drug smuggling route, the lack of reported suspicions on cash declarations is not in line with the AT's expectations given the country's risk profile and exposure to cash intensive illicit activities.

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

#### FIU Resources

265. The BiH FIU is a law enforcement body, situated within SIPA and its operational independence is the responsibility of the Chief of the FIU. The Chief, who heads the FIU, is the conduit between SIPA and the FIU and provides a report on the FIU's operation monthly to the SIPA Director. The Chief sets the strategic and operational direction of the FIU and holds the ultimate decision for the dissemination of intelligence. The FIU budget is contained within the SIPA budget and there were no indications of any concerns with the amount of funding available, which is mostly used for employee wages.

266. The FIU is comprised of three core sections: (i) Analytical Section (8 members of staff); (ii) Section for Legal Affairs, International Cooperation and Support (7 members of staff); and (iii) Investigation Section (16 Police Officers), as well as the Chief and the Technical Secretary. It is difficult to clearly segregate the analytic and investigative functions of the FIU. During operational analyses the investigators of the FIU can collect information and evidence in support of operational analyses which is broader than financial intelligence. Many case examples presented by the authorities confirm the application of investigative techniques in operational analysis. In addition, the analysts routinely support the investigations carried out by the Investigation Section of the FIU by providing financial intelligence. The AT notes that there has not been an increase in operational analysts within the assessment period despite the growth in STRs, subsequent workloads and the involvement in ML investigations. These two factors limit the capacity of the FIU to prioritise its core function which is to generate financial intelligence using all available sources and make spontaneous disseminations in line with the risk exposure of the country.

267. New staff undergo security clearance at the onboarding stage into the FIU for access to confidential information in accordance with the Protection of Classified Information Law – BiH. This is undertaken by SIPA or the intelligence security agency as independent third parties depending on the level of seniority of the position. In addition to the initial check at the time of recruitment, the employee is also subject to a security check every 5 years.

268. Most employees of the FIU hold a university degree in relevant subjects and some staff have undertaken various training linked to the priorities of the FIU. According to the information that has been provided, the number of employees that undertake each training course is generally

low, mostly one or two individuals, although this may be attributable to the longstanding members of staff training over a number of years. Of the training that has been undertaken, there is evidence of the use of international organisations, international travel and online courses in subjects that are in line with the risk profile of the jurisdiction.

269. The FIU premises is physically secured with various methods in line with Egmont standards, including CCTV, access cards and personal identification numbers.

270. The IT infrastructure for the FIU appears to be sound however there is room for improvement for ensuring more automatic functions, including cross-checking information contained in STRs with other databases and visualisation of analysis. There were no concerns or limitations identified in relation to the document management system available to the FIU. The document management system is shared with other organisational units of SIPA. It allows for exchange of documents with other SIPA organisational units. There are safeguarding mechanisms in place to ensure FIU data is only accessible to the FIU and the system is held outside of the dedicated STR database. Data and information held by the FIU is stored in several FIU servers, which can be accessed by SIPA's IT specialists only. There have been no reported incidents concerning data confidentiality issues.

#### Operational analysis and disseminations

271. The FIU can start operational analysis based on different triggers, including STRs, information received from foreign FIUs, requests of LEAs, open-source information, although the AT was not presented with case examples triggered from the variety of those sources.

272. The FIU uses an online reporting management system. The software enables secure electronic reporting of reports by obliged entities, as well as the exchange of information, storage and protection, and analytical processing. Until entry into force of the most recent AML/CFT Law amendments, electronic reporting of information was required by banks only, whereas other obliged entities were able to submit reports via the system or deliver them on paper or via a data carrier. Paper reports are entered into the system manually by FIU staff. On average, around 1 000 reports have been entered into the software system annually which is inefficient has the potential for human error. Following amendments, electronic reporting provisions now apply to all obliged entities.

273. The inbound process for STRs into the FIU is:

- a) STRs are received either via the online reporting system or on paper. All information relating to STRs and linked cases is contained within the online system for secure storage and use.
- b) The Head of the Analytical section reviews the STR to prioritise and allocate to an analyst. The prioritisation relates mainly to the suspected criminality in the STR or sector and whether it is a high risk in the NRA, or an STRs that relates to TF. A transaction that has not yet been conducted will also be prioritised. The STRs are assigned to analysts depending on their level of expertise and experience. Expert Advisors will be given the more complex cases and the medium and lower level STRs are assigned to the less experienced analysts.

- c) Upon receipt, all STRs are checked against the databases available to the FIU as well as open-source intelligence. It is positively noted that visual aids and tools are produced by the FIU in the analysis of complex cases.

274. The FIU reports that there are no specific time limits or targets for STR analysis and dissemination. There is no methodological document which outlines the overall process of receipt and analysis of a STR. The AT finds that the lack of a document which would thoroughly regulate the analytical function impacts negatively thereon.

275. Operational analyses can benefit from the authority of the FIU to issue an order for monitoring of financial operations of the customer. The number of requests for financial monitoring increased in 2021 and 2022 significantly as illustrated in table 3.5.

**Table 3.5:** Statistics on issued orders for continuous monitoring

<b>Year</b>	<b>Number of orders for continuous monitoring</b>
<b>2018</b>	4
<b>2019</b>	5
<b>2020</b>	5
<b>2021</b>	20
<b>2022</b>	23
<b>2023</b>	1
<b>Total</b>	<b>58</b>

276. The caseloads of the analysts are increasing and is currently around 10 to 15 cases per analyst. According to the data prepared for the most recent Egmont Biennial Census, the average response time to requests from foreign FIUs was 34 days. The delays were mostly due to the lengthy process when information on real estate was sought. A better IT infrastructure would also reduce the average time needed to respond to foreign FIU requests and overall operational analysis.

277. Similarly to receipt of STRs and analysis the process of dissemination is not regulated by a SOP. The FIU is independent in disseminating information and has secure methods in place to do so. There are no known legal impediments to the dissemination process. All decisions in relation to the dissemination of cases from the FIU are ultimately undertaken by the Chief of the FIU after it has been reviewed by an analyst and Head of Analysis. This process is reported to be timely and in the absence of the Chief, there is a Deputy to undertake this role. Though the AT has not found any cases when the FIU did not disseminate information when it was supposed to, it believes that the absence of a SOP may cause risks (e.g. stemming from conflicts of interest), and criteria for dissemination and margins of appreciation should be established by a SOP.

278. Disseminations are submitted to the receiving agency via the post or in more urgent matters, by use of a courier. Though the FIU reports that this can be conducted within an hour depending on the location of the receiving agency, there is room for improvement in this regard to ensure the timelier receipt of disseminations.

279. The intelligence gathered by the FIU cannot be used as evidence, and as such, the relevant LEAs are required to apply for the relevant court orders to obtain the information on an evidential basis. There are no dedicated methodological or procedural tools across any agencies to guide investigators in the use of financial intelligence to establish evidence or trace assets. Neither has the FIU provided any outreach to the recipients of their disseminations on how they can be used

in the course of their work. There have not been any known instances in which there has been the unlawful use of intelligence as evidence in the jurisdiction.

280. LEAs did not provide regular feedback to the FIU notwithstanding a legal requirement to do so. For the period under review, LEAs are obliged by law to inform the FIU of the results obtained by using the data, information and documentation forwarded to them when a report is submitted to the Prosecutor. The Prosecutor’s Office was obliged to provide feedback to the FIU twice a year only on cases on which an indictment was confirmed. In practice, feedback is provided sporadically and in an informal manner, e.g., whether any action has been taken on a case or not, and any information on the outcome, and this is done in cases that were dismissed or withdrawn from. Of all LEAs, only tax administrations provide regular and somewhat more detailed feedback. The lack of feedback is limiting the FIU’s ability to follow the usefulness of its disseminations. A lack of a systematic procedure for tracking cases from their beginning to the end, and the resulting unavailability of reliable statistics has an effect on the full risk understanding, STR quality assessment and reliability of measuring of effectiveness of all AML/CFT stakeholders.

**Table 3.6:** Breakdown of FIU spontaneous disseminations by the type of underlying activity/persons involved<sup>48</sup>

<b>Underlying activity/ persons involved</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>Total</b>
Issues from the tax domain	336	458	508	<b>1 302</b>
Non specified <sup>49</sup>	45	32	69	<b>146</b>
Violations in the operations of a legal entity	10	-	5	<b>15</b>
Fraud	9	6	-	<b>15</b>
Violations of the Foreign Exchange Operations Act	-	-	4	<b>4</b>
Investments in cryptocurrencies and 'mining'	2	1	-	<b>3</b>
Financial and Computer Crime	-	-	2	<b>2</b>
Suspicion of shell companies	1	-	-	<b>1</b>
Abuse of position	-	1	-	<b>1</b>
Extortion	-	1	-	<b>1</b>
Forgery of documents	-	1	-	<b>1</b>
Unauthorised production and trafficking of narcotics	1	-	-	<b>1</b>
PEPs	-	-	1	<b>1</b>
Asset freezing	1	-	-	<b>1</b>
<b>Total</b>	<b>405</b>	<b>500</b>	<b>589</b>	<b>1 494</b>

281. FIU spontaneous disseminations are overwhelmingly derived from issues from the tax domain (1 302 between 2020 and 2022), equating to 87% of all disseminations to the domestic competent authorities as shown in table 3.6. According to the data provided, only two disseminations relate to corruption as a predicate offence (on abuse of position and involvement of a PEP). Out of the 1 494 disseminations made to the competent authorities between 2020 and

---

<sup>48</sup> The table indicates disseminations that are not triggered by STRs. The breakdown provided in the table is the only source that provides the AT with an insight on the relevance of FIU disseminations. Full information is only available for the period of 2020-2022. The table may also include statistics related to disseminations of TF, however this has not been clarified by the Authorities.

<sup>49</sup> This category predominantly includes disseminations for taking measures under the competence of certain authorities.

2022, the low number of disseminations related to corruption and fraud, as well the lack of sharing intelligence on organised crime is concerning given the risk profile of the jurisdiction. In this regard, it cannot be evidenced that the FIU's spontaneous disseminations are supporting the operational needs of the competent authorities. The FIU would benefit from increasing disseminations to the competent authorities in line with the risk profile of the jurisdiction and promoting its analytical products through systematic feedback and communication with the beneficiaries of those products. The design of their analysis should be directed for the benefit of the LEAs and prosecutors to increase the number of investigations initiated from FIU derived intelligence to then become a real support for the operational needs of the competent authorities.

282. The AT considers there is need for refinement of the FIU disseminations' quality to a certain extent, given the explanation provided under section 3.2.1.

283. Based on the information provided, a small number of disseminations were made to supervisory bodies (24 out of 3293 disseminations over the period from 2018 to 2022) (elaborated in section 3.2.4) thus partially supporting their operational needs in preventing ML/TF.

284. As far as TF disseminations are concerned, the AT was provided with information only on disseminations derived from STRs (and not from other sources). The statistical data covers the period from 2017 to 2021. Out of 15 TF related STRs, the FIU made four disseminations which show strong arguments for potential crimes of TF. However, according to the available information, the relevant LEAs confirmed TF suspicion only for one case and for the remaining three disseminations the checks conducted by the LEA refuted the suspicions of TF. It has not been made clear to the AT whether any further actions were undertaken by the competent authorities on the case where suspicion was confirmed.

#### Strategic analysis

285. In relation to strategic analysis, the FIU lacks a structured approach to this type of work and was unable to sufficiently demonstrate that information contained from STRs and other financial intelligence is used to develop strategic analysis. The FIU has some members of staff which have undertaken a limited amount of strategic analysis, although there are no employees that are solely dedicated to this type of analysis. The strategic work undertaken by the FIU relates to analysis of the VASP sector, real estate market, legal persons and payment cards and were used for the purposes of the NRA and NRA Addendum.

286. The products of strategic analysis are important steps forward to understand the risks in relevant sectors, however further enhancement is needed for securing more in-depth understanding of risks (see under sections 2.2.1, 5.2.1 and 7.2.1).

287. The analysis conducted has been shared with the Ministry of Security, Prosecutor's Offices at all levels and obliged persons. Positively, over the reporting period meetings were held with various stakeholders (e.g. Union of Accountants, Auditors and Financial Workers - FBiH, the Bar Association - FBiH, and banking agencies) on ML/TF typologies and risks (e.g. typologies and risks related to the COVID-19 pandemic, BEC fraud, ML related to cross-border fraud and payment cards). The work undertaken on a national level is positively noted, but further work is necessary to provide strategic input to LEAs, obliged entities and the FIU itself to focus their actions into more effective repressive and preventive systems.



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

288. The HJPC has published non-mandatory Guidelines on Cooperation between Law Enforcement Officers and Prosecutors. The document aims to promote cooperation between the LEAs and prosecutors in the investigation of corruption, organised crime, and ML. In practice, communication is mainly conducted through informal channels, at face-to-face meetings and discussions, with insufficient use of formal cooperation and exchange of information mechanisms, such as task forces or operational working groups. In addition, there is a MOU signed between the ITA - BiH and the Prosecutor's Office of BiH for the detection and prosecution of perpetrators of criminal offences in the field of indirect taxes, although there is limited evidence of its meeting outputs to fully demonstrate its effectiveness.

289. Positively, the Prosecutors will establish joint investigation teams (JITs) in complex cases which will always include the FIU amongst other relevant LEAs.

290. To facilitate cooperation, a memorandum on cooperation was signed between the ITA - BIH and SIPA. Under this Memorandum contact persons for the exchange of data for predicate criminal offenses and necessary AML/CFT data were designated. Also, a special application was developed for cooperation under the Memorandum, which includes the exchange of data on tax and customs payers.

291. As shown under section 3.2.1, cooperation between the FIU and LEAs is significant during ongoing investigations. The AT notes its good quality.

292. The FIU and other competent authorities must comply with the provisions of the Protection of Classified Information Law – and they may use the data, information and documentation only for the purpose of prevention and detection of the criminal offences of ML, related predicate offences and TF. For any further transmission of data, information and documentation submitted to other authorities, a prior written consent of the FIU is required.

293. There has been one case of tipping off during the assessed period. More specifically, it was alleged that the subject was tipped off by the tax administration as being under suspicion and subject to a subsequent check, which the subject shared with a bank officer. The AT has no further information on the results of the mentioned tipping off. In order to remedy such deficiencies, the FIU intensified communication with obliged entities, other competent authorities, updated suspicion indicators, and delivered outreach and training for obliged entities and supervisory authorities, with the aim of improving their behaviour with regard to the AML/CFT Law, procedures, and detection and reporting of suspicious transactions.

294. The FIU reported to have close cooperation with the supervisors, predominantly with supervisors of banks. The FIU and supervisor cooperation is conducted mostly for the purpose of preventing defensive reporting, detecting unreported suspicious transactions, outreach to obliged entities and fit and proper checks. However, no evidence has been provided to assess the effectiveness of this cooperation. The amount of FIU disseminations to supervisors for supervisory action based on information deriving from STRs is low (24 for the period from 2018 to 2022). Cooperation between the competent authorities in investigations relating to regulated entities in BiH is somewhat limited where the situation would benefit from the intervention of a supervising authority.



### *Overall conclusions on IO.6*

295. Though the FIU has access to all the types of financial intelligence in some cases, especially where information on real estate is concerned this access is not considered as effective. The investigative authorities have access to financial intelligence and other information which they use to a certain extent to establish evidence and trace the proceeds of crime linked to ML, TF and predicate offences. The competent authorities utilise the FIU during their investigations mostly to obtain information from the domestic banking sector or from foreign jurisdictions and this is considered to be useful. On the other hand, the rate of conversion from intelligence obtained from STRs and other reports into investigations and ultimately prosecutions is not fully evidenced.

296. Most STRs are received from banks and the contribution from some higher risk sectors remains limited. ML derived from predicate offences that are important in the context of the country such as corruption and organised crime are also under-reported creating a disparity in disseminations to the competent authorities of this nature and expectations given the risk profile of BiH. More formalised feedback mechanisms and an enhanced strategic analysis function, including enhanced resources would be beneficial in ensuring that the FIU is effectively supporting the operational needs of the competent authorities. In addition, suspicious activity related to TF is underreported. Also, the quality of financial intelligence has been affected by the lack of reporting on cross-border transportation of cash that raise suspicious of ML/TF.

297. **BiH is rated as having a moderate level of effectiveness for IO.6.**

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

298. BiH is ranked 108th out of 180 on the Corruption Perceptions Index. The United States Office of Foreign Assets Control (OFAC) has designated high-ranking judicial officials as corrupt, which undermines democracy and the rule of law (see Chapter 1). Although evaluating the integrity of the judiciary is beyond the scope of this report, this context should be acknowledged and serves as a helpful backdrop when analysing the overall effectiveness of BiH's regime.

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

299. In BiH there is a sound legislative framework enabling authorities to identify and investigate ML offences (see R.3). There is also a robust institutional framework where different LEAs and prosecutors handle ML identification and investigations subject to their territorial competencies. ML cases are investigated by the state-level prosecutors (prosecutor of BiH) when a predicate crime has occurred abroad, or across various entities (FBiH, RS, BD). In instances where predicate criminality has occurred within an entity, the entity's competent prosecutor is responsible for investigating it. In practice, the most complex cases fall under Prosecutor's Office of BiH.

300. The main LEAs responsible for identifying ML cases are: (i) the criminal investigation department of the FIU within SIPA (in charge of identifying ML cases which mainly fall within the jurisdiction of BiH prosecutors); (ii) the police services of the different entities (FBiH, RS and BD); and (iii) the ITA - BiH and tax authorities of FBiH and RS with respect to ML emanating from tax offences. Once sufficient evidence is obtained by LEAs, cases are handed over to the corresponding prosecutor based on the competences set forth above, who will then formally decide to open and further lead the criminal investigation.

301. During a criminal investigation, the competent prosecutor may decide to involve the LEA that initiated the case or request collaboration from any other LEAs irrespective of the entity they belong to. The prosecutor, if necessary, creates a JIT consisting of several LEAs and takes part in foreign JITs. These JITs seem to be common practice and have produced good results. Overall, based on the analysis below, the AT concludes that ML cases are identified and investigated to some extent.

302. A variety of information is used to identify ML cases such as: open-source information, criminal reports, FIU disseminations, as well as findings of parallel financial investigations conducted alongside criminal investigations in proceeds-generating crimes. There is, however, no evidence to show that cash declarations, or MLA requests are being used to detect new ML cases. The investigative authorities have necessary investigative techniques including special ones and make regular use of them to identify and prove ML offences. The human and technical resources allocated to different LEAs are reasonable, with SIPA and the investigative unit of the FIU being the most experienced since, based on territorial competencies, they handle the most complex ML cases. In contrast, the law enforcement department of tax authorities and the ITA - BiH lack expertise in the identification and investigation of ML offences, which can be considered a significant problem given that tax-related offences pose a high ML threat. Their main focus is on the investigation of tax crimes.

303. There are no statistics on the number of investigations triggered by different sources of information. However, in the case examples presented, the majority of investigations were triggered by the results of parallel financial investigations and some by the FIU disseminations.

#### **Case study 3.4: ML triggered by a parallel financial investigation**

In 2019 the Ministry of Interior - RS conducted a criminal investigation against 11 natural and seven legal persons for illicit drug trafficking in BiH and a neighbouring country as well as unauthorised disclosure of secret information. During the course of the criminal investigation, the prosecutor initiated a parallel financial investigation against offenders and all other related persons. Based on the outcomes of the parallel financial investigation it was established that several offenders and their relatives owned property (cash, real estate, vehicles) of around BAM 8 million (approximately EUR 4 million) for which the legitimate source was not proven. Furthermore, the suspected persons used money from criminal activity to purchase real estate and vehicles, and to conduct business operations by depositing cash into their bank accounts and making further transfers. As a result of a parallel financial investigation, the offenders were also charged with a ML offence. In addition, 12 luxury motor vehicles, cash and some real estates were seized. In total, the value of the frozen and confiscated assets in this case was around EUR 5.5 million.

304. The authorities stated that parallel financial investigations are conducted in all proceeds-generating crimes where the value of the assets held by the offenders appear disproportionate to their legitimate sources of income. These financial investigations are conducted by prosecutors, working closely with LEAs, and involve experts from different fields. In these investigations, attention is given to the various sources of income of persons and how the legitimacy of the suspects' funds can be justified. When interviewed, prosecutors and investigators showed

sufficient capabilities to conduct parallel financial investigations. While there are no statistics, authorities have presented a number of cases and described instances where parallel financial investigations were conducted, and ML was identified. In addition, the HJPC has issued mandatory guidelines requiring prosecutors to conduct parallel financial investigations in all cases where crimes are likely to generate an economic benefit. This practice, despite the resources it demands, has yielded results in the seizure of assets, but has not led to an increase in the number of ML cases detected that would be proportionate to the risk profile of the country.

305. More broadly, the authorities do not keep comprehensive statistics on ML investigations, prosecutions, and convictions; however, some numbers were retrieved. The accuracy of the statistics provided in the table below could not be established. This is because contrary to these figures, the NRA has reported varying numbers of final ML convictions for the period 2017 to 2021 (in BiH- 14; in FBiH -8; in RS-206 and in BD-0).

**Table 3.7: ML investigations, prosecutions, and conviction in BiH (all levels)**

Year	Investigations			Prosecutions			Final convictions		
	No. of cases	No. of natural persons	No. of legal persons	No. of cases	No. of natural persons	No. of legal persons	No. of cases	No. of natural persons	No. of legal persons
2018	14	108	52	11	19	1	5	12	1
2019	57	66	5	50	57	0	27	34	3
2020	105	135	3	97	116	2	116	119	0
2021	42	96	11	38	65	1	53	68	0
2022	63	170	10	46	80	0	32	45	0
2023	62	107	1	47	71	4	51	71	0
<b>Total</b>	<b>343</b>	<b>682</b>	<b>82</b>	<b>289</b>	<b>408</b>	<b>8</b>	<b>284</b>	<b>349</b>	<b>4</b>

306. It can be concluded that the number of investigations slightly increased since 2018. The significant surge in 2020 is attributed to the investigation of an ML typology related to fraud committed in RS that took place before this year (see case study 3.5). This typology was detected in 2016 and involved criminal offences committed by different defendants, involving different victims and in different time frames. This is the reason why the typology resulted in various cases, rather than a single one. Overall, the ratio of ML investigations to investigations into predicate offences is still low. This is apparent when considering the number of investigations of some predicate offences presented under section 3.3.2 (see table 3.8).

307. Whilst the authorities' efforts to use a variety of sources to open ML investigations even in the instances where there is weak initial indication of predicate criminality should be commended, the AT observed that the majority of these investigations remain open for a considerable amount of time. The authorities explained that the reasons for undue delays are: (i) a lack of cooperation or slow provision of assistance from foreign counterparts and (ii) offenders being unavailable for criminal proceedings. Although not disputing these arguments, the AT, nevertheless, identified instances where investigations surpassed a reasonable time because priority was given to other cases or there was a lack of expertise in proving the ML offence, alongside cases of ineffective cooperation.

308. There is no prioritisation policy for ML investigations. However, ML cases emanating from corruption related offences, organised crime and human trafficking are given priority based on

the prioritisation mechanism established by prosecutors in order to tackle those predicate crimes.

309. The willingness and ability of the authorities to identify and handle complex ML cases has been demonstrated by case examples including some ongoing complex ML investigations. In these investigations, the AT observed LEAs' and prosecutors' efforts to identify and investigate standalone ML. Nevertheless, it is evident that in the majority of ML cases, the predicate offence is pursued alongside the ML offence.

310. In some cases, especially at the entity and district level, the judicial authorities, including prosecutors consider that the possession of criminal property or its concealment, is an element of a predicate offence, and therefore, does not constitute a different (ML) crime. This misinterpretation of the ML offence justifies a disproportionate ratio between the number of investigations and the number of convictions.

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

311. ML investigations and prosecutions are partially in line with the ML threats. The authorities identified several predicate offences posing high ML threat: corruption, with abuse of office and official authority being among the ones having the greatest impact, tax-related offences, smuggling, and organised crime. Criminal offences posing medium/high threat include illicit drug trafficking and fraud. LEAs and prosecutors have a good understanding of ML threats, nevertheless their actions are not entirely consistent with this understanding.

312. As indicated above, the authorities do not maintain statistics on the underlying predicate offence for ML investigations and prosecutions, but some numbers have been retrieved which together with case examples are used to draw conclusions.

313. Case examples of ML investigations and prosecutions indicate that fraud committed abroad, particularly before and during 2017, is prevalent offence for ML. In 2020 over half of the prosecutions and convictions were linked to a typology identified in one municipality in RS, involving the laundering of proceeds of fraud committed abroad. Although these offences were committed in previous years, their investigation faced notable delays due to the prioritisation of other cases and they gained prominence during the COVID pandemic, when rates of other crimes declined.

#### **Case study 3.5: ML convictions related to fraud**

The prosecutor initiated an investigation against several defendants in RS for receiving, keeping and disposing of money originating from the fraud committed abroad. The defendants were operating independently from each other but using the same fraudulent method and the prosecutor initiated separate cases for each of them. The criminal activity took place before and during 2017 when the defendants together with a number of unknown persons using fake social media profiles, contacted victims, unrelated to one another, convincing them to make easy betting wins. They advertised fixed matches and winning betting tickets. The victims convinced that they would win, received instructions on the way to make payments on the defendants' bank accounts, through Western Union, MoneyGram or third parties. The defendants, once informed of the payment, withdrew money, knowing that the money originated from the fraud. They kept money and further used it, abetting and facilitating its legalisation. Thereby, (negligently) they received,

kept, and disposed of the money originating from the criminal offence of fraud. It was estimated that around BAM 8 million (approximately EUR 4 million) of "dirty" money entered the municipality of Foča and was further laundered. The court in Foča in 2020 rendered 277 ML convictions, against 288 individuals. In most cases they were sentenced to fines proportional to the value of laundered money.

314. Efforts and results observed in ML cases related to fraud, are not mirrored in the efforts and results of ML investigations and prosecutions for other proceeds-generating crimes posing high ML threat including corruption and organised crime.

**Table 3.8:** number of reported and investigated proceed generating offences posing ML threat

Criminal offence	No of criminal reports					No of investigations				
	2017	2018	2019	2020	2021	2017	2018	2019	2020	2021
<b>Corruption</b>	1 135	1 168	1228	1042	1292	299	331	382	236	222
<b>Organised crime</b>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<b>Tax offence</b>	165	150	135	146	151	71	57	60	55	67
<b>Drug trafficking</b>	531	510	629	639	670	471	439	496	496	558
<b>Fraud</b>	678	746	651	592	696	370	424	355	310	382

315. Corruption has been recognised as a major ML threat in BiH, and authorities prioritise the investigation and prosecution of these cases. The abuse of office or official authority, concluding a harmful contract, active and passive bribery, embezzlement in office, influence peddling, and abuse of public procurement procedure are considered as the prevalent corruptive offences. Among these, abuse of office or official authority has the greatest impact on the high rating. Statistics reveal a considerable number of corruption cases reported, however, only around 20% of such cases are further investigated. While there is a prioritisation mechanism to tackle this crime, the concern remains on the failure to establish a special prosecutorial department at the federal level to combat organised crime and corruption which can have a cascading effect on the effectiveness of ML investigations and prosecutions at this level.

316. There are no precise statistics on the number of the ML cases related to corruption. Authorities, however, presented case law of a few ML investigations where the underlying crime was corruption. Whilst such outcomes are commendable given the complexity of some of ML schemes, overall achieved results do not address identified threats. For example, although the overall number of corruption cases reported in public sector is significant, the ratio between reported and investigated corruption cases is low. Furthermore, the ratio becomes even lower when compared to the total number of ML prosecutions. In addition, one case example presented to the AT clearly demonstrates the judiciary's misinterpretation of ML offence. This can further cause a potential resistance by LEAs to pursue such offences. The court did not accept charges for ML offence despite the fact that corruptive behaviour of a public official was established and proven as well as disproportion between his assets (acquired during the period of his mandate as director) and legal incomes (see case study 3.6).

### **Case study 3.6: ML charges against former ITA- BiH director**

The Prosecutor's Office of BiH filed an indictment against the former director of ITA - BiH for passive bribery and ML. He was accused of receiving BAM 1 700 000 (approximately EUR 850 000) as a gift from textile importers in BiH, to favour the import of their goods and to ensure seamless customs clearance of textiles they import from Hungary, Türkiye and China.

During the investigation, a financial investigation was carried out establishing that the defendant, during his tenure as ITA - BiH director, acquired assets in the form of real estate, which he could not acquire with his legal incomes. Subsequently he was charged for ML offence. The court ordered the seizure of the assets in order to secure potential confiscation. First instance court rendered conviction and sentenced him for both offences (corruption and ML) to a total of nine years of imprisonment and confiscated the proceeds of crime amounting to BAM 1 700 000 (approximately EUR 850 000).

However, in the appeal procedure, the defendant was acquitted for ML offence and convicted only for bribery to five years and six months of incarceration.

317. According to the NRA, the most common illegal activity of OCGs is drug trafficking, primarily because of the country's geographical position. The authorities stated that during 2021-2022 a number of cases have been investigated for ML stemming from organised crime and drug trafficking, based on the information received from encrypted communications (Sky ECC). The AT could not further assess these results as the authorities did not provide details of these cases, or even a meaningful figure that can be used to support conclusions.

318. Besides this there are few ML cases where offenders were prosecuted and convicted for laundering of proceeds of organised crime and various other offences. Usually in these cases offenders possess assets for which they cannot prove their legitimate source. This further serves as a basis to initiate and investigate ML offences.

319. The use of cash is prevalent in BiH, and some ML methods identified by the authorities involve using illicit cash to purchase real estate. Although there have been instances where cash payments are featured in ML schemes, the AT is not convinced that the results achieved are commensurate with the identified risk. Such outcome is impacted by the low effectiveness of the cross-border cash controls as well as authorities' inability to trace cash transactions.

320. ML cases stemming from tax evasion are investigated in some instances by the ITA - BiH while such practice is not observed in the work of the authorities in charge of direct taxation. There is a high number of FIU disseminations to the ITA - BiH, yet they are mainly used to detect tax crimes, rather than ML offence. This is because there is a lack of skills and specific knowledge of the tax authorities on ML trends and typologies. Therefore, the identification and investigations of ML cases emanating from tax related offences is secondary, even though there have been some successful ML cases investigated and prosecuted.

321. The issues of threat posed by human trafficking and migrant smuggling have been extensively discussed with the interlocutors met on-site. The authorities recognised that BiH is a country of origin, transit and destination for trafficking in human beings for the purposes of forced begging, criminal offences, sexual exploitation, labour exploitation, domestic servitude,



child pornography, and forced marriages<sup>50</sup>. However, there is a lack of comprehensive understanding to what extent these crimes pose a ML threat, since the authorities do not consider the financial activity of these crimes that take place outside of the borders of BiH (see IO.1).

322. Overall, it can be concluded that so far ML activities investigated and prosecuted are to some extent consistent with the risk profile of the country.

### ***3.3.3. Types of ML cases pursued***

323. BiH was unable to provide reliable statistics on the total number of ML convictions achieved in the period under the review (see section 3.3.1). Nevertheless, comparing those figures with the case examples presented to the AT following conclusions can be drawn:

324. The total number of ML conviction does not seem to be insignificant, yet it should be noted that half of these cases were related to ML typology investigated in RS during COVID 19 pandemic (see case study 3.5). The NRA includes an analysis of the ML convictions achieved in the period 2017-2021 and most convictions were achieved at the state level (BiH) and FBiH, excluding the high number of cases achieved in RS following the trend of fraud (see 7.2).

325. The authorities demonstrated that they could pursue all types of ML cases, including self-laundering, third party ML, stand-alone as well as ML stemming from the foreign predicates. However, the majority of ML prosecutions and convictions are for self-laundering related to organised crime committed abroad.

326. Standalone ML cases are prosecuted, and the authorities presented various cases showing the ability to prove such offences even in the instances where the predicate criminality was not previously identified. Prosecutors and some judges demonstrated effective use of the objective factual circumstances to prove the intent and knowledge of the perpetrator in ML cases. However, there is a diverse understanding across entities of the evidentiary threshold required to prove standalone ML. It seems that the majority of standalone ML prosecutions and convictions have been achieved at state level courts (BiH courts).

#### **Case study 3.7: Standalone ML case “OAZA”**

In 2012, the FIU received an STR concerning banking transactions of two natural persons. They collected and analysed all transactions and information, subsequently disseminating the case to the Cantonal Prosecutor of Sarajevo on suspicion of ML. The prosecutor initiated a criminal investigation in 2016 for organised crime, tax evasion and ML against three defendants. The investigation revealed that the defendants received over EUR 5 million based on the memoranda of understanding concluded with the company from the United Arab Emirates. According to this agreement, submitted to the bank, the defendants were to provide services, act as agents and representatives of the United Arab Emirates company in BiH and in the region, and sell armoured vehicles. However, they did not perform these services and did not even register for such activities in BiH. Moreover, the funds were converted into local currency and used to purchase real estate for themselves, their relatives and acquaintances. Cash withdrawals were also observed.

---

<sup>50</sup> BiH Strategy for Combatting THB (2020 to 2023).

The defendants' activities (opening accounts in commercial banks in BiH, receiving funds from companies without a legitimate basis, withdrawing cash purchasing real estate and vehicles, and establishing companies, etc.), along with their use of money within the financial system in BiH were indicators of ML activities.

All three defendants were prosecuted and convicted in 2020. The court imposed 12 years imprisonment sanctions, for two defendants, while the third one was sentenced to two years of incarceration. The court ordered the confiscation of assets whose value was assessed to be around EUR 6.5 million.

327. However, such practice is not observed in RS, where standalone cases are rarely taken to the prosecution phase. Prosecutors and the judiciary require a high-level threshold of evidence to prove standalone ML. For example, in 2018, the Ministry of Interior - RS investigated an individual for laundering BAM 170 922 (approximately EUR 85 000) who had a previous criminal record for various criminal offences committed in BiH and other jurisdictions. Financial inquiries were conducted to determine the origin of the property. It was established that he did not have legal incomes which could justify the origin of his property. Even though, at the early stage of criminal proceeding, the court of Banja Luka accepted ML charges and ordered the seizure of assets, at the later stage, the prosecutor decided to acquit the investigation. The authorities failed to explain why this case did not proceed further, but it is obvious that the authorities lack a comprehensive understanding of standalone ML offence.

328. The authorities were able to prosecute ML related to predicate criminality committed abroad. When dealing with such cases, the authorities use all forms of cooperation, and they even participate in foreign JITs. It was observed, that in certain instances the evidentiary threshold to prove a foreign predicate was very low. The fact that the prosecutors received information about the initiation of a criminal investigation into predicate offence was enough to launch an ML investigation and to further proceed with the prosecution.

329. Third-party ML is not a common type of ML convictions achieved in BiH (the authorities informed only about one conviction). However, there are several indictments still pending court proceedings where third parties were accused of facilitating ML activities by concealing proceeds of crime (in one case the predicate criminality was drug trafficking and in the second case laundered property originated from corruption).

330. Despite instances of legal persons being misused for ML activities and some efforts to investigate such cases, there are very few instances where legal persons have been prosecuted and convicted. The authorities provided some statistics (see table 3.7) and case examples, and it can be concluded that there is a reluctance to pursue legal persons for ML offences.

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

331. The prosecution of ML is usually done together with the prosecution of predicate offences. When deciding on sanctions in these cases, courts determine the penalty for each offence and pronounce a single penalty that must be less than the total of all determined sentences. As noted previously, there is a general lack of available information on the number of ML convictions and consequently on the sanctions imposed in such cases. However, the AT took into consideration a



number of divers case examples provided to reach the conclusion on the effectiveness of the sanctions.

332. The authorities claimed that imprisonment sanctions as well as fines for ML offences are imposed depending on the gravity of the crime and that they serve as a basis to deter criminals from committing ML. The AT, however, concluded that the sanctions applied in ML cases are only to some extent effective, proportionate and dissuasive. It is evident that in some cases imposed custodial sentences were dissuasive, for example imprisonment sanctions that were applied in the case example "Oaza" (see case study 3.7). Nevertheless, in cases where defendants are convicted for predicate offences and ML, penalties imposed solely for ML offences are very different and, in some instances, much lower than the penalties imposed for the predicate offence. For example, in one criminal case presented by the Court of BiH, a natural person was convicted for organised crime and ML and sentenced to five years and ten months of imprisonment as the aggregate sentence of the two penalties. Previously, the court had determined a penalty for organised crime of five years and for ML one year.

333. It was also observed that in the number of cases (over a hundred of them) imposed penalties were minimal ranging from fines of EUR 500 to a few months of imprisonments. The authorities explained and provided extracts from the judgements that such sanctioning policy was applied in cases of ML related to fraud (see case study 3.5) and that sanctions were proportionate to the gravity of crime. The AT analysed several of these case examples and such conclusion cannot be confuted.

334. The authorities reported that, during the assessment period, four legal persons were convicted for ML offence. As a sanction, all of them faced the termination of their legal status.

### *3.3.5. Use of alternative measures*

335. The authorities state that if ML cannot be achieved, extended confiscation will apply. However, no case examples have been presented that can corroborate such claims from the authorities and therefore it is not possible to determine the extent to which this alternative measure has been applied and whether it was applied in instances where for justifiable reasons ML conviction was not achieved. No other information in relation to alternative measures was provided.

### *Overall conclusions on IO.7*

336. In BiH there is a sound legislative and institutional framework enabling identification, investigation, and prosecution of ML offence. It can be concluded that there are a number of ML cases, including complex ones investigated and prosecuted and convictions achieved. That are, however, areas which still raises concern, such as interpretation of ML offence especially by certain courts and lack of reliable statistics. There is a significant number of proceeds-generating crimes committed in BiH as well as some foreign proceeds laundered domestically. The parallel financial investigations are carried out in almost all of these predicate offences, yet this has not led to the expected number of ML identifications and investigations. While a number of MLA requests are received, the authorities do not use it as a source to initiate domestic ML investigations. The same concern is with respect to cross border declaration of cash. This was weighted more, considering the country's risk profile.

337. Furthermore, the ML investigations and prosecutions carried out so far are to some extent addressing identified threats. Although the authorities have demonstrated that they could pursue all types of ML cases, self-laundering remains predominant with individuals convicted when they are unable to prove the source of funds. This was given particular weight considering that some ML schemes are complex and not all the time involve obvious disproportion of perpetrators' property and incomes. The uneven interpretation of ML offence was observed at the entity level. The sanctions applied for ML offence for natural persons are to some extent effective, proportionate and dissuasive.

338. Overall, the AT considers that major rather than moderate improvements are needed. **BiH 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*

339. Confiscation of proceeds of crime, instrumentalities and property of equivalent value is pursued as a policy objective to some extent. There is no overarching policy dealing with confiscation, yet the deprivation of proceeds of crime is mandatory based on the criminal legislation and is endorsed in some of the policies such as the NRA action plan and strategies targeting some offences posing a high ML threat:

- a) In the NRA action plan authorities envisaged strengthening the capacities to conduct financial investigations by increasing human resources (where necessary), improving technical capacities (hardware and software) and providing tailor made trainings;
- b) The Strategy for the Fight Against Organised Crime sets out several objectives aiming to increase confiscation of proceeds of crime with the emphasis on systematic and timely financial investigations and wide use of extended confiscation;
- c) In respect to human trafficking, authorities developed a strategy, part of which included the obligation to increase the application and enforcement of confiscation of proceeds of human trafficking offence.

340. The Action plan for the implementation of the Strategy of BiH for Prevention and Combating of Terrorism sets out a commitment to conduct efficient financial investigations including the cases of the abuse of VAs in terrorism-related cases (including TF).

341. In 2015, the Strategic Forum of Chief Prosecutors and Directors of Police Agencies in BiH was established. The authorities indicated that the forum has held 30 meetings so far and produced a number of documents such as guidelines and instructions related to identification, seizure and confiscation of proceeds of crime. Nevertheless, the AT was not presented with details of the forum's work, nor the documents produced so far and therefore, the effectiveness of this forum cannot be assessed.

342. Furthermore, the authorities strongly advised that their priority is to deprive criminals of their ill-gotten assets. Assets are normally identified and traced as part of criminal investigations into the proceeds generating offence, ML or as a part of financial investigations. Following the money, seizing, and confiscating criminal assets have been highlighted in all trainings organised for LEAs and the judiciary. Furthermore, the legislative and institutional framework provides

sufficient basis to carry out measures leading to the confiscation of proceeds of crime, instrumentalities, and property of corresponding value. In addition, an operational tool developed by the HJPC in the form of guidelines obliges prosecutors to conduct parallel financial investigations in all proceed generating crimes. This tool is available across all prosecutors' offices and is widely used.

343. To make crime unprofitable, authorities introduced legislative instruments, which go beyond FATF standards, such as non-conviction-based confiscation as well as extended confiscation. Nevertheless, the authorities did not provide further information on the extent to which this mechanism has been applied in practice.

344. While the authorities deserve recognition for many of their policy efforts, certain concerns remain. Notably, the effective asset management mechanism at the state level has yet to be established. Furthermore, a special department for the fight against organised crime and corruption at the Federation level has not been created even though its establishment is envisaged in the strategic documents. This department would not only play a crucial role in repressive measures against crime but would also be vital in relation to seizure and confiscation of proceeds from organised crime and corruption - recognised as a major ML threat in BiH.

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

345. In BiH, legal provisions require that priority is given to victims' restitution over confiscation of proceeds. The authorities explained that proceeds of crime will firstly be allocated to the injured party and then the remaining assets shall be confiscated. There are no statistics on the number and value of property repatriated to the victims, but case examples provided demonstrate that this is a common practice.

346. Tracing criminal proceeds is conducted mostly within the framework of financial investigations, which are regularly initiated. Besides that, all other available investigative techniques can be used to identify and trace instrumentalities and proceeds of crime, including obtaining information on bank accounts and other financial information. While the AT identified legislative deficiencies in terms of obtaining banking information in relation to TF offence (see. R.31), in practice courts always render orders even for this offence. There is no overall number of financial investigations conducted so far. However, the Ministry of Interior - RS was able to retrieve some figures, as presented in the table and it appears that majority of these were carried out alongside criminal offences of ML, drug trafficking, fraud and abuse of official power.

**Table 3.9:** financial investigations carried out by Ministry of Interior - RS

<b>Year</b>	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>No of financial investigations</b>	5	15	26	18	13

347. For the other jurisdictions (state level, FBiH, BD), there is no information on the number of parallel financial investigations carried out but from the sparse case examples provided and information obtained on-site, it can be concluded that the majority of financial investigations were conducted in relation to criminal offences of ML, and some in relation to corruption, organised crime and fraud leading to the seizure of commendable proceeds of crime in certain cases, as explained below.

348. To secure confiscation, the authorities apply preventive measures such as seizing of proceeds of ML and predicate offences. The prosecutors usually do not have difficulties in obtaining freezing and seizing orders from the judicial authorities in a timely manner. Case examples suggest that provisional measures are applied against a variety of assets including real estate, vehicles, luxury vessels, and artwork in order to secure possible confiscation. While cases of refusal to order seizure measures in FBiH and at the state level are rare, certain obstacles are observed in RS. For example, the authorities stated that the court refused to seize assets in a standalone ML investigation due to the high evidentiary threshold required to establish suspicion for ML offence. The authorities did not provide further details on this case, but it can be concluded that misinterpretation of the ML offence certainly leads to missed opportunities to seize assets in order to secure potential confiscation of instrumentalities and proceeds of crime.

349. In cases where confiscation of proceeds of crime is not possible, authorities may resort to confiscating property of equivalent value. It remains unknown what the volume of confiscation of proceeds of crime vs. confiscation of equivalent value is since the authorities failed to provide statistics or even estimation which would serve as a basis to form a conclusion.

**Table 3.10:** seizing, freezing and confiscation orders in ML cases in BiH (all levels) in EUR

Year	Freezing (property secured during criminal proceedings)		Confiscation	
	No of cases	Amount (EUR)	No of cases	Amount (EUR)
2018	12	760 370	10	961 849
2019	23	1 222 046	39	291 645
2020	4	590 800	119	8 901 883
2021	8	45 834 597	52	1 087 710
2022	12	8 045 331	33	1 783 563

350. As stated throughout the report, BiH does not keep comprehensive statistics which is also applied when it comes to the seizure and confiscation of proceeds of crime stemming from ML and predicate offences. While some figures were retrieved in relation to ML offence, information and statistics on seizure and confiscation in relation to predicate offences are disparate. However, the AT used all available information and case examples to draw conclusions.

351. In terms of the proceeds of ML offence, over the period 2018-2022 (see table 3.10), it should be noted that the authorities managed to seize and freeze certain value of laundered property mostly at the state and federation level. This indicates that the authorities applied preventative measures in order to secure potential confiscation, though disparity remains between the assets frozen/seized and those confiscated. The AT identified that the reasons for such discrepancy can be found in the fact that certain cases were identified a long time after the commission of the offence, and therefore it was impossible to locate the proceeds. Also, undue delays in criminal proceedings have a cascading effect on the achieved results in confiscation. In addition, most of the cases of confiscation from 2020 are linked to ML stemming from the fraud typology explained under IO 7. Finally, it should be noted that it can be observed that presented figures are inaccurate and inconsistent with the number of ML convictions presented under IO.7.

352. The authorities were also able to present some complex ML cases where a tangible amount of assets have been seized and confiscated (see IO 7 and case study 3.8).

### Case study 3.8: seizure of proceeds of crime

In 2023, the prosecutor brought charges against 11 natural and four legal persons for a number of criminal offences including: organised crime, corruption, and ML.

The director of the Representative Office of a significant business entity in BiH, organised a criminal group and used foreign and domestic companies of which he was the sole founder and owner to launder around BAM 11 million (approximately EUR 5.6 million) previously obtained through corrupt activities. The money was transferred to the accounts of other members of OCG who further sent money to the accounts of the OCG members in BiH. In order to obtain evidence, 14 requests for MLA were sent seeking information on the bank accounts, their owners, certain transactions, etc.

The value of the secured property in this case is BAM 31 726 519 (approximately EUR 16 000 000), and the value of the property for which confiscation was proposed by the indictment is BAM 10 849 609 (approximately EUR 5 000 000). Authorities, however, did not explain: (i) whether the property was seized and confiscated only in BiH or in another country and (ii) the reasons for huge difference between the value of laundered property, and the value of seized assets.

353. When it comes to seizure and confiscation of proceeds of predicate offences, the statistic is not presentable as for ML. However, the HJPC presented aggregated statistics for 5 years period and for certain groups of predicate offences (see table below).

**Table 3.11:** seized and confiscated proceeds of crime in BiH (2018 to 2022) in relation to certain groups of predicate offences

Group Name	Freezing		Confiscation	
	No of cases	Amount (EUR)	No of cases	Amount (EUR)
<b>Group I: Theft, Robbery, Embezzlement, Fraud, Blackmail etc.</b>	31	77 041	108	1 238 708
<b>Group II: Counterfeiting of Money, Tax Evasion or Fraud, Failure to Pay Taxes, Illicit Trade in Excise Goods, Customs fraud, Abuses in Bankruptcy etc.</b>	13	1 869 010	248	14 242 424
<b>Group III: Corruption</b>	32	11 930 534	171	4 148 671
<b>Group IV: Organised crime related to: drug trafficking, THB, Smuggling of migrants, High-level corruption, Illicit Arm Trafficking, Terrorism and ML.</b>	35	45 702 261	170	21 713 124
<b>Total</b>	111	59 578 846	697	41 342 927

354. The presented data demonstrate that in five years period preventive measures (freezing/seizure) were ordered only in 111 cases, mostly for predicate offences of organised crime and corruption. When it comes to confiscation, in 697 cases criminals were deprived of proceeds mostly emanating from group II of the predicate offence (see table 3.11).

355. Besides, the Ministry of Interior - RS was also able to restrain some statistics in relation to freezing and seizure of assets while this was not possible in relation to confiscation. These results as well as some of the case examples indicate that authorities require major improvements in order to effectively confiscate proceeds of crime.

**Table 3.12:** amount of frozen and seized assets, in RS (amount in EUR) for the period 2018-2022

		ML	Drug trafficking	Fraud	Theft/robbery	Tax offence	Corruption	Smuggling	Forgery
2018	Freezing	1 058 845	0	0	0	0	0	0	0
	Seizure	0	129 604	36 354	48 765	159 337	0	0	4 615
	Confiscation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
2019	Freezing	0	0	0	0	1 533 875	0	0	0
	Seizure	0	780 761	106 970	115 508	600	0	0	9 743
	Confiscation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
2020	Freezing	0	99 070	993 082	0	189 946	0	0	0
	Seizure	0	396 048	78 997	25 519	1 000	0	1 100	0
	Confiscation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
2021	Freezing	0	0	0	0	0	84 583	0	0
	Seizure	0	875 947	12 927	58 897	30 271	0	0	14 871
	Confiscation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
2022	Freezing	121 399	4 189 215	0	0	0	0	0	0
	Seizure	31 960	971 122	79 227	76 569	8 550	0	0	10 256
	Confiscation	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a

356. Overall, when it comes to seizure and confiscation of proceeds of crime emanating from predicate offences, concerns remain over the effectiveness of the achieved results and major improvements are needed, given the number of reported and investigated predicate offences (at least for those for which the authorities provided information -see IO.7).

357. The authorities claim that seizure and confiscation of instrumentalities are applied regularly in practice. While there is no precise statistics, there were some examples of seizure and confiscation of certain types of instrumentalities such as telephones, vehicles, computers, etc used in the commission of different criminal offences, which were seized and confiscated within the criminal procedure. The AT did not come across any potential obstacle in relation to seizure

and confiscation of instrumentalities used or intended to be used for the commission of the criminal offences.

358. Proceeds of crime held by third parties are not uncommon in BiH, especially in corruption and organised crime cases. The authorities claim that they do not face obstacles in seizing and confiscating such property. No statistics were available, but the authorities described several instances where this occurred. For example, in one case the proceeds of bribe (real estate) were held by a close family member and once it was identified, freezing measures were applied and finally the authorities were able to confiscate it.

359. According to the authorities' risk understanding there is no indication that proceeds of crime are regularly moved abroad. There have been, however, some cases (authorities claimed ten in total) where the assets that had been moved in foreign jurisdictions were seized and confiscated on behalf of BiH. In one of these cases the authorities recovered even cryptocurrencies.

360. There are two asset management offices in Bosna and Herzegovina, one in FBiH and the other in RS, competent to manage assets seized and confiscated in their respective territories. In BD, management of seized property is entrusted to Expert Service of the Judicial Commission, while management of confiscated property falls within the competence of the Office of Public Property. No further information has been provided in relation to the management of seized and confiscated property in BD. At the state level there is no authority which would be competent to manage assets that are seized and confiscated by the competent courts of BiH. Despite the fact that in some instances assets seized and confiscated by the state level courts could be managed by the entity's management offices, still there are cases where such possibility is not granted. In such instances, the property remains in the custody of the authority issuing seizing and/or confiscation measures. It is observed that in these cases applicable measures pertain to storage rather than management possibilities.

361. The asset management office in FBiH has adequate legal and institutional framework for the management of seized and confiscated assets. There are rulebooks and instructions detailing the procedures for: (i) renting, safeguarding and maintaining confiscated property; (ii) conducting public bidding in cases of a sale of confiscated property; (iii) maintaining records on the management and disposal of property; and (iv) the assessment of the value of confiscated property. The asset management office in RS also has legal framework enabling management of seized and confiscated property. The procedures are detailed in the Rulebook. These bylaws provide sufficient legal basis to guarantee proper management of various types of assets including presale of perishable goods.

362. Both asset management offices (in federation and RS) were able to demonstrate effective management of seized and confiscated assets. The asset management authority of FBiH oversaw a variety of seized and confiscated assets, including real estate, vehicles, money, artwork, etc. Between 2017 and 2023, the Agency received 167 court orders to manage property valued BAM 36 367 050 (approximately EUR 18 million). Of these orders 136 pertained to confiscated property and 31 related to the management of seized property (shares in legal entities, real estate, motor vehicles and money valued to BAM 12 560 384 (approximately EUR 6 million)).

363. The asset management office of FBiH has demonstrated the ability of handling the management of income-generating assets such as legal entities. According to the information provided, the authorities managed 12 legal entities during the period under the review and a



successful case example was presented (see case study 3.9). In addition, the asset management authority in RS provided example of the management of VAs.

#### **Case study 3.9: case example of management of seized shares**

In 2017, the Federal Asset Management agency was entrusted to manage seized shares in the company "X", owning petrol stations. There were no procedures nor prior practice which could be used as a guide in managing such shares, yet the authority determined the steps needed to be undertaken to preserve the value of the company and continue normal business operations. As a first step, the assets were properly recorded and evaluated, and the new management of the company established. The company, being under criminal investigation, faced challenges in keeping business operations with suppliers and resistance by the employees. Nevertheless, the management of the company, in close cooperation with the asset management authority of FBiH, established supplier and procurement systems, set up all business processes and management systems, launched a series of activities such as opening of new profit hubs for the company. The aim was to increase the company's income. In 2019, the petrol stations and facilities owned by the company were refurbished, new products were offered, and all was financed from the incomes from the current business operations. The best indicator of good and quality management of the company was the fact that in 2020 company "X" was listed among the 20 fastest growing companies with an income of over BAM 8 million (approximately EUR 4 million) for the previous year.

During 2020, shares of company "X" were confiscated, and the agency continued with the management until the final sale.

364. The authorities also have possibility to sell perishable goods or goods that are likely to lose value. Such procedure requires court's preauthorisation and authorities confirmed that this possibility is used very often. In case of an urgency such decision can be made by the asset management office and later justified with a judicial order.

365. To ensure proper management of certain type of assets, there is a legal possibility to outsource experts, which in certain instances used at the entities level.

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

366. BiH has a land border with Croatia, Montenegro, and Serbia and 26 kilometres of Adriatic Sea coastline, centred on the town of Neum. There are three international airports in the country (Sarajevo, Banja Luka and Tuzla) with connections with some European countries as well as Türkiye and the United Arab Emirates.

367. The cross-border transportation of cash remains a significant issue in BiH, and authorities are aware of the risk related to it. However, they failed to demonstrate the ability to effectively detect undeclared or falsely declared cash and BNIs.

368. There is an obligation to declare cash and BNIs when entering or leaving the country in the amount above BAM 20 000 (approximately EUR 10 000). The authorities stated that there is signage at the airports and borders advising persons of the need to make a declaration where



necessary, by way of posters. Nevertheless, at Sarajevo airport, information about the obligation to declare cash was not so visible, according to the AT observations.

369. In theory, customs and border police authorities have the appropriate technical means to detect falsely/undeclared cash at the border. They can use x-rays, sniffer dogs and searches of passengers' luggage, vehicles, lorries, etc. However, usage of such techniques is questionable, considering the overall achieved results.

370. The authorities provided statistics on the number of instances when the authorities detected undeclared cash, yet it remains unclear how many of these pertained to outgoing versus incoming cash (see table 3.13). Throughout the reporting period, the numbers of detected cash fluctuated, with a notable increase in 2022. The authorities were unable to provide meaningful explanations for such fluctuation of cases. Moreover, the number of detected cases remains disproportionate compared to the country's risk profile. All detected cases pertained to non-declared cash, and none of the false declarations were identified.

**Table 3.13:** number of cases of undeclared cash

	<b>No of cases of undeclared cash</b>	<b>Amount of undeclared cash (EUR)</b>
<b>2018</b>	5	201 850
<b>2019</b>	2	640 240
<b>2020</b>	4	102 429
<b>2021</b>	25	1 433 199
<b>2022</b>	41	2 104 543
<b>2023</b>	2	137 300

371. When an undeclared cash is detected, misdemeanour procedure is initiated. The authorities provided some information on the outcomes of initiated misdemeanour procedures. For example, the competent authorities in RS reported that four misdemeanour procedures were initiated and in two cases the fines were imposed (for example in one case where the natural person did not declare EUR 16 835, the court imposed a fine of BAM 1 500 (approximately EUR 750)). In addition, in one case from 2018, only conditional sentence was imposed, while the amount of undeclared cash remains unknown. At the level of FBiH, the authorities reported that they have initiated 29 misdemeanour procedures, the value of undeclared cash was around BAM 6 million (approximately EUR 3 million) and the imposed fines were around BAM 9 000 (approximately EUR 4 500).

372. There is a concern whether in all cases where undeclared cash is detected, the adequate procedure is initiated in order to allow the possibility to impose sanctions. It is evident that there were 79 cases (2018 to 2023) of detection of undeclared cash and the authorities did not provide evidence that in all cases misdemeanour procedure was initiated which would enable the application of sanctions.

373. In all presented cases, the sanctions are minimal, which calls into question the effectiveness of the system.

374. The authorities advised that once the undeclared cash/BNI is detected, the agent carrying out the control must notify the SIPA operational centre, which is reachable at all times and would further disseminate information to the FIU. In instances when there is suspicion on ML/TF entire amount of undeclared cash can be seized.

375. Despite the system of declaration and information sharing is in place, there are no instances of ML/TF identification which raised concerns given the risk and context of the country. The authorities have not been able to prove that they have taken other measures to analyse the lack of results of the control, or to alleviate the identified deficiencies.

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

376. The NRA identified several criminal offences posing high ML risk such as corruption, organised crime, tax evasion, fraud and to a lesser extent human trafficking.

377. The AT faced challenges in obtaining relevant and reliable information in order to assess this core issue. Some statistics and case examples were used as a main source of information to draw conclusions on the overall effectiveness. The AT cannot deny that the authorities did have commendable amounts of seized and confiscated property (mostly in ML cases) in the period under the review and this was also recognised when assessing core issue 8.2. However, more detailed statistics or structured presentation of case examples would have helped the AT to draw more precise conclusion. The authorities would also benefit from comprehensive statistics or analysis in order to better understand if seizure and confiscation results are in line with the identified risks.

378. However, based on the available information, it can be concluded that achieved results are only to some extent in line with identified risks. For example, the number of organised crime cases where confiscation was ordered (see table 3.11) is still the highest (35 in five years' time) followed by corruption cases (in total 33). While these criminal offences pose the highest ML threat, the concern remains on the overall number of cases compared with the number of cases investigated (see IO.7). Also, there is no information on the number of confiscation orders for some other criminal offences posing ML threat such as drug trafficking, human trafficking, tax evasion and fraud even though some case examples were presented. However, these cases were not enough (in terms of number of presented case for predicate offences) to corroborate conclusion on the effectiveness of the results. The AT also looked at the information provided by the Asset Management Agency in FBiH which are valuable for the purpose of proper asset management. However, this information still cannot serve to support general conclusion on the confiscation results since it relates only to the results achieved in one part of the country.

379. Even though TF threat was assessed as medium with the decreasing trend and that certain cases have been identified, investigated and prosecuted, there were no instances of the application of preventive measures to secure potential confiscation. This was mainly because the offences were detected years after the commission of the offence (see IO.9). It is also unclear to what extent this was done in the terrorism related cases both in terms of proceeds of crime as well as instrumentalities.

380. The authorities should be commended with certain results achieved in seizure and confiscation in relation to corporate entities. There are several cases presented where the courts ordered seizure and later confiscation of shares of companies as well as their property, which is consistent with the risk profile of the country to a limited extent.

### *Overall conclusions on IO.8*

381. BiH has mechanism in place enabling confiscation of instrumentalities, proceeds of crime and property of equivalent value as well as the capacity to conduct parallel financial investigations. The confiscation is pursued as a poly objective to some extent.

382. The authorities were able to demonstrate some commendable amounts of assets seized and confiscated in ML cases. The same conclusion, however, cannot be drawn for the predicate offences, due to the lack of reliable statistics, information and estimations. This has been weighted more, given the number of identified and investigated cases for certain predicate offences, particularly the one posing a high ML threat such as corruption. When weighting the overall results, the AT took into consideration the authorities' skills to conduct parallel financial investigations, which are also used to identify and trace proceeds of crime. Nevertheless, the concern remains over the extent to which the preventive measures are applied in order to secure potential confiscation. Establishing the system of collecting and analysing statistics would assist the authorities to gain a more detailed understanding of the extent to which the confiscation results are in line with risk profile and where more efforts should potentially be placed.

383. Detection and confiscation of undeclared and falsely declared cash is considerably low, which raises particular concern given the risk and context of the country. Even once the undeclared cash was detected, the imposed sanctions were minimal and cannot be considered as dissuasive, proportionate and effective.

384. Overall, the AT considers that results are achieved to some extent and major improvements are needed. **BiH 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) The authorities consider that the TF risk in the country is medium, yet certain deficiencies in risk understanding have been found (see IO.1). During the assessment period, there has been one TF conviction (in 2015) and one TF prosecution (resulting in acquittal). Moreover, the limited understanding of the judiciary and, to some extent, of LEAs and prosecutors of the TF offence was observed and this is an impediment to achieving effectiveness. Overall, it cannot be concluded that the achieved results are in line with the risk profile of the country.
- b) There are no reliable statistics on the overall number of TF cases identified and investigated during the period under review. However, it can be concluded that some TF activities have been investigated (there are three ongoing cases) in relation to financing of FTFs. While the authorities are obliged to carry out financial investigations in all terrorism cases, the outcome of such investigations is not clear. A number of other sources which could serve as a basis for TF identification and investigation have not been used (e.g. incoming MLA, cross-border movements of cash, and financial intelligence). There are no comprehensive guidelines that would facilitate the identification and investigation of TF offences.
- c) BiH has established a task force to coordinate the authorities' activities to combat terrorism, including TF. A strategy for the prevention of, and fight against, terrorism, followed by an action plan, was developed recently, and TF investigations have been integrated into the strategy aiming to overcome identified deficiencies. However, there is scope for improvement regarding the use of TF cases to support designations under TFS.
- d) Sanctions applied in the one TF conviction during the period under review cannot be considered as effective, proportionate and dissuasive.
- e) There are alternative measures available to the authorities that can be applied to disrupt TF activities.

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

- a) BiH introduced new TFS legislation at the end of the on-site visit, and its practical implementation could not be tested. BiH's effectiveness in implementing TF-related TFS during the assessment period was impacted by technical gaps in the previous legislation, namely the absence of adequate freezing obligations pursuant to United Nations Security Council Regulations (UNSCRs) 1267 and 1373. Whilst the new legislative framework addresses these gaps to a large extent, direct sanctions cannot be applied for breaching these new TFS obligations.

- b) BiH has made one national designations pursuant to UNSCR 1373 and has pending designation proposals pursuant to UNSCR 1373 and 1267. It has also identified targets and coordinated proposals for designations pursuant to UNSCRs 1373 and 1267 in four cases. These cases revealed delays in BiH's designation process, including (but not limited to) one caused by a requirement to seek Presidential approval which has since been addressed by BiH's new TFS legislation, and misunderstanding of the threshold to be applied for considering designations.
- c) There have been no cases of funds and assets frozen under UNSCRs 1267 and 1373 during the period under assessment.
- d) TF risks emanating from NPO activities have not been adequately analysed, nor has a subset of high-risk NPOs been identified in BiH.
- e) BiH does not apply risk-based supervision or monitoring to the NPO sector. All NPOs were treated as obliged entities up to the date of the on-site visit and so subject to supervision for compliance with all AML/CFT requirements, though, in practice, this did not take place. In general, the decentralised registration process for legal persons, poorly resourced and overburdened ministries with responsibility for NPOs, and absence of a designated oversight body for NPOs create further challenges for risk-based monitoring of this sector.
- f) Meaningful and sufficient outreach to, and coordination with, the NPO sector to identify evolving risks and raise awareness is lacking in BiH.

***Immediate Outcome 11***

- a) At the end of the on-site, BiH introduced a legal framework for the implementation PF-related TFS without delay. This does not set out powers to supervise and enforce direct sanctions there is a breach of TFS obligations. For the majority of the assessment period, the only key legislative instrument relevant to UNSCR 1718 was the Law on Restrictive Measures. However, this did not constitute an adequate legal framework for the implementation PF-related TFS against which effectiveness could be assessed, nor set out freezing obligations related to PF TFS.
- b) BiH could not demonstrate, with substantive evidence, how effective inter-agency cooperation and coordination related to PF and PF-related TFS is taking place.
- c) In spite of the lack of legal provision to enable effective TFS implementation, most banks and other FIs still conduct checks against all UN sanctions lists including with respect to PF. They also demonstrated a general understanding that transactions and funds should be frozen in the case of a positive match. That being said, the lack of legal provisions on freezing question how relevant entities would do this in practice. DNFBPs had a more limited understanding of TFS related to PF.
- d) Banking supervisors also consider PF-related TFS elements in their supervisory activities and noted that they would take action where banks had inadequate systems and controls to monitor database against UN sanctions lists.

***Recommended Actions***

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

- a) LEAs, prosecutors, and the judiciary should develop an understanding and interpretation of the TF offence in line with the national incrimination and international standards (through holding regular training, providing legal interpretation, etc).
- b) The authorities should keep comprehensive statistics on: (i) the number of TF cases investigated; (ii) the number of TF investigations triggered by different sources of information; and (iii) the number of parallel financial investigations conducted alongside terrorism related offences.
- c) BiH should develop a comprehensive guideline for LEAs and prosecutors drawing on the best practices on TF identification and investigations, setting out the range of circumstances and sources of information that can be used to identify TF activities.
- d) BiH should proactively pursue TF cases on a timely basis using a variety of sources to identify TF activities in line with the risk profile of the country.

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

- a) A process should be established to ensure that all investigations for terrorism and TF are actively reviewed against criteria set for designation under UNSCRs.
- b) BiH should identify further ways to address delays in the designation process pursuant to UNSCRs and develop competent authorities' comprehensive understanding of designation criteria.
- c) BiH should introduce legislative provisions which allow for the application of direct sanctions where breaches of TFS legislation are identified.
- d) BiH should identify the subset of NPOs that fall under FATF's definition and carry out a comprehensive risk assessment on these to understand the: (i) TF risks related to NPOs; and (ii) types and features of NPOs that are vulnerable to TF.
- e) BiH should designate authorities at entity level with responsibility for monitoring NPOs at risk of TF, and develop focused, proportionate and risk-based measures to support such oversight.
- f) BiH should carry out outreach and training for the NPO sector to raise awareness of these TF risks and potential abuse.
- g) The Ministry of Security - BiH should establish mechanism with competent authorities that are responsible for onward dissemination of changes to sanctions lists, to ensure that this happens without delay and guidance on the new TFS legislation.

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

- a) BiH should address the deficiency outline in R.7 by: (i) explicitly providing for sanctions against natural and legal persons in case of breaches of PF TFS; and (ii) issuing supplementary legislation to ensure all supervisors are empowered to monitor and ensure compliance with PF TFS obligations.

- b) Given the introduction of new TFS legislation, BiH should carry out outreach for all obliged entities, particularly the DNFBP sector, and provide guidance to them specifically on their PF-related TFS obligations.
- c) With the new legislative framework, BiH should also ensure that all supervisors are actively trained and informed about new PF-related TFS obligations and that compliance monitoring procedures adequately reflect this.
- d) BIH should ensure that PF-TFS is prioritised in cross-government PF coordination and exchanges. With the TFS legislation, additional steps should also be taken in order to enhance the PF related TFS awareness amongst competent authorities.

385. 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)**

386. In BiH, TF is criminalised in all four existing criminal codes. While TF offences are not identical in all four criminal codes (see R.5), the majority of requirements were technically transposed into domestic legislation following the adoption of the previous MER. The responsibility to identify TF offences lies within several LEAs, such as SIPA, including its criminal investigation department within the FIU, and the police services of the different entities (FBiH and RS) and district. Once sufficient evidence is collected by LEAs, the case is further investigated by the competent prosecutor, with the Prosecutor's Office of BiH being responsible for the majority of TF activities according to the incrimination in the CC of BiH. Within the Prosecutor's Office of BiH there is a Task Force for Combatting Terrorism which specialises in terrorism-related offences, including TF.

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

387. According to the NRA Addendum, BiH faces a medium risk of TF, with the tendency to decrease. This assessment is based on the fact that the number of FTFs' departures has significantly decreased in recent years and there have been no terrorist attacks in the period under the review. The TF risk understanding of the authorities does not significantly differ from the NRA Addendum findings, with TF being often associated with the financing of FTF and emphasis placed on the absence of terrorist acts in the country. In addition, the fact that the authorities have not observed a significant amount of money transfers linked to terrorism is used as their justification on the level of TF risk in the country.

388. In the view of the AT, there are limitations in understanding of TF risk, which is not adequately supported by an analysis of threats and vulnerabilities. (See IO.1.)

389. During the period under review, one conviction has been handed down for financing of FTFs and there has been one TF prosecution which ended in acquittal. An analysis and conclusion regarding the outcome of both cases is provided below. The TF conviction was achieved shortly after the adoption of the previous MER (in October 2015) and more weight has been given to the



circumstances of the more recent case (May 2021) given the changing nature of TF risk in BiH and context, and concerns that it raises around interpretation of the TF offence.

390. In 2015, the Court of BiH convicted four defendants, with one of them found guilty of TF activity for purchasing plane tickets for two individuals to join ISIL forces in Syria. It is noteworthy that the court, in its final judgement, considered the defendant's activities as a TF offence although the individuals were ultimately prevented from reaching Syria. The defendant was sentenced to one year of imprisonment which was within the prescribed penalty range.

391. In 2021, the authorities presented a TF prosecution against an individual who was subsequently acquitted. The court's decision to acquit was based on the lack of sufficient evidence linking the funds used to the commission of a specific terrorist act. This raises concerns regarding: (i) the authorities' interpretation of the TF offence; and (ii) the potential cascading effect that this decision may have on further efforts to identify and investigate TF activities (see section 4.2.2).

#### **Case study 4.1: TF prosecution**

In May 2021, the Prosecutor's Office of BiH launched an investigation subsequently charging one individual for collecting and providing funds to FTFs (including the individual's spouse) in the period from 2013 to 2018. All FTFs, were participating in the battlefield in Syria and Iraq. The defendant knew that the recipients of the funds were engaged in daily armed conflicts. They were involved in commission of several criminal offences including murder, abductions, hostage-taking, all with the intention to force the legitimate authorities of Syria to change the constitutional order and political regime. The defendant collected funds on several occasions, through bank accounts opened in BiH (amounts of CHF 5 830, BAM 153 100, BAM 19 558, and BAM 48 896). Once received, money was withdrawn from the bank and taken in cash by the defendant, who travelled to Syria on several occasions and transferred the money. The money was further used by the defendant's spouse as a salary for other BiH citizens fighting as part of terrorist groups and organisations or to purchase weapons and for other goods.

The court decided to acquit the defendant since there was no evidence that the money was used for the commission of a terrorist act. This first instance court decision was confirmed by the Appellate Court.

392. The prosecutors met on-site stated that the court's interpretation of the TF offence in this case was not in accordance with domestic legislation and international standards. However, the judiciary firmly argued that TF activity could not be proven since there was no evidence that the money was used for the commission of a specific terrorist act. This suggests major deficiencies in the judiciary's understanding and interpretation of the TF offence, which negatively impacts the work of LEAs and prosecutors. Such case law does not encourage prosecutors to pursue other cases where a strong link between funds and specific terrorist activity cannot be established.

393. Overall, one TF conviction and one prosecution that resulted in acquittal as overall achieved results cannot be considered commensurate with the country's medium TF risk profile. Moreover, the number of terrorism-related cases pursued over the assessment period (48 cases in total) indicates that the lack of TF convictions is inconsistent with the risk profile of the country.



#### 4.2.2. TF identification and investigation

394. Witness statements are mostly used to trigger TF investigations. Besides this, financial investigations are carried out in all terrorism-related cases, based on a Decision of the Chief Prosecutor of BiH from June 2021. This decision requires prosecutors to: (i) monitor cash and other financial flows; and (ii) detect sources of financing of potential terrorists or terrorist organisations. All LEAs can apply investigative measures to fulfil their mission and there are no legal or institutional obstacles in accessing financial information in a timely manner. Since the adoption of the mandatory decision, 29 financial investigations have been initiated in terrorism-related cases. Although being an appropriate measure, it has not resulted in the identification and investigation of any TF cases so far. The authorities have been unable to provide a full reasoning for this outcome, the AT, however, considers that it is closely related to the narrow interpretation of the TF offence set by the judiciary and expressed also by certain other competent authorities (see case study 4.1).

395. Within the project of CEPOL (EU Agency for Law Enforcement Training) for the Western Balkans, guidelines for "Good practices in the fight against the financing of terrorism in the Western Balkans" were issued. This document identifies general good practices for Western Balkan emphasising the importance of cooperation with the FIU and private sector when investigating TF and covers several other general elements including the abuse of the NPOs and cryptocurrencies. Besides this, there is an Instruction on the intelligence and investigative work of SIPA, which regulates its performance when detecting and investigating offences under their competence, including TF. While this Instruction is comprehensive in providing general overview of its competencies, there are no other supporting documents, instructions or guidelines that would specifically facilitate the work of all authorities in BiH in identifying and investigating TF offences or in indicating different sources of information or circumstances that can be used to trigger TF investigations. This would be highly beneficial given the deficiencies highlighted below. Nevertheless, training and workshops have been organised for the authorities by foreign partners on terrorism and TF preventive and repressive measures which contribute to enhancing the authorities' capacities to investigate TF.

396. As noted throughout the report, BiH does not maintain comprehensive statistics and even when data is retrieved and provided, it is often unreliable. Therefore, the AT has formed its views and conclusions based on: (i) interviews held with relevant interlocutors; and (ii) the case examples provided.

397. Whilst the HJPC is in charge of collecting and keeping statistics, it has provided unreliable and very different numbers to the AT regarding the number of TF investigations. However, other information suggests that the authorities do scrutinise certain TF activities and three TF investigations are currently pending while in two other cases the charges were dismissed. Details of these cases are further elaborated and analysed.

398. There are certain general observations drawn for all three ongoing TF investigations which are being handled by the Prosecutor's Office of BiH. The main TF activity in all three cases is financing of travel of FTFs to Syria during the period 2011 to 2015 and has involved the collection of money used to purchase tickets. All cases have been identified based on the statements of FTFs upon their return to BiH and, in two of the three cases, the defendants are unavailable for criminal prosecutions since there is no legal possibility to hold court proceedings *in absentia*.

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

In 2019, the SIPA identified one individual who - during 2013 - had financed and supported the travel of three FTFs to Syria by giving them money and instructions on how to reach their destination. The authorities heard several witnesses during 2020 and 2021 and then - in October 2023 - the Prosecutor of BiH launched the criminal investigation. In the order to conduct the criminal investigation, the prosecutor determined what investigative actions would be undertaken including: (i) hearing of witnesses; (ii) soliciting information on banking transactions; and (iii) conducting financial investigations and other investigative measures deemed relevant. The investigation is still ongoing considering that a request for MLA has been sent to the United States and the response is still pending.

#### **Case study 4.3: TF Investigation**

In May 2017, the prosecutor launched a criminal investigation of one individual for financing of travel of a number of FTFs to Syria. The case was identified based on the witness statement given by a FTF returnee and, during the course of investigation, evidence was collected, including digital records stored on the personal computers used by the defendant and other related persons. The case description indicates that the defendant is a BiH national but resident abroad (including in conflict zones) from where he organised and financed the recruitment and travel of individuals to join ISIL. The investigation is pending due to unavailability of the defendant.

399. The authorities' efforts to identify and investigate these TF cases should be commended, and the reasons for the investigations being still ongoing (due to the MLA procedure or unavailability of defendants) are reasonable and non-disputable. The identification of cases a long period of time after the criminal activity took place demonstrates the authorities' willingness and efforts to fight such phenomenon. Also, it was observed that a wide range of investigative techniques were used (including special investigative techniques) in these TF investigations. Authorities demonstrated the ability to solicit financial information and digital data as well as to collect evidence and information from abroad, including conflict zones. In addition, in all cases where defendants are not available for further criminal proceedings, arrest warrants were issued which demonstrates the authorities' efforts to facilitate prosecution.

400. On the other hand, the AT also identified several obstacles preventing the adequate identification and investigation of TF cases by the authorities.

401. First, as noted above, all ongoing investigations concern the collection and provision of money in order to finance the travel of FTFs who left the country before 2015.

402. Second, in one TF investigation, an unreasonable delay was observed in taking the decision to open the criminal investigation (four years) after identification of the case (see case study 4.2). From the material submitted, it is difficult to justify such a long delay and the authorities did not provide an explanation on the potential impediments to opening an investigation earlier.

403. Third, the interpretation of the TF offence expressed in jurisprudence (see section 4.2.1) shows that the extent to which the TF offence is understood is not in line with domestic legislation or international standards. Namely, it is required for the funds to be linked to specific terrorist activity. Even though most of the interlocutors met on-site did not interpret the offence in the

same way as the judiciary, such an interpretation has a deteriorating effect on the identification and investigation of TF cases. Some cases were archived due to the impossibility to prove that the funds were used by the terrorist or terrorist organisation to commit specific terrorist attack. This remains a deficiency in the system impeding proper identification and investigation of TF cases.

404. For example, in RS, a LEA explained that one criminal report had been filed against an individual suspected of transferring EUR 8 000 from Norway to BiH. This money was sent directly to an individual convicted of terrorism-related offences, with some transfers made through the bank account of a legal person in BiH and one through the bank account of a foreign citizen in Italy. However, prosecutors could not ascertain the exact purpose of the funds sent to the convicted person, leading to the decision to drop the charges against him. Some investigative techniques were applied in this specific case, but it remains unclear why the investigation did not extend to the legal person or what measures were taken regarding the foreign individual involved in these transactions.

405. In another case, the SIPA submitted a criminal report to the Prosecutor's Office of BiH in 2016 against an individual charging him for the offence of organising a terrorist group, terrorism and financing of terrorist activities. He was suspected of travelling to war zones in Syria and Iraq, where he took part in activities carried out by certain radical and terrorist groups. To provide financial and material support to BiH members of ISIL, he took money to Syria in total of EUR 9 600 and distributed it to several fighters in amounts of EUR 30 to EUR 50. After the investigation and indictment, the court sentenced him to an imprisonment sanction of one year but only for the criminal offence of organising a terrorist group. The authorities have not explained why the charges for TF were subsequently dropped.

406. Fourth, the authorities also received a number of MLA requests pertaining to terrorism and TF offences, which were executed by the competent prosecutor. Nevertheless, none of these MLA requests were considered as a source of information to identify potential TF activity at the national level. The same can be concluded for the cross-border movements of cash, where none of the TF cases were triggered by undeclared or falsely declared cash movements.

407. Finally, during the on-site visit, it became evident that different authorities rule out TF offences in instances where an insignificant amount of money is associated with the TF activity. There is a lack of consideration for common typologies involving the use of small amounts of money or other funds to commit terrorist acts.

408. The focus of the authorities responsible for TF identification and investigation is mainly on terrorism, where they have demonstrated versatile knowledge, understandings and skills. In terms of TF, investigations do not identify the different roles played by terrorist financiers.

409. Overall, it can be concluded that there are deficiencies in the authorities' ability to identify and investigate TF offence.

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

410. In 2022, the Council of Ministers of BiH adopted a Strategy for Prevention and Combating of Terrorism, for the period 2021 to 2026, followed by the adoption of an action plan in 2023. The Strategy aims to effectively prevent all forms of terrorism, including violent extremism and radicalisation leading to terrorism, through four strategic goals: (i) prevention of terrorism, violent extremism and radicalisation leading to terrorism; (ii) protection of citizens and

infrastructure, reduction of vulnerability to attacks, including improved security of borders and transport; (iii) improvement of investigations, criminal prosecution, penitentiary and post penal treatment in the cases of terrorism and related criminal offences; and (iv) response to potential terrorist attacks and mitigation of their consequences. The action plan further elaborates on the implementation of these strategic measures. The strategy replaces a Strategy for Prevention and Combating of Terrorism covering the period from 2015 to 2020.

411. Within the Prosecutor's Office of BiH, there is special task force for combatting terrorism which was established in 2004 with the aim of ensuring cooperation and coordination of the competent authorities dealing with terrorism-related cases including TF and constitutes a specialised unit. The authorities have stated that the task force held regular meetings and actively participated in the development of the strategy and action plan related to terrorism and other relevant offences, but no further information was provided in order to evidence this statement.

412. While development of the four strategic goals and related action plan is recent, they have taken account of outcomes, experiences, and challenges of TF investigations. Challenges and difficulties observed in TF investigations related to the interpretation of the TF offence, identification of criminality and collecting evidence are addressed through several activities such as: (i) training of judges, prosecutors and LEAs on the interpretation of terrorism-related offences (including TF); (ii) improving procedures and capacities to collect intelligence, evidence and conduct financial investigations related to terrorism activities; and (iii) enhancing the work of LEAs in order to enable proper detection of illegal trade in weapons, explosives and other dangerous substances for the commission of criminal offences of terrorism. One of the objectives of the action plan is to improve investigation in the field of TF.

413. However, there are concerns about the extent to which TF cases are being considered for the purpose of designations of terrorists and terrorist organisations under TFS. Despite TF cases having been initiated, none of the individuals investigated were considered for national designation under the TFS regime.

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

414. The sanction applied in the one TF case from 2015 cannot be considered as effective, proportionate and dissuasive, although the range of penalties provided for in the CC are adequate.

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

415. Some alternative measures are used in instances where it is not practicable to secure a TF conviction. Lists of persons suspected of terrorism have been developed and are used as a mechanism to conduct continuous monitoring of their activities (such as their relationships, travel, financial movements and other activities). The Border Police continuously inform the LEAs on the cross-border movements of these persons. In addition, the authorities can ban renewal of a residence permit and visa for individuals that may represent a threat to national security. Finally, the authorities indicated that full co-operation and information exchange are provided to foreign countries when needed.

### *Overall conclusions on IO.9*

416. In BiH, the authorities identify a medium TF risk in the country. Nevertheless, there are limitations in understanding of TF risk, which have affected the ability of the authorities to properly identify and investigate TF cases. Additionally, the interpretation of the TF offence demonstrated by the judiciary post 2015, and to some extent by LEAs and prosecutors, is not in line with domestic legislation and international standards. This raises a concern and has been given more weight considering the risk profile of the country.

417. There has only been one TF conviction achieved in the period under assessment (2015). Besides this, the authorities have prosecuted one individual for the TF offence who was acquitted due to misinterpretation of the TF offence expressed in the decision. The achieved results cannot be considered to be in line with the country's risk profile.

418. It is evident that several TF cases have been investigated, and the authorities demonstrated the ability and willingness to deal with this phenomenon. Yet there are obstacles preventing the adequate identification and investigation of TF cases, including limited sources of information used to identify TF cases and undue delays in initiating criminal investigations. While there is a mandatory instruction to conduct parallel financial investigations in all terrorism-related cases, it remains unknown what the outcomes of these probes are and whether, in practice, they are conducted systematically. More weighting has been given to these obstacles.

419. The authorities have developed a terrorism-related strategy and established a linked task force which takes account of problems and deficiencies arising from TF investigations. However, none of the TF investigations have been used to support designations under TFS.

420. Overall, major improvements are needed to effectively investigate and prosecute TF offences as well as to achieve convictions which would impose effective, dissuasive and proportionate sanctions. **BiH is rated as having a moderate level of effectiveness for IO.9.**

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

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

421. The Ministry of Security - BiH is the body in charge of coordinating and implementing all aspects of the TFS regime in BiH. It coordinates designation proposals across LEAs, the Task Force for Combatting Terrorism and the Council of Ministers, sends out all notifications to competent authorities with respect to listing updates, and is the body that entities are required to report to in the case of an asset freeze. Under the law, the Council of Ministers has the ultimate responsibility for making final decisions on designations and the implementation of TFS, more widely. This process is explained in further detail below.

422. During the on-site visit, BiH adopted Decision 18/2024 (Method of Implementation of TFS United Nations Security Council Linked to the Financing of Terrorism and the Financing of the Proliferation of Weapons of Mass Destruction) to implement TFS within the context of: (i) UN designations pursuant to UNSCRs 1267/1989 and 1988; and (ii) national designations, including responding to requests from other countries to take freezing action pursuant to UNSCR 1373. TFS related to UNSCR 1267 are immediately enforceable under Decision 18/2024. National decisions to designate those who meet the criteria highlighted under UNSCR 1373 are also applicable

without delay and prior notice. However, for the purpose of this evaluation, this instrument is considered too new and the effectiveness of implementation in practice cannot be assessed. Direct sanctions cannot be applied for breaching these new TFS obligations.

423. Prior to this instrument, BiH's legislative framework for implementing TFS related to TF consisted of: (i) the Law on Restrictive Measures - which covers only the application of freezing measures to those indicted by the International Criminal Tribunal for the Former Yugoslavia and individuals who have assisted such individuals.; (ii) Decisions 103/11 and 51/20 (UNSCR 1267); and (iii) Decision 88/16 (UNSCR 1373). There were a number of shortcomings in this package: (i) whilst UN updates were automatically enforceable, scope did not cover successor resolutions to UNSCR 1267; (ii) the obligation to freeze under UNSCR 1267 applied only to authorities (and so not the private sector); (iii) a freezing mechanism was not defined for the purpose of persons designated under UNSCR 1373; and (iv) important elements of c.6.5 were not covered.<sup>1</sup>

424. Mandatory guidelines for banks set out obligations to: (i) block assets of individuals suspected of TF; (ii) monitor the accounts and transactions of customers against the UN and national designations; and (iii) temporarily freeze the assets of such individuals and entities in new and existing relationships. These requirements go some way towards addressing the shortcomings identified above (in the previous legal framework) but are not fully consistent with the requirements of R.6. For example, they require assets to be frozen for new customers that are found to be designated. Similar provisions could not be found for securities and insurance sectors, where sectoral laws discuss UN lists only for the purpose of identifying high-risk customers. Equivalent measures are not in place for DNFbps.

425. There have been no cases of funds and assets frozen under UNSCRs 1267 and 1373 during the period under assessment.

#### Implementation of TFS 'without delay'

426. Within 24 hours of notification by the Ministry of Foreign Affairs - BiH, the Ministry of Security - BiH: (i) publishes the updated list for UNSCR 1267 on its website; and (ii) electronically communicates updates to the UN list to competent authorities, including supervisors and professional associations. Prior to 2020, there was no mechanism for communicating listings and there would often be delays in the communication of updates from the Ministry of Foreign Affairs - BiH to the Ministry of Security - BiH. Following publication of a decision in 2020, this has no longer been a problem since the decision instructs the Ministry of Foreign Affairs - BiH to immediately send all UN updates to the Ministry of Security - BiH. Since 2020, the Ministry of Security - BiH explained that it has subsequently sent 77 e-mail notifications to competent authorities within 24 hours of the UN update, this number covering all UN sanctions changes (and not just those related to UNSCR 1267). Supervisors confirmed receipt of these emails and, although no obligation is placed on, or guidance provided to, these organisations to forward notifications to relevant FIs and DNFbps, most met on-site confirmed that they had been informed of changes by their supervisor. However, it was not possible to confirm that this had been done without delay. With respect to the communication of the national designation, decisions are usually published on the website of the Ministry of Security - BiH. Therefore, the responsibility is placed upon all DNFbps and FIs to regularly check the website of the Ministry of Security - BiH to update their own systems for screening (where they exist).

427. Actions taken by the private sector contribute to the implementation of TFS without delay. FIs showed a common understanding of how they would apply restrictive measures

immediately, notwithstanding the shortcomings in the legal framework identified above. In the case of a positive match, they explained that they would freeze the funds of the customer and would not perform any transactions for the benefit of the listed person or entity, and inform the Ministry of Security - BiH, without delay. Banks have automated sanctions screening systems that pick-up changes to the UN sanctions list and would be updated with national designation, and screen customers and related parties in real time when on-boarding and subsequently on a periodical basis. This allows transactions to be suspended pending further investigation of matches, and Banks explained how they would deal with those matches, indicating the application of effective screening. The approach of other FIs is mixed; while some have automatic screening systems, others manually screen at the time of onboarding. Across FIs, it was not necessary to subsequently make any reports to the Ministry of Security - BiH during the period under assessment.

428. Much like banks, VASPs showed an understanding of how they would apply restrictive measure and have sophisticated mechanisms for screening and monitoring customers against the UN sanctions list and national designations, at the time of onboarding and thereafter.

429. DNFBPs were generally aware of their obligations under the UNSCRs related to TFS i.e. with the concept of freezing and reporting to the Ministry of Security - BiH. The majority explained that checks would be performed against the UN sanctions list and national decision available on the website of the Ministry of Security - BiH at the time of on-boarding, but not subsequently. Whilst the effect of this may be that funds or other assets are not frozen without delay, it is noted that the majority of customer relationships are occasional transactions and with residents of BiH.

430. Notwithstanding shortcomings in the legal framework identified above, screening and FIs' compliance with TFS have been subject to assessment by core principle supervisors using powers under sectoral laws. Core principle supervisors explained that the assessment of TFS implementation is always conducted as part of wider on-site AML/CFT inspections. For banks this covers areas such as: (i) adequacy of internal written regulations; (ii) efficiency of TFS screening systems; (iii) how sanctions lists are kept up to date; and (iv) how regularly screening is performed. Supervisory manuals cover TFS alongside other AML/CFT requirements. Supervisors explained that remedial measures or sanctions would be applied under sectoral laws in instances where adequate systems had not been implemented, which would have a positive effect. One case study was provided for a bank that had been found to have a problem with its screening system, and the Banking Agency – FBiH issued a decision for the bank to improve its IT systems in accordance with their finding. Otherwise, there have been no supervisory findings linked to TFS. As explained under Chapter 6 (IO.3), there has been only limited supervision of DNFBPs during the period under assessment, and this has not covered compliance with TFS. There has been no supervision of VASPs during the period under assessment.

#### Designation

431. No proposals were made to the 1267/1989 Committee during the assessment period. However, one designation proposal related to UNSCR 1267 was under consideration at the time of the on-site visit. The Ministry of Internal Affairs – RS submitted a proposal to the Ministry of Security - BiH based on relevant criteria in November 2023, and this was subsequently forwarded to the Task Force for Combatting Terrorism which had yet to provide a response or opinion



because the individual under consideration had been extradited to BiH in February 2024. The authorities have not explained why extradition should cause a delay to the process.

432. During the assessment period, BiH made one national designation, pursuant to UNSCR 1373. In this one case, the individual designated was a non-resident hiding in BiH and arrested in July 2017 for their links to ISIL. They were identified as a target for designation by SIPA and a proposal was taken forward by the Ministry of Security - BiH in consultation with the Prosecutor's Office and Task Force for Combatting Terrorism. The person was eventually designated by the Council of Ministers in December 2018, one-year after the initial identification. BiH did not subsequently make a request to other countries to give effect to the designation, as the individual had since been extradited back to the United States. The authorities did not elaborate on this further. There was a second designation proposal pending at the time of the on-site, but details, including a timeline, were not shared with the AT. In both cases, authorities noted that there were delays in designation due to the legal obligation for the Presidency of BiH to be consulted ahead of a decision by the Council of Ministers. This obligation has been removed in the new TFS legislation.

433. BiH received one foreign request for listing under UNSCR 1373 concerning the designation of three individuals. Initially only the names and surnames of targets were provided and so it was necessary to request further information. This follow-up request was made 21 days after the initial request – which is not considered to be timely. No response was forthcoming from the requesting country and no designation subsequently made.

434. In addition, there was one official request to the Ministry of Security - BiH by the Prosecutor's Office - BiH under UNSCR 1373 for designation of four individuals. For two of these individuals, it was subsequently decided by the Ministry of Security - BiH that criteria for designation were not met. For the other two, it was noted that they had insufficient information to support a designation because there were no criminal proceedings against the individuals. This is not in line with the FATF Standard. In addition, four other individuals were being considered by SIPA for a designation proposal under UNSCR 1373 at the time of the on-site visit. No details were provided on these cases.

435. There were no de-listings of designated persons during the period under assessment.

436. Overall, cases presented above show that efforts are being taken to identify targets for designation. However, there have been delays in designation under both UNSCRs 1267 and 1373 at both operational and decision-taking level and there remain questions around the authorities understanding of the threshold for making a designation under UNSCR 1373. Accordingly, it is not possible to conclude that the process has operated effectively during the period under assessment.

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

437. Approximately 27 000 active NPOs are registered in BiH comprising of associations, foundations, representative offices of foreign NPOs, and churches and religious communities (governed by the Law on Religious Communities). The process for creating associations and foundations is explained under c.24.1 in the TC Annex. As outlined below, focused and proportionate measures are not applied to NPOs.



438. According to risk assessments conducted, some associations and foundations may be registered at both entity and state-level at the same time. Whilst BiH legislation requires proof to be presented at the time of registration that an applicant is not already registered, it has not been explained how this is monitored in practice. Accordingly, the number may be slightly over-stated. In addition, IO.5 explains some limitations related to the registration of associations and foundations and the accuracy of information held within registries.

439. BiH has considered the NPO sector in both its NRA and NRA Addendum. The NRA Addendum identifies vulnerabilities such as: (i) lack of NPO supervision; (ii) insufficient cooperation between authorities and NPOs; (iii) outdated laws; and (iv) availability of resources to support an adequate monitoring framework. It also highlights that ML/TF risks are present in the areas of education and sport and religious activities, but without substantiation of these findings. These risk assessments do not effectively analyse threats, vulnerabilities or risks linked to NPOs or their potential misuse for the purposes of TF, and the NRA Addendum relies on a regional NPO risk assessment conducted by the Council of Europe which gives insufficient consideration to risks specific to BiH. Overall, BiH has not identified which NPOs: (i) fall under the FATF definition; and (ii) of these, which are likely to be at risk by virtue of their activities or characteristics.

440. Findings of on-site interviews with NPOs highlight further the need for BiH to develop a comprehensive understanding of risk. The sector referred to the significant use of cash, absence of a national understanding of risk, gaps in legislation, and weaknesses in the capacity of institutions to monitor NPOs as factors making the sector vulnerable. Use of cash was not highlighted specifically as a vulnerability for NPOs in risk assessments.

441. Whilst registration requirements apply to associations and foundations, there are no explicit policies related to promoting integrity, i.e., fitness and propriety of founders or controllers (see R.8 in the TC Annex). There are requirements to produce annual financial statements with a breakdown of income and expenditure, and, for NPOs registered at state level, to publish these statements on the website of the Ministry of Justice – BiH and to make information on their activities publicly available. However, no information was provided on how these requirements are overseen in practice and there are no equivalent measures or practices to promote accountability and public confidence at entity-level. Additionally, there are no controls to ensure that all funds are accounted for and spent in a manner consistent with the purpose and objectives of NPOs. In addition, NPOs are not explicitly required to maintain information on their activities and objectives, as well as any supporting information on accompanying transfers.

442. There have been little awareness raising for NPOs and no specific guidance has been issued to NPOs on the prevention of TF abuse of the sector. Only two training sessions had been run during the assessment period by the Ministry of Security - BiH. Given the size of the sector coupled with the TF risk in the country, the extent of outreach activity is not adequate.

443. Since BiH has not identified the NPO categories which are the most vulnerable to TF abuse, a risk-based approach towards regulating NPOs is not in place. Whilst there is surveillance of some NPOs for law enforcement purposes and there are reports that set out multi-year criminal intelligence activities related to NPOs, these are not consistent with supervision based on TF risk. NPOs are overseen for tax purposes, but the extent of oversight is limited to checking whether all taxable income is reported (confirmed by the NRA Addendum). Whilst ministries with

responsibilities for certain types of NPO (religious, sports etc.) may exercise some oversight, no information has been provided in this respect. Nor has there been any supervision under the AML/CFT Law, notwithstanding that the full obligations of that law applied to NPOs up until the time of the on-site visit.

444. Obligations are in place for legal persons to hold a bank account in the country, including NPOs. These are explained at R.8 and c.24.6 in the TC Annex. When interviewed, all NPOs reaffirmed this and their requirement to hold a bank account. Therefore, the lack of oversight over the NPO sector is mitigated to some extent by the application of measures by banks. On the other hand, banks interviewed classified all NPOs as high-risk by default. This undermines the notion of proportionate measures being applied with respect to NPOs, which may affect the accessibility of legitimate NPOs to regulated financial channels. Supervisory authorities noted that measures will be taken to address this issue - where it exists - moving forward, and the country would benefit from developing guidance for obliged entities on this issue.

445. The lack of a defined authority (or authorities) for supervision or monitoring for TF purposes creates further challenges and there is no framework in place in order to promote a cohesive approach to setting policy in the NPO sector.

446. The new AML/CFT Law has removed NPOs from its scope, which is a positive step since the application of the entirety of AML/CFT preventive measures could not be considered focused nor proportionate. The new law also requires BiH authorities to cooperate and introduce measures for high-risk NPOs, but this had not been done by the end of the on-site visit.

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

447. There have been no cases of funds and assets frozen under UNSCRs 1267 and 1373. For the one individual designated nationally, the authorities did not identify assets in BiH. The authorities explained that this was because the individual had been extradited (though it is not clear to the AT why this would preclude an individual from holding assets in BiH).

448. As discussed above, there were shortcomings in the legislative framework for implementing TFS related to TF throughout the assessment period - up until the time of the on-site visit. These technical deficiencies have been addressed to a large extent by new TFS legislation. The impact of these shortcomings has, however, been mitigated by: (i) controls in banks; and (ii) banking supervisors. As explained under section 4.3.1, banks are covered by sectoral legislation that sets high level requirements to freeze and report (using prescribed lists) and they explained that they would freeze funds and not perform any transactions for the benefit of listed persons or entities and inform the Ministry of Security - BiH. Whilst there are no similar sectoral provisions for other FIs and DNFBPs, the majority explained that checks would be performed against the UN sanctions list and national designation on the website of the Ministry of Security - BiH (for DNFBPs - at the time of on-boarding, but not subsequently). Shortcomings in the legislative framework in respect of freezing (and so reporting) would also be mitigated by general STR obligations under the AML/CFT Law.

449. However, shortcomings in the legislative framework discussed under section 4.3.1 raise questions over: (i) for banks - the effectiveness of obligations to freeze assets set in sectoral requirements; and (ii) for other FIs and DNFBPs - the legal basis there would have been to freeze

funds or assets or prevent funds or other assets being made available - in the case of a positive match during most of the period under assessment.

450. With respect to criminal processes to deprive terrorists, terrorist organisations and terrorist financiers of assets and instrumentalities related to TF, it is important to note the absence of confiscations and seizures related to TF (see IO.8 and IO.9).

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

451. According to the NRA Addendum, BiH faces a medium risk of TF. The AT has set out limitations in BiH's understanding of TF risk, under IO.1.

452. Cohesive measures were not in place during the period under assessment to effectively implement TFS in way that reflects the country's TF risk. This has been recognised by the authorities who introduced comprehensive new legislation during the on-site visit.

453. Some concerns have been raised above about delays in designation and understanding of designation thresholds. Moreover, there are concerns about the extent to which the subjects of investigations of TF and terrorism are being considered for the purpose of designations under TFS. As noted under IO.9, despite TF cases having been initiated, none of the individuals investigated were considered for national designation under the TFS regime. Additionally, the authorities did not demonstrate that individuals or entities involved in the 48 terrorism-related cases were reviewed against TFS designation criteria (see IO.9). Accordingly, it is not possible to conclude that the number of designations during the period under review is consistent with the country's risk profile.

454. No terrorist, terrorist organisation or terrorist financier has been deprived of assets or instrumentalities during the period under assessment. In part, this is because those designated under UNSCRs 1267 and 1373 have not had assets in the country and so there have been no reports to the Ministry of Security - BiH. However, the absence of any form of deprivation may also reflect: (i) the limited number of national designations (not consistent with risk profile); and (ii) lack of a cohesive sanctions framework during the period under assessment. Accordingly, it is questionable whether these results are consistent with the overall risk profile of the country.

455. Measures in place for NPOs are not consistent with the large number of NPOs in BiH or the medium assessment of TF risk. A more effective risk-based approach is needed with respect to NPOs, and this has already been recognised by a provision in the new AML/CFT Law requiring cooperation and introduction of measures for high-risk NPOs. Implementation of such measures had yet to start at the time of the on-site visit and should not discourage or disrupt legitimate NPO activity.

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

456. BiH applied some measures related to TF TFS during the period under assessment. However, there were important shortcomings in the legal framework that had an impact on effectiveness. Whilst measures applied by banking supervisors have mitigated these shortcomings, these measures have not been weighted heavily since the application of preventive and supervisory measures are assessed under IO.4 and IO.3 respectively. By the end of the on-site visit, BiH had established an adequate legal framework for the implementation of TF-related

UNSCRs without delay which will provide a strong technical basis for demonstrating effectiveness in future.

457. The country has designated one nationally during the period under assessment and had a designation proposal pending under UNSCR 1267 at the time of the on-site visit. Cases presented highlight delays in decision-making and misunderstanding of designation thresholds. Moreover, there are concerns about the extent to which the subjects of investigations of TF and terrorism are being considered for the purpose of designations under TFS, and how proportionate the number designation proposals are compared to the number of terrorism related cases. Given the risk of TF, these findings are considered particularly important.

458. There is not a comprehensive understanding of the risk of abuse of NPOs for TF and so risk-based measures, including risk-based monitoring, are not in place. These shortcomings have been weighted heavily given the number of NPOs and risk profile of the country.

459. **Therefore, BiH is rated as having a low level of effectiveness for IO.10.**

#### 4.4. Immediate Outcome 11 (PF financial sanctions)<sup>51</sup>

460. BiH is not an international financial centre and the country's financial sector is bank-centric, oriented towards providing financial services to resident customers. BiH has no direct bank or trade links with DPRK.

461. A Strategy for Preventing the Proliferation of Weapons of Mass Destruction (2018 to 2022) has expired but had as its objectives: (i) establishing a coordinated approach towards combatting the proliferation of weapons of mass destruction; (ii) reviewing international obligations; and (iii) identifying national challenges. The strategy also mentions the need to understand threats related to cash and financial resources. Information has not been provided on: (i) the success of this earlier strategy; (ii) implementation of the associated action plan; or (iii) extent to which measures against PF have been taken.

462. During the assessment period, the Council of Ministers formed a Working Group (Body for Oversight of the Implementation of the BiH Strategy for Preventing PF) to assess PF risk and to produce a related strategy and action plan for the period from 2023 to 2027. This involves relevant agencies and institutions at state and entity level and from BD. The authorities noted ongoing work to publish a risk assessment by 2024 and presented draft analysis. Whilst BiH has identified the absence of direct trade links with DPRK, no preliminary findings have been shared on these risks, including risks presented by indirect links. Separately, information provided to the AT shows that there are a number of incoming and outgoing payments to two countries that do have links with the DPRK.

463. BiH has a cross-government Commission for the Control of Dual-Use Goods. This commission is responsible for issuing export licences. However, so far, no action has been taken by them related to the UNSCR 1718 sanctions regime, nor was sufficient information provided on how they effectively take action against sanctions evasion (i.e. licence refusals).

---

<sup>51</sup> On 18 October 2023, the TFS elements of UNSCR 2231 expired. Therefore, assessors did not assess the implementation of UNSCR 2231.

#### ***4.4.1. Implementation of targeted financial sanctions related to proliferation financing without delay***

464. BiH uses the same mechanism for implementing PF-related TFS as for TF. Decision 18/2024 represents the legal basis for implementation of UNSCR 1718 and its successors in BiH. Prior to this Decision, there were no measures to implement PF-related TFS in relation to DPRK.

465. However, R.7 identifies a number of shortcomings, including lack of supervisory powers for some FIs and DNFBPs and absence of sanctions for failing to comply with obligations in Decision 18/2024.

466. The decision is complemented by the Law on Restrictive Measures which sets out a framework to apply international restrictive measures and its scope is broad enough to consider all UNSCRs. However, freezing provisions in this law cover only persons indicted by the International Criminal Tribunal for the former Yugoslavia and so are not relevant to PF-related TFS. Similar to the TF-related TFS framework, supplementary legislation was necessary to implement PF-related TFS with respect to DPRK, in the same way that BiH had a supplementary decision to implement their TFS framework in relation to Iran (which is now outside the scope of IO.11).

#### ***Implementation of TFS on PF***

467. Until the time of the on-site visit, there were no legal provisions covering PF obligations with respect to DPRK and thus no national actions can be said to have been taken by the authorities to implement TFS-related to PF in practice. Under Decision 18/2024, all UNSCRs, including UNSCR 1718 and successor resolutions are now automatically applicable in BiH.

468. The framework for communicating listings, reporting, and submitting de-listing requests is the same as the framework for TF outlined under IO.10.

469. At policy level, there was no permanent body in charge of co-operation on PF-related TFS and, where appropriate, co-ordination mechanisms to combat PF-related TFS evasion. Information has not been provided on specific operational coordination on PF-related TFS to demonstrate that authorities were sharing information or intelligence in relation to violations or breaches of PF TFS.

#### ***4.4.2. Identification of assets and funds held by designated persons/entities and prohibitions***

470. BiH has not identified any assets of persons listed under UNSCR 1718 and no freezing measures have been applied in practice.

471. There have been no investigations of PF, including in relation to border controls.

#### ***4.4.3. FIs, DNFBPs and VASPs' understanding of and compliance with obligations***

472. Up until the time of the on-site visit, there were no obligations regarding PF-related TFS (given the absence of legal provisions on PF-related TFS and PF being out of scope of the AML/CFT Law). However, larger FIs, larger DNFBPs and VASPs are aware of the need to prevent persons and entities from operating or executing financial transactions in respect of proliferation and so would: (i) run checks against the UN consolidated list; and (ii) block transactions and not enter

into business relationships in the case of a match with a designated person. Understanding is less developed amongst smaller FIs and DNFBPs.

473. In the cases of banks and VASPs, checks against persons and entities designated under UNSCR 1718 fall within their usual screening process – at the time of onboarding and thereafter automatically on a daily basis. Transactions of customers are verified in real time.

474. For non-bank FIs and DNFBPs, there are mixed approaches to checking PF designations. Some have subscribed to external data sources and automatic screening solutions, whilst others - with lower numbers of relationships and transactions - manually screen at time of onboarding. Some DNFBPs do not apply measures at all on the basis that they provide services only to residents.

475. The AT notes that there is a general understanding of UNSCRs, TFS and actions taking place for the purposes of risk monitoring. However, this is outweighed by the AT's concern that this activity does not implement TFS in the way that is fully required and cannot sufficiently address the scope of freezing required under the FATF standards, given the lack of legal framework in BiH.

#### Outreach

476. Notwithstanding the absence of legal provisions, the authorities have provided training and updates on TFS more generally and discussed TFS with various competent authorities, FIs and DNFBPs. During the assessment period, two specific training events were organised by the authorities covering FATF Standards and TFS obligations (generally) and were attended by representatives from government, the banking sector and DNFBPs. The Organisation for Security and Cooperation in Europe also ran training on TFS with the Ministry of Security - BiH for competent authorities (the police, prosecutor's offices, banking supervisors and the FIU) and a conference was organised by the private sector on TFS. Whilst useful, these initiatives have been undermined by the lack of a legal framework to implement PF-related TFS obligations.

477. In line with their supervisory manuals, banking supervisors are expected to provide support to banks: (i) on the identification of designated persons on UN sanctions lists; and (ii) identification and blocking of transactions linked to such persons. This is broad enough to cover PF.

#### ***4.4.4. Competent authorities ensuring and monitoring compliance***

478. Whilst there was no explicit legal basis for supervisors to monitor compliance with PF-related TFS during the period under assessment (up to the time of the on-site visit), supervisors of core principle FIs consider TFS as part of their usual AML/CFT-related examinations. In the case of banks, supervisors also consider PF when assessing compliance with mandatory TF-related TFS guidelines (see section 4.3.1), that reference monitoring against UN lists more generally. Although there are no formalised procedures or guidelines that make specific reference to PF, banking supervisors confirmed that almost all on-site examinations included elements of TFS compliance (both TF and PF). For example, the Banking Agency – RS considers whether banks have established systems for automated screening of customer data against UN sanctions lists. They consider: (i) frequency of checks; (ii) cases of incomplete/partial matching; and (iii) any funds that been blocked due to the application of TFS. Both banks and supervisors explained that supervisory inspections included sample testing, walk-throughs of TFS screening software, and

how matches are handled. Some financial supervisors have also developed off-site supervision tools, e.g. periodical questionnaires that collect information on TFS. Whilst useful, these initiatives could have been undermined by the lack of a legal framework to implement PF-related TFS obligations. Compliance with PF-related TFS has not been supervised by other supervisors, including for VASPs.

479. In the absence of legal obligations, there was no need for a legal basis for sanctioning failure to comply with PF-related TFS obligations. It is still possible for supervisors to apply remedial measures or sanctions at a higher level for generally failing to apply proper systems and controls or manage risk adequately. In particular, banking supervisors explained how they would take action where a bank was unable to demonstrate application of an effective screening process (against relevant sources). For example, in 2023, a bank was issued with an order to improve its IT system for screening against UN sanctions lists and monitoring transactions. However, this only address potential PF sanctions evasion risks indirectly.

#### *Overall conclusions on IO.11*

480. For almost the entirety of the evaluation period, there was no legal framework to implement PF-related sanctions (within the scope of the FATF Methodology), including provisions to enable funds or other assets to be frozen under UNSCR 1718. BiH now has a legislative mechanism for the automatic implementation of TFS related to PF, although it was introduced at the end of the on-site visit and so not possible to assess effectiveness. In addition, there was no permanent body in charge of co-operation on PF-related TFS at policy or operational level.

481. The private sector is largely aware of UN measures applying to PF-related TFS, and banks and VASPs apply checks against persons and entities designated under UNSCR 1718 within their usual screening process, though it is not clear how assets could be frozen in the event of a match. In a similar way, supervisors of core principle FIs consider TFS as part of their usual AML/CFT-related examinations and check that adequate controls and risk management systems are in place in respect of TFS, where sanctions may be applied where this is not the case.

482. Notwithstanding the private sectors understanding and the indirect application of TFS, preventive and supervisory measures in some sectors are undermined by the absence of a legal basis for applying PF-related TFS and do not sufficiently cover the scope of FATF requirements for TFS implementation.

483. **Therefore, BiH is rated as having low level of effectiveness for IO.11.**



## 5. PREVENTIVE MEASURES

### 5.1. Key Findings and Recommended Actions

#### ***Key Findings***

#### ***Immediate Outcome 4***

- a) Banks and VASPs have a good level of ML/TF risk understanding and AML/CFT obligations and were able to recognise how their operations could be prone to risks identified at a national level. Risk understanding is generally good amongst non-bank FIs but is limited among DNFBPs, including notaries. Most gatekeepers for real estate or legal persons (which include notaries) did not recognise risks identified in national risk assessments. Understanding of AML/CFT obligations amongst non-bank FIs and DNFBPs is mixed.
- b) Banks effectively apply specific controls to counter their exposure towards the main risks. Other non-bank FIs did not clearly demonstrate the application of mitigating measures commensurate with risk, and measures applied by DNFBPs and VASPs are, for the most part, largely based on monetary thresholds. Consequently, customer risk assessments, when performed, have a minimal bearing on the CDD measures applied, particularly for notaries. Notwithstanding, particular emphasis is placed on the use of cash.
- c) All FIs and VASPs apply CDD measures adequately, with banks taking a more comprehensive, risk-based approach, while other FIs apply threshold-driven measures. FIs demonstrated a good understanding of the process to verify legal persons' existence and to identify BOs. Notaries and other professionals adhere well to identification and verification principles, though not always aligned to risk, with more limited application in other DNFBP sectors. Many obliged entities, including banks, link BO to shareholding thresholds and so may not be fully equipped to obtain and hold complete BO information in more complex cases. Despite rigorous onboarding and ongoing due diligence processes, some banks were unable to provide clear examples of how CDD measures had led to customer refusals or termination of relationships, and the number of refused or terminated relationships during the assessment period is low, which is not in line with activity levels. This area requires further supervisory analysis.
- d) FIs apply specific and EDD measures to a satisfactory degree, with some deficiencies noted in smaller FIs application of measures related to PEPs (where there is often exclusive reliance on self-declarations to determine whether a customer is a PEP and, if so, their source of wealth) and high-risk jurisdictions. Some DNFBPs, including notaries, do not apply EDD measures to address PEP risk and, overall, outside the banking sector, the application of EDD measures to PEPs is not satisfactory. VASPs implement applicable EDD measures to an adequate level but are not required to apply the "travel rule" to transfers of VAs. A ruling of the data protection authorities has caused some confusion regarding the application of CDD measures to online operators

of games of chance, and it is not clear whether this ruling has wider ramifications for online activities in other sectors.

- e) Except for some DNFBPs, the level of application of TFS is broadly commensurate with the type of activity conducted and related risk.
- f) Reporting of suspicious transactions is dominated by banks, with improvements in quality being recognised in recent years. Most reports of suspicion have been linked to tax evasion, and other threats identified in the NRA and NRA Addendum are not picked up. Apart from MVTS and lending, there has been negligible reporting amongst non-bank FIs and DNFBPs, including notaries. Rather than considering whether there are grounds for suspecting ML/TF when cash is used, DNFBPs, including notaries, rely on systematic threshold reporting to the FIU and there is a lack of understanding of reporting obligations. Reporting of suspicion has not always been done on a timely basis. Annual feedback on STRs is given by the FIU, which may not allow reporting entities to react on a timely basis.
- g) Generally, obliged entities apply internal controls that are proportionate to risk, context and materiality.

### ***Recommended Actions***

#### ***Immediate Outcome 4***

- a) Supervisors and the FIU should continue to provide guidance on the main national risks and typologies, particularly in the DNFBP sector where certain risks in relation to real estate and legal persons are under-estimated. This guidance should include findings from the risk assessment of legal persons.
- b) Competent authorities should determine why reporting of ML suspicion by banks is not currently in line with threats established in national risk assessments and provide additional instructions on the need for timely submission of STRs in order to alleviate current delays. Supervisors and the FIU should promote further the obligation to report suspicious activity among non-bank FIs and DNFBPs, providing additional guidance on typologies to all sectors to support detection of suspicious activity in line with the main national risks.
- c) Supervisors should further promote the application of a risk-based approach to CDD measures among FIs not supervised by banking supervisors and DNFBPs (including identification of BO for complex structures) to minimise the application of preventive measures based on thresholds. This may be done through guidance, training, and supervisory interventions. Emphasis should be placed on non-monetary risk factors, such as geographic exposure and customers types.
- d) The authorities should revise the existing definition for family members and associates so as to extend the application of EDD measures to PEPs. Supervisors should provide additional guidance on ways to identify and verify PEPs, to limit exclusive reliance on self-declarations. This guidance should include a list of occupations that may indicate

that a customer is a PEP (including family member and associates) and sources which can be utilised to identify political exposure or political links.

- e) Supervisors should promote effective application of TFS amongst operators of games of chance, real estate agents and DPMSs.
- f) Banking supervisors should maintain summary statistics on the types of findings and breaches encountered during supervisory interventions in order to measure trends in the level of compliance with CDD obligations. Inter alia, this would provide useful context for understanding further whether the number of customer refusals and account terminations in a period is commensurate with risk and controls applied.
- g) Authorities should consider the effect of a ruling of the Agency for the Protection of Personal Data on the application of CDD measures to online activities.
- h) The authorities should extend the “travel rule” to transfers of VAs.

484. 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)

485. Considering the materiality and risk in the country (see section 1.4.3), the effectiveness of preventive measures applied by the relevant sectors is weighted as follows:

**Most important:** banks (as providers of conventional banking services and MVTS).

**Highly important:** public notaries.

**Moderately important:** (i) securities; (ii) MCOs; (iii) currency exchange offices; (iv) postal service operators (as providers of MVTS); (v) operators of games of chance; (vi) real estate agents; (vii) lawyers; (viii) accountants/tax consultants; and (ix) VASPs.

**Less important:** (i) insurance; (ii) other lending; (iii) CSPs; and (iv) DPMS.

486. Where banks act as agents for global MVTS operators, this agency work is assessed as part of the banking sector.

487. The finance system in BiH revolves around the banking sector which accounts for 88% of the financial market. The banking sector is primarily engaged in the provision of traditional services with current accounts and debit cards being the most prevalent. During the period under review, remote onboarding was not permissible under the AML/CFT Law, and customers were strictly onboarded in person. Banks also play a central role in all MVTS operations and currency exchange conducted in the country.

488. Preventive measures extend to all categories of FIs with only minor shortcomings. The following are subject to AML/CFT obligations only when conducting activities with an authorisation: (i) insurance companies for life insurance business; and (ii) currency exchange offices. Issuing financial commitments is not subject to AML/CFT obligations.

489. There are also minor shortcomings in the scope of application of CDD measures to accountants and TCSPs. Accountants are subject to the AML/CFT Law only when registered. TCSPs (excluding lawyers and accountants) are subject to requirements only when “governed by foreign law” – when conducting activities described in the general glossary to the FATF Methodology except that the following are not covered: (i) the provision of nominee services to a company whose securities are listed on a regulated market to which data disclosure requirements apply in accordance with BiH legislation or international standards; and (ii) legal arrangements other than trusts.

490. Whilst VASP activity was not covered by the AML/CFT Law until during the on-site visit, AML/CFT requirements were imposed earlier in the assessment period in the RS through the Securities Market Law. There was no equivalent legislative framework governing this area in FBiH and BD.

### ***5.2.1. Understanding of ML/TF risks and AML/CFT obligations***

491. Banks and VASPs were actively involved in the NRA process and were able to demonstrate a good understanding of ML/TF risks and AML/CFT obligations. Understanding among other obliged entities varies according to the sector and size of the entity - with FIs, except currency exchange offices, generally exhibiting better comprehension compared to DNFBPs. Most DNFBPs, including notaries, dealing in, or with, the real estate sector or providing services to legal persons, did not recognise the relevance to their business of some of the main risks identified in the NRA.

#### ***Understanding of ML/TF risks***

##### ***Financial institutions***

492. Banks conduct business risk assessments which cover, inter alia: (i) types of customers; (ii) products and services offered; (iii) distribution methods for those products and services; (iv) jurisdictions in which products and services are offered; and (v) risk appetite. The latter involves identifying customers that would not be accepted under any circumstance. Assessments are refreshed on an annual basis, at a minimum, and a copy presented to the bank’s supervisory board and supervisor. When the bank forms part of an international group, risk assessments generally also follow group-wide templates or guidelines.

493. Methodologies used by banks for business risk assessments, in general, are fair and sound. The adequacy of this risk assessment is examined by supervisors who have found shortcomings in: (i) assessment of new technological advancements; (ii) definition of risk parameters, e.g., products and services covered; and (iii) recognition of risks identified in the NRA. No systemic issues have been identified by supervisors. Based on off-site and on-site supervision, banking supervisors have found that banks have a good understanding of ML/TF risks and are aware of higher risk indicators.

494. Banks use risk matrices to attribute a risk score to every customer. These matrices cover risks assessed at business level, with an emphasis on customers’ political exposure and links to high-risk jurisdictions. Customers are assigned a risk score at the time of onboarding which is then refreshed periodically at varying intervals (depending on risk). This process is automated and systematic in all banks - using risk scoring and customer profiling software. Certain changes within a customer’s profile or transactional activity may also trigger automated risk upgrades.

495. Business and customer risk assessments are conducted also by MCOs, lenders, securities firms, and insurance companies, intermediaries and agents. Customer risk assessments are reviewed regularly depending on the customer's current risk rating and any changes in circumstances. Whilst the focus of currency exchange offices and postal service operators is limited to an assessment of transactional risk, these offices operate under contracts with banks and so these activities are assessed at bank-level. Supervisors for the securities and insurance markets consider that obliged entities have a good understanding of ML/FT risks. From inspections, supervisors were also able to confirm that there are no systemic issues, and that business and customer risk assessments are regularly performed.

496. Some larger banks, insurance companies and MCOs participated directly in NRA/NRA Addendum Working Groups considering ML vulnerabilities through their professional bodies and so have first-hand experience of the national risk assessment process and results. For other FIs, input into the NRA and NRA Addendum was limited to providing responses to detailed questionnaires distributed by supervisors, including information on the volume and average size of transactions, number of customers by risk group, number of STRs made, transactions with high-risk countries, and transactions with PEPs. All banks responded to the questionnaires and no gaps were identified in management information available to senior management to assess ML/TF risk. The level of involvement of smaller FIs (such as currency exchange offices) in the assessment of national risk was minimal. Overall, FIs had a good understanding of national and sectoral risks and agreed with findings of relevant sectoral risk assessments.

497. Banks have a clear view of their ML risk exposure, and they were able to articulate specific scenarios and typologies which were also highlighted in the NRA and NRA Addendum. These include: (i) ML schemes through the real estate sector, especially when deals are settled or partly settled in cash; (ii) risk of corruption involving PEPs; and (iii) misuse of legal persons (e.g., transfer of funds through fictitious loans, activities beyond intended ones). Banks were also generally informed on the risks associated with use of cash, particularly in relation to tax evasion, and acknowledged challenges to ascertaining source of wealth. Banks were also cognisant of TF risk, especially when dealing with NPOs or providing MVTs. In fact, one bank terminated its MVTs business due to TF risk. Notwithstanding, the general view across banks is in line with the national risk understanding, and TF risk is not considered to be elevated.

498. Except for currency exchange offices, other FIs demonstrated a good level of understanding of the ML/FT risks to which they are exposed, which are broadly in line with national assessments. Despite their low-risk rating, insurance companies were also able to elaborate on specific typologies through which their products can be misused.

#### *DNFBPs*

499. Some lawyers and notaries participated directly in NRA/NRA Addendum Working Groups considering ML vulnerabilities through their professional bodies and so have first-hand experience of the national risk assessment process and results. Other parts of the DNFBP sector were not directly involved in the NRA process and information for assessments was instead sought from supervisors or professional associations. In the gambling sector's case, statistical information and risk indicators from businesses were solicited through questionnaires.

500. Understanding of national risk was mixed. Whilst the majority of DNFBPs were aware of the NRA process, institutions in two sectors with a high ML vulnerability score had not been informed about the findings of the NRA with one institution admitting that their knowledge of the

exercise and key findings had been limited to publicly available information. Generally, notaries were aware of the NRA and its findings. Overall, there was not full agreement on national risks. One operator of games of chance identified higher risks linked to the prevalence of the use of cash and the high level of corruption, whilst another instead focused on lower risks linked to terrestrial gambling. DPMS did not agree that their sector presented a high vulnerability given low transaction values in retail outlets.

501. While acknowledging their exposure to high-risk clients, notaries were confident that the levels of control in place mitigate such risks. Cash and involvement of PEPs are the highest areas of risk for notaries, but reliance is placed on the fact that the client base is primarily domestic. A more holistic business and customer risk assessment process is lacking.

502. The assessment of business risk amongst other DNFBPs is very limited. Except for accountants and online gambling, methodologies used for assessing customer risk are not fully developed and largely confined to assessing transaction value, political exposure, and the involvement of high-risk jurisdictions. These risks are typically viewed in isolation, lacking a comprehensive view that considers broader contextual matters and other risk factors (e.g., ownership structure, customer risks beyond political exposure). An online gaming operator met has an automated risk scoring system used at onboarding to determine customer risk based on which highest risk customers can be rejected.

503. Overall, the level of risk awareness and understanding of DNFBPs is limited. Most dealing in, or with, the real estate sector or providing services to legal persons did not recognise the relevance to their business of some of the main risks identified in the NRA, namely use of “fictitious” companies set-up by foreigners, real estate transactions, and corruption. Accountants were a notable exception demonstrating a more mature risk understanding and able to share first-hand experience of the misuse of legal persons.

#### *VASPs*

504. VASPs were involved directly in the Working Group that has developed a dedicated risk assessment on ML/FT associated with VAs. They had a good level of understanding of both national and sectoral risks and were able to identify the main predicate offences presenting a national threat.

505. VASPs had a good understanding of business risk and were able to articulate how they could be misused for illicit purposes, e.g., laundering of the proceeds of internet fraud, Ponzi schemes, and the use of money mules and were aware of the risk associated with techniques used to promote anonymity such as tumblers, mixers etc.

#### *Understanding of AML/CFT obligations*

##### *Financial institutions*

506. Banks, in their dual capacity as providers of conventional banking services and agents of MVTs operators, had a clear understanding of their end-to-end AML/CFT obligations, both at the time of on-boarding and on an ongoing basis. Other FIs’ level of awareness of their AML/CFT obligations varied in line with their size, business model, and customer base but overall, they have a reasonable understanding of their CDD obligations and good awareness of record keeping obligations. Despite having a less developed understanding, currency exchange offices are familiar with the core know-your-customer principles and their operations make use of bank

software, allowing banks to check that there is a good understanding also of screening and (to the extent relevant) monitoring.

507. Based on off-site and on-site supervision, banking supervisors have found that banks have a good understanding of AML/CFT obligations. Supervisors for companies operating within the securities and insurance sectors consider that the entities they oversee are adequately informed of their AML/CFT obligations.

508. Postal operators offering MVTs, and foreign currency offices were not aware that CDD must be applied to all transactions under the AML/CFT Law in force during the period under review, which did not set thresholds under which measures did not apply.

509. FIs showed a common understanding of how they would apply TFS immediately and this was deemed to be in line with expected standards.

#### *DNFBPs*

510. DNFBPs' level of awareness of their AML/CFT obligations is mixed. Notaries understanding of high-level obligations was reasonable with emphasis being placed on the immediate source of funds. Notwithstanding, a stronger comprehension of obligations to understand the purpose and nature of transactions was lacking, especially when transactions are executed via banks. Other sectors also failed to demonstrate a clear understanding of their end-to-end obligations, especially when it comes to understanding source of funds and, where relevant, wealth, with some sectors placing reliance on banks whenever the client is also serviced by the same. For DPMSs and real estate agents, their understanding is confined to the identification and verification of clients.

511. There are different interpretations of CDD requirements applying to operators of games of chance. In determining whether CDD thresholds have been passed, some consider deposits and winnings together, whereas others consider only payouts. One operator also acknowledged that it is not possible to link transactions carried out by the same player across different sessions and different branches. This is not in line with legislation.

512. DPMS were not aware that CDD must be applied to all transactions in force during the period under review.

513. Most DNFBPs were aware of TFS obligations, i.e. with the concept of freezing and reporting to the Ministry of Security - BiH. Operators of games of chance did not demonstrate effective application of TFS and were not clear about the legislative framework in place in BiH.

#### *VASPs*

514. VASPs have a good understanding of their AML/CFT obligations. Besides the process of identification and verification, they were versed on requirements for source of wealth and funds and monitor transactions. VASPs had a shared understanding of how they would apply TFS immediately.

515. VASPs were not aware of the prohibition on establishing relationships or transactions remotely (i.e., on a non-face-to-face basis) in force during the period under review.



### *5.2.2. Application of risk mitigating measures*

516. FIs, DNFBPs, and VASPs have implemented AML/CFT measures to mitigate ML/TF risks to varying degrees. Banks apply an effective approach, other FIs did not clearly demonstrate the application of mitigating measures commensurate with risk, and DNFBPs and VASPs are more threshold-driven and so measures do not adequately correspond to ML/FT risks. Notaries limit risk mitigation to a decision on whether to act for customers purchasing property in cash.

#### *Financial institutions*

517. Banks demonstrated to a reasonable extent that mitigating measures are calibrated according to ML/FT risk. Customers are classified into risk groups at the time of on-boarding (generally low, medium and high) and this determines the extent and frequency of due diligence measures, including monitoring during the customer lifecycle, with the potential to upgrade or downgrade customer risk assessments if there are any changes in circumstances.

518. Most banks have clearly articulated their risk appetite. Motivated mainly by group policies, major banks mitigate risk by categorically refusing to do business with customers engaged in specified activities, e.g., gambling, adult material, VAs, or production of weapons and military equipment, due to the perceived level of risk (ML/TF or otherwise, e.g. reputational risk). In line with this approach, one bank had cancelled its contract with a MVTs operator in 2021 due to a concern about TF risk linked to typical transaction profiles (small amounts to/from unrelated persons, countries linked to terrorism and unknown source of funds). While such a blanket approach is not entirely endorsed by supervisors (they maintain that banking services should be widely available), the issue is not considered to be a significant one as banks tend to have different risk appetites which would cater for different customer types and so do not entirely close the market to particular types of customers. Banks had also identified “red flags” which, when detected, would lead to the application of EDD measures, e.g.: (i) difficulties obtaining evidence of identity or ascertaining the source of funds to a satisfactory degree; and (ii) detecting non-resident companies issuing bearer shares in ownership structures.

519. Banks outlined specific measures applied to counter their exposure to ML/TF risks, including: (i) limiting or disabling cash deposits; (ii) applying specific transaction monitoring thresholds and scenarios; (iii) ascertaining and corroborating the legitimate source of funds and wealth; (iv) verifying prices and analysing transactional complexities when involved in international trade financing; and (v) developing an internal blacklist of past customers or counterparts which had exhibited suspicious characteristics.

520. Banks apply measures which help to mitigate risk in other sectors. To mitigate the risk presented by using cash, DPMSs explained that banks require details of source of funds for any cash deposits equal to or above a particular threshold, e.g. BAM 2 000 (approximately EUR 1 000) in the form of a written statement evidencing the daily turnover of the DPMS. If a second higher threshold is reached, not more than BAM 20 000 (approximately EUR 10 000), banks would also require proof of identification of customers paying by cash, however, in practice, such threshold is rarely or never attained. And as VASPs must open customer accounts with domestic banks to process or exchange BAM-denominated funds, then the risk that is presented by their activity is mitigated to some extent by the application of CDD measures to underlying customers by both VASPs and banks.

521. There is no exemption in legislation allowing banks to operate customer accounts (pooled or designated) without full information and evidence of identity for underlying third parties, and use of such accounts is not widespread, in part due to the under-developed nature of the securities market in BiH. Notwithstanding, one notary acknowledged situations involving foreign clients where only the name of the client had been disclosed to the bank (as other information was deemed to be confidential). The use of customer accounts at banks was also mentioned by a securities broker, which shares underlying contracts for transactions of BAM 10 000 (approximately EUR 5 000) or more processed through its client account with the bank. The AT is concerned that the risk of banks servicing undisclosed third parties through the operation of pooled client accounts is not fully recognised.

522. The extent to which risk drives the application of mitigating measures by other FIs varies. The securities sector did not clearly demonstrate how mitigating measures would vary in practice depending on risk. Notwithstanding, the AT acknowledges that the level of activity in the sector is limited hence applying a risk-based approach rather than a linear one may not necessarily yield significant benefits. Whilst measures in place in the insurance sector do vary, this is limited to frequency for conducting ongoing due diligence. Practice varied amongst lenders. One that was part of an international group provided practical examples of how controls would vary depending on risk (e.g., higher management approval and external searches), whereas mitigating measures for another domestic operation were driven by PEP status (if applicable) and credit risk. Additional measures are applied by currency exchange offices where the approach is systematic and mostly threshold driven.

523. Statistical information on regulatory breaches identified by supervisors regarding the implementation of mitigating measures was not provided to the AT.

#### *DNFBPs*

524. Risk mitigating measures employed by DNFBPs do not adequately correspond to ML/FT risks.

525. Notaries and real estate agents limit risk mitigation to a decision on whether to act for customers purchasing property in cash. Whilst practice varies, some do not allow foreign clients to purchase property in cash and others refuse to act for any client wishing to conduct a transaction in cash.

526. Application of mitigating measures amongst the legal sector is mixed. One firm outlined the need for detailed analysis to validate BO for higher risk corporate clients, whereas others were less nuanced with measures linked to thresholds (source of funds and wealth required for involvement in deals above certain limits) or involvement of PEPs. One lawyer also specified that additional proof is required when deals are settled in cash (e.g., certified copies of inheritance documents or employment contracts) whereas confirmation from banks would suffice if the deal were settled via a bank. Accountants did not demonstrate the systematic application of mitigating measures based on risk except where PEPs are involved which may require higher management approval.

527. Organisers of games of chance did not demonstrate the application of appropriate risk mitigating measures. Monetary thresholds are most often the main driver behind the level of controls applied. Whilst one operator - part of an international group - had a more systematic approach to assessing customer risk it did not demonstrate the application of risk-based

measures beyond dealing with PEPs. Another larger operator explained that it did not have a mechanism to link customer activity across its branches, which undermines the application of mitigating measures.

528. DPMS do not vary their approach given the low value of purchases and increased use of card payments which reduce risk in the sector. In fact, none had needed to establish the source of funds/wealth of a customer and would do so only for transactions over a threshold, BAM 30 000 (approximately EUR 15 000) being given as an example.

#### *VASPs*

529. Risk mitigating measures amongst VASPs are largely threshold-driven based on internal procedures. By way of example, more detailed customer information would be collected for customers with transactions at or over BAM 2 000 (approximately EUR 1 000) and a statement on source of wealth would be collected for transactions exceeding BAM 30 000 (approximately EUR 15 000). Whilst these are good mitigating measures, they are more prescriptive, and less risk based.

### ***5.2.3. Application of CDD and record-keeping requirements***

530. All FIs and VASPs apply CDD measures adequately, with banks taking a more comprehensive, risk-based approach, while other FIs apply threshold-driven measures. Despite rigorous onboarding and ongoing due diligence processes, some banks were unable to provide clear examples of how CDD measures had led to customer refusals or termination of existing relationships, and this requires additional supervisory analysis. DNFBPs show varying levels of CDD application, with notaries, accountants, and lawyers adhering well to identification and verification principles, though not always aligned with risk. Other DNFBP sectors demonstrate more limited application of CDD measures. Except for DPMS, all obliged entities apply record-keeping requirements to a sufficient degree.

531. Throughout the period under review, it has been a legal requirement to conduct onboarding on a face-to-face basis. This was confirmed during meetings. As a result, the customer base is chiefly comprised of resident customers which facilitates identification and verification. Further, reliance has not been placed on third parties in the way that is permitted under R.17. Accordingly, the application of identification and verification measures by is generally a straightforward process.

#### *Financial institutions*

##### *Application of CDD measures*

532. Besides customer identification and verification, most banks routinely request information on source of funds and source of wealth through questionnaires. For higher risk customers, supporting documentation is also requested. For legal persons, contracts, invoices, and financial statements may be requested. In real estate transactions which are settled or partly settled in cash, some banks place reliance on the notary involved in the transaction to establish sources, which is not considered to be sufficient given the risks identified in the NRA for real estate transactions. This practice varies across the sector and other banks apply further verification measures in line with their internal policies and procedures. Extensive use is also made of external data sources to determine whether adverse information is held about a

customer, BO or other person with a connection to a relationship. Banks generally make use of dedicated compliance screening software to determine adverse media, political exposure, and TFS links in relation to their customers and other related parties. The use of such software while adhering to EDD measures on PEPs and TFS is explored in the next section.

533. Case studies presented by supervisors highlight cases where banks did not adequately implement customer identification policies and had not: (i) updated the documentation held for existing relationships; (ii) verified the identity of the person representing a legal person or the BO; and (iii) determined source of funds. However, these shortcomings are not considered systemic by the supervisor.

534. All FIs were able to articulate who they would consider to be the BO of a customer that is a legal person, notwithstanding some ambiguity in the definition of BO in AML/CFT legislation that applied during the period under review. No issues were identified in finding out who is the BO of a legal person and complex ownership structures are not common. However, many FIs linked ownership to shareholding thresholds in the AML/CFT Law (above 25%) and so may not be fully equipped to obtain and hold complete BO information in more complex cases.

535. FIs outlined the process followed to verify legal persons' existence and ownership, including the documentation required to corroborate customers' declarations. Whilst the AML/CFT Law in place during the observed period permitted ownership verification based on self-declaration by the customer in the case of lower risk, in practice, this was rarely pursued. Approaches varied, but most FIs mentioned using court registers as the primary source of information along with founding documents. The importance of understanding the envisaged activity and intended purpose of an account was highlighted by some banks.

536. Despite rigorous onboarding and ongoing due diligence processes, some banks were unable to provide clear examples of how CDD measures had led to customer refusals or termination of existing relationships (e.g. activity which was not in line with profile). This finding may be linked with a tendency highlighted in the NRA for banks to maintain relationships with customers despite reporting executed transactions as suspicious. This finding is supported by the number of refusals to open or terminate accounts during the assessment period which is considered by the AT to be low compared to the size of the market - with the exception of one year in FBiH<sup>52</sup>. Whilst the low number may be partly explained by the fact that customer relationships have been established on a face-to-face basis and the market is chiefly domestic, a more thorough supervisory understanding of these issues is needed to ensure that compliance teams are equipped and empowered to take proportionate and decisive actions, including those necessary to address heightened risks.

537. In the case of business entities, the low level of declined or terminated business may also reflect competing legal provisions whereby: (i) all legal persons established in BiH must – by law - establish and operate a bank account in the country (considered further under IO.5); and (ii) it is generally an offence for a bank to close a legal person's account without their consent. In

---

<sup>52</sup> Between 2019 and 2023, supervisors reported: (i) 153 cases of customer refusals and 6 625 cases of terminated business relationships in FBiH; and (ii) 120 cases of customer refusals and 187 cases of terminated business relationships in RS, due to incomplete CDD. There was a spike in the number of terminated relationships in FBiH in 2020 and was linked to customers unwilling to provide updated CDD documentation during the COVID-19 pandemic.

practice, supervisors and banks share the view that these requirements do not impact significantly on bank decisions to terminate a relationship since funds on a terminated account tend to be transferred to another bank in BiH. Notwithstanding, these conflicting provisions may create uncertainty and it is noted that, in 2021, the right to have a bank account was tested in the courts when two banks terminated the accounts of a VASP. The legal position that now prevails has not been clearly explained.

538. Banks outlined sophisticated and automated transaction monitoring systems that had been put in place, including the use of dedicated scenarios to deal with risks particularly relevant to the country, including: (i) anomalous activity for cash-intensive operations; (ii) potentially fictitious loans between companies; and (iii) transactions potentially indicative of TF (e.g., receipt of small amounts into several accounts). These systems screen all customer-related transactions and flag suspicious transactions for further analysis while providing an opportunity to suspend a transaction in real-time. Notwithstanding, the supervisor has identified shortcomings in transaction monitoring systems, more specifically for electronic banking, use of foreign payment cards, transactions between customer accounts, and inadequately definition of the process of monitoring transactions executed through global MVTs. These shortcomings are not considered systemic by the supervisor.

539. Basic CDD information is collected for transactions conducted by postal operators offering MVTs and currency exchange offices. Otherwise, the application of additional CDD is largely threshold-driven, e.g., the collection of identification documents at BAM 5 000 (approximately EUR 2 500) and information on source of funds at BAM 30 000 (approximately EUR 15 000). Given that currency exchange offices must operate under a contract with a bank, CDD is conducted using banking software and overseen by banks – at the time of the transaction and on a quarterly basis. Banking software allows currency exchange offices to link customer transactions and to perform checks against external data sources. Supervisors have identified a case where a bank did not carry out a regular review of currency exchange activities conducted under contracts. However, these shortcomings are not considered systemic by the supervisor.

540. The application of CDD obligations by other FIs varied depending on the complexity of the business model and customer base. Lenders demonstrated a more developed application of measures.

541. Many FIs are subsidiaries of European groups registered abroad. There is a good level of knowledge sharing within these groups with the aim of improving CDD controls. Examples of good practices include: (i) sharing of information on common group customers; (ii) discussing common ML/FT typologies; and (iii) use of common internal blacklists to ensure that a customer turned away from one part of a group does not turn up in another part.

542. Reasons given for making STRs are considered further below and may be indicative of some deficiencies in the application of CDD measures since they do not align with threats identified in national risk assessments.

#### Application of record-keeping requirements

543. Banks use advanced record management systems and keep records for the necessary period. Such systems have been covered by internal audit reviews to highlight potential issues and areas for improvement. Other obliged entities under the Banking Agencies' jurisdiction follow similar processes. Securities companies have systems in place which facilitate record

keeping in electronic format in line with AML/CFT obligations. Insurance companies also apply record keeping requirements to a satisfactory degree in line with AML/CFT obligations.

544. Supervisors have identified some irregularities linked to record keeping of transactions. However, these shortcomings are not considered systemic by the supervisor. Supervisors also confirmed that information sought is readily available and provided in a timely manner. As outlined in Chapter 7 (IO.5), LEAs generally provided good feedback on the quality and completeness of information held by the private sector. As outlined in Chapter 3 (IO.6), the FIU expressed satisfaction, overall, with the quality of information provided by the private sector (IO.6).

#### *DNFBPs*

##### *Application of CDD measures*

545. The application of CDD obligations varies amongst DNFBPs. Accountants, lawyers, and notaries are well tuned to the core principles of identification and verification for both natural and non-natural persons and enhanced or specific measures are adequately applied for PEPs and TFS as explored in the following section. Understanding of source of funds is deemed to be more challenging and reliance is often placed on banks when these are also involved in the transaction. Application amongst some real estate agents, operators of games of chance and DPMSs is generally more limited. Inconsistencies in the application of CDD may be attributed to the fact that the level of supervisory scrutiny is generally lacking for the DNFBP sector in comparison to the FI sector.

546. Except in the case of real estate agents, DNFBPs establish the BO of customers that are legal persons. Practical application varies from placing reliance on client declarations to use of online business information aggregators (by accountants).

547. Where business is accepted, CDD measures applied by notaries and lawyers are not always commensurate with the risk and, in some cases, confined to identification and verification of identity (overlooking source of funds and purpose for the transaction). Application amongst accountants is mixed. One dealing with foreign-owned companies applies a blanket approach to ongoing checks, which are conducted every three years regardless of risk and requests information on source of funds only when a PEP is involved. While it is generally accepted that the responsibility lies with the customer to inform the obliged entity first of any changes in ownership, the three-year delay to perform an AML refresh at a set frequency for reviewing customer information is not necessarily in line with a risk-based approach and, in higher risk cases, could potentially lead to obsolete information being held. Others apply commensurate measures, especially when dealing with legal persons.

548. Application of CDD amongst real estate agents is rather elementary. Whilst both the buyer and seller of property are generally identified and verified, BO of legal persons is not always established and verified, notwithstanding the higher risks present in this sector and use of companies by foreigners to purchase property in BiH. Enhanced measures for scenarios identified in the next section were also deemed to be lacking.

549. Application of CDD for operators of games of chance is largely based on monetary thresholds stipulated in law. Practice varied amongst operators. At one end of the spectrum, one provider: (i) conducted initial checks to determine whether players had a history of gambling with the operator; (ii) registered every transaction in a central database; (iii) connected players

across separate gaming sessions to determine whether monetary thresholds had been reached; and (iv) screened names against internal lists. At the other end, one operator dealing primarily in cash did not conduct any further CDD on large payouts of cash (more than BAM 10 000 (approximately EUR 5 000) since it did not believe that it was their responsibility to do so. Another operator also recognised challenges in monitoring the same player's activity across multiple locations. Client refusals are generally low. An element of uncertainty also existed at one operator as to whether they have the necessary remit to close an account based on suspicion without the explicit greenlight from the FIU.

550. Given the value of transactions (which do not exceed BAM 10 000 (approximately EUR 5 000), thresholds set in the FATF Standards to apply CDD measures do not often apply in the DPMS sector. Nevertheless, under legislation in place throughout the period of the assessment, CDD measures were required.

#### Application of record-keeping requirements

551. Except for DPMSs, all DNFBPs apply record-keeping requirements.

552. In 2020, the Agency for the Protection of Personal Data banned an online gaming operator from requesting a copy of identification documents from players when registering and verifying their account. In response, the operator deleted all identification records in order not to be penalised. The effect of the ruling more widely on the application of identification measures and record-keeping requirements by online operators of games of chance is unclear.

#### *VASPs*

#### Application of CDD measures and record-keeping requirements

553. VASPs apply a systematic approach to CDD and record-keeping including: (i) identification and verification of customers at time of onboarding; (ii) obtaining additional details and understanding source of funds if an initial (internal) threshold is reached; and (iii) determining source of wealth through a customer declaration and supporting documentation if a second higher (internal) threshold is reached. In higher risk situations, including when dealing with foreign nationals, additional identification documents may be required. Other measures (including, understanding of source of funds and purposes of transactions) are lacking when customers exhibit risk factors other than those linked with the value of activity per se. The supervisor for VASPs in RS was unaware of the above-mentioned data protection ruling and so it does not appear to be impacting VASPs, even though their operations are conducted on-line. A review of policies and procedures by the supervisor during the licensing process did not highlight any issues with respect to record keeping. Notwithstanding, supervisory visits are planned for last quarter of 2024, hence the supervisor's view is momentarily limited to said desktop review.

554. Where relevant, sophisticated blockchain analytics software has been used to detect potential illicit activity linked directly or indirectly to customers or counterparts.

555. VASPs enable remote onboarding, either via an ATM or via an online portal, which was not in line with CDD requirements applied during the period under review.

#### **5.2.4. Application of EDD measures**

556. FIs apply specific and EDD measures to a satisfactory degree with some deficiencies noted in smaller FIs' application of measures related to PEPs and higher-risk jurisdictions. Application



of specific measures or EDD among DNFBPs varies with some shortcomings noted on requirements related to PEPs (including for notaries), TFS (particularly with real estate agents and DPMSs), and high-risk jurisdictions. Overall, outside the banking sector, the application of EDD measures to PEPs is not satisfactory. VASPs implement applicable EDD measures to an adequate level.

#### *Financial institutions*

##### PEPs

557. R.12 in the TC Annex notes that the definition for family members does not cover siblings or stepchildren, and the definition for close associate does not cover persons that are connected socially or politically to a PEP. Taking account of the risk presented in BiH by corruption, such provisions present significant vulnerabilities.

558. Banks demonstrated the most systematic approach to dealing with PEPs (including family members and associates). An individual's PEP status is determined through two sources: (i) self-declaration included in CDD forms; and (ii) use of globally renowned screening solutions which cover both foreign and, to some extent, domestic PEPs. Local media sources were also mentioned as a supplementary check to identify links to domestic PEPs. These checks are applied to customers, BOs, and persons acting for the customer, and are carried out at the time of onboarding and on ongoing basis afterwards, including when the customer is due for a CDD update. Clients having a PEP status are classified as high-risk and subject to a range of EDD measures in line with R.12.

559. Amongst other FIs, similar measures to the above are applied, though there is a tendency to rely on self-declarations to determine PEP status, given that the market is focussed domestically, and hence domestic PEPs should be known to them. Such an approach may overlook the complex political system in BiH and does not properly deal with family members and associates. Moreover, self-declarations may also be relied upon when it comes to source of wealth with no evidence being collected to substantiate it.

560. A small number of FIs also make use of the publicly available register maintained by the Central Election Committee which contains an overview of the assets and income pertaining to candidates elected at all levels of authority in BiH. Whilst useful, this register does not extend to family and associates of candidates.

561. One bank observed that the absence of a register of domestic PEPs limited its ability to determine a customer's PEP status.

##### Correspondent banking

562. Whilst most banks offer correspondent banking services, the total number of respondents is rather low, and they are generally based in neighbouring countries (with strong connections to BiH). Not all banks enable payable-through accounts.

563. Banks providing such services are doing so in line with the requirements of R.13. In addition, the ownership structure of a respondent bank is considered when assessing risk. There is ongoing monitoring of respondent relationships which are subject to periodic reviews. Transactions are screened using the correspondent's system. Data on correspondent banking is submitted to the banking supervisors at least once a year through a questionnaire. During the

period under observation, supervisors did not identify any weaknesses in relation to correspondent banking.

564. Given the underdeveloped nature of the securities market, correspondent services are not offered in that sector.

#### New technologies

565. Banks and other FIs often use more traditional service models (branch-based with regular customer contact). This is partly attributed to the prohibition on remote onboarding in place during the assessment period (until the on-site visit). Notwithstanding, those FIs which make greatest use of new technology and innovation (particularly banks) assess risk when launching a new product or changing an existing one. Compliance functions are actively involved in this process prior to launch. Dedicated transaction monitoring systems are also in place to monitor activity conducted through electronic banking.

566. Supervisors identified a case where a bank had not clearly defined transaction monitoring parameters in relation to the use of new technology (e.g., use of prepaid cards). However, these shortcomings are not considered systemic by the supervisor.

#### Wire transfers rules

567. Throughout the assessment period (until the on-site visit), non-bank FIs were not required to collect, hold and transmit required beneficiary information. In practice, there has not been a gap since banks are involved directly or indirect in all MVTs (on a proprietary basis of as agent for a global MVTs provider). Specific requirements were not placed on intermediary or beneficiary FIs.

568. Banks (including ones that act as agent for global MVTs) are generally following the requirements of R.16 and: (i) include required originator and beneficiary information in transfers; and (ii) reject execution of a transfer if there is insufficient data accompanying the transaction. Some also highlighted the need to consider making a STR to the FIU. Postal service operators providing MVTs do so as sub agents of banks, hence these findings are also applicable to transfers occurring through such channels.

569. Supervisors shared statistics on the number of incoming transactions refused in 2020 and 2021, which was 308. This is a low number of rejections, relative to the number of transactions that are processed. While the authorities consider that the low number of refusals reflects the location of originating or intermediary banks (almost entirely within the EU), it may also suggest deficient controls over the review of accompanying data.

#### Targeted financial sanctions relating to TF

570. The sophistication and automation of screening systems by FIs are aligned with the volume of activity that is undertaken. Checks are applied to customers, BOs, persons acting for the customer, and counterparts to a transaction - through integration with transaction monitoring solutions.

571. Banks apply the most advanced approach screening customer databases at the time of onboarding and thereafter on at least a daily basis. Automated screening of transactions happens in real-time allowing transactions to be rejected where there is a match. Numbers of "false

positive” matches depend on system calibration and thresholds, however, matches have been reviewed and addressed on a timely basis.

572. Application of TFS requirements by other FIs is mixed. Some have subscribed to external data sources and automatic screening solutions, whilst others - with lower numbers of relationships and transactions - manually screen at time of onboarding and in some cases periodically thereafter - based on lists provided by relevant supervisors or ministries. Currency exchange offices are alerted to potential hits through bank software - which has been explained above.

573. In practice, there have been no positive matches but FIs explained that they would: (i) freeze the funds of the customer and not perform any transactions for the benefit of a listed person or entity; and (ii) inform the Ministry of Security - BiH, without delay.

#### Higher-risk countries

574. All FIs, except smaller FIs, consider the connection with a high-risk jurisdiction to be a critical component when evaluating customer or transaction risk. The Council of Ministers – BiH publishes a list of jurisdictions that are to be considered as presenting a high-risk, which includes those covered by an FATF call to apply CDD measures (i.e., on the FATF "blacklist").

575. Where there is a connection, EDD measures are applied. Banks apply a more systematic approach, including, enhanced and dedicated transaction monitoring scenarios (including suspension or stricter thresholds depending on the jurisdictions involved), more detailed analysis of the business relationship, and compliance approval before a transaction can be processed (for transactions above certain thresholds).

576. Smaller FIs do not take country risk into account. The application of EDD measures is determined by thresholds, regardless of geographic risk, or not conducted at all on the basis that the FI's customer base is primarily domestic.

#### *DNFBPs*

#### PEPs

577. All DNFBPs, except DPMSs, take measures to determine whether a client is a PEP (including family members and associates). Most, including notaries, rely exclusively on self-declarations and their knowledge of their domestic customer base. Some supplement this by media checks or consultation with the Central Election Committee's register. Concerns highlighted for FIs about this approach apply also to DNFBPs.

578. The application of EDD measures to PEPs varies. Some, including some lawyers and accountants, request clients who are PEPs to fill in a form declaring source of wealth and may also obtain additional supporting evidence. Others, including notaries, do not apply EDD measures to address PEP risk (which are triggered only when monetary thresholds are exceeded or based on some red flag, e.g., use of cash).

#### New technologies

579. The use of new technology is limited or non-existent by DNFBPs. Except for online operators of games of chance, client engagement is always face-to-face, and delivery methods are long established. Online gaming operators use video verification even though onboarding can also take place in person at one of their outlets if their business model permits this.

### Targeted financial sanctions relating to TF

580. Most DNFBPs, including notaries, take measures to comply with TFS and, whilst the level of sophistication of the approach followed varies, it is commensurate with activity. Smaller DNFBPs screen manually at the time of onboarding using publicly available online resources, including the website of the Ministry of Security - BiH or lists shared by their representative bodies or supervisors.

581. Real estate agents and DPMSs do not apply measures. Operators of games of chance did not demonstrate effective application of TFS and were not clear about the legislative framework in place in BiH.

### Higher-risk countries

582. Assessment and mitigation of geographic risk is not a priority for most DNFBPs, including notaries, reflecting the largely domestic client base found in DNFBP sectors. Notwithstanding, some DNFBPs dealing with legal persons factor in the geographic risk associated with BO especially in their client acceptance policies.

### *VASPs*

583. VASPs' processes are largely threshold-driven, and the existence of a PEP connection does not materially affect measures applied. Information on PEP connections is primarily determined through a CDD questionnaire when a customer's transactions exceed a threshold, and information on source of wealth (including evidence) is collected only when a second higher threshold is passed. When it comes to new technology, one VASP explained that new VAs would only be admitted to the platform once approved by the board.

584. Obligations towards TFS are adhered to using software solutions and external data sources whereby details (customer, BO and persons acting for the customer) are checked at the time of onboarding and thereafter on a continuous basis. Transfers to or from third parties outside the platform should always bear the counterparts' identifiers and will be subject to screening, including against TFS lists.

### ***5.2.5. Reporting obligations and tipping off***

585. The reporting landscape is dominated by banks, with improvements in quality being recognised in recent years. Whilst the number of ML reports appears reasonable, triggers for bank reporting do not correlate with threats identified in the NRA. Non-bank FIs are more reactive and heavily rely on threshold-based reporting of cash transactions with insufficient consideration given to identifying whether there are any grounds for also making an STR. DNFBPs, including notaries, demonstrated a lack of understanding of reporting obligations and contribute a negligible number of STRs, even in high-risk ML sectors. They also over-rely on threshold-based cash reporting. The risk of tipping off is adequately managed.

586. Throughout the period under assessment, obliged entities have been required to report the following to the FIU: (i) suspicious transactions, funds, customers or other persons; and (ii) cash transactions exceeding BAM 30 000 (approximately EUR 15 000) - using Anti-Money Laundering Application Software (AMLS), by mail, or by courier. Some notaries have voluntarily made reports to the FIU where notarised loan agreements exceed BAM 30 000 (approximately EUR 15 000).

## Financial institutions

### Reporting obligation

587. Reporting is dominated by banks. This dominance is consistent with the: (i) sector's medium-high ML risk assessment in the NRA<sup>53</sup>; and (ii) materiality of the banking sector in the BiH economy. The number of reports by banks over the period has risen and is attributed by the FIU to the quality of supervisory interventions and training provided by the authorities. Except for postal service operators (in their capacity as sub-agents of a small number of global providers of MVTs) and MCOs (lenders), the level of reporting by other FIs has been very low or non-existent. In the case of MCOs, the NRA Addendum clarifies that the high level of reporting, which is not consistent with ML risk, stems from general low-quality reporting, and so the true level of suspicious reports will be lower. Whereas the securities sector is assessed as presenting a higher risk than the insurance sector, brokers and dealers in the former sector have reported an insignificant amount of STRs during the period under review stemming only from two banks in their custodial capacity (included within banks). In part, this can be explained by the under-developed securities market in BiH.

588. The number of TF-related reports between 2017 and 2021 is low (15 – all from banks). However, banks are aware of TF risks and red flags and conclusions of national risk assessments and put the low number of reports down to low exposure to high-risk countries, NPOs, and returning FTFs. Supervisors consider that the number of STRs is consistent with the limited or non-existent use of banks in investigated cases. However, this is not in line with the NRA which, along with MVTs and the real estate sector, identifies the banking sector as presenting the greatest TF threat.

**Table 5.1:** number of STRs (ML and TF) submitted by FIs to the FIU

Year	2019	2020	2021	2022	2023
<b>Banks</b>	407	476	859	1 254	1 036
<b>Postal service operators (MVTs) – sub agents of banks</b>	143	129	61	81	174
<b>MCOs</b>	168	179	82	134	123
<b>Currency exchange offices</b>	2	-	10	15	14
<b>Insurance companies</b>	-	5	8	10	12
<b>Leasing providers</b>	6	7	11	2	1
<b>Other MVTs<sup>54</sup></b>	4	10	7	-	-
<b>Investment, pension funds and companies</b>	5	3	2	-	1
<b>Other</b>	-	-	-	-	2
<b>Total</b>	<b>735</b>	<b>809</b>	<b>1 040</b>	<b>1 496</b>	<b>1 363</b>

<sup>53</sup> ML risk is now assessed as medium in the NRA Addendum.

<sup>54</sup> Non-regulated service provider linked to one global MVTs operator.

589. While information on the main typologies identified in, or through, STRs, has not been provided, the FIU believes that reports are generally in line with the type of ML observed in BiH. The main trigger disclosed to the AT for suspicion amongst banks was activity inconsistent with customer profile which indicates that monitoring systems are operating effectively, and that reporting is not purely based on adverse information, e.g., country or PEP matches, or adverse media reports. On the other hand, whilst it is not the responsibility of FIs to establish underlying predicate offences, only tax crime was highlighted in meetings as a basis for reporting by most banks, with just one mentioning corruption and organised crime. Also, the use of “fictitious” companies was not flagged as an issue by banks, despite risks identified in recent assessments. The authorities explained that, whilst highlighted in the NRA due to ongoing cases, fictitious companies are no longer considered a threat.

590. The FIU and the NRA Addendum both recognise an improvement in quality of STRs by banks in recent years. In part at least, this can be explained by: (i) introduction of an electronic system for submission of STRs equipped with validation rules (AMLS); and (ii) FI training sessions organised by the FIU. It is also noted that defensive reporting by banks is not too common according to the FIU although they have encountered a few cases where reports were triggered only after requesting information from the FI. The issue was especially prevalent with one bank and the problem was resolved through direct meetings with the institution in question.

591. On the other hand, the NRA reveals that some banks have inflated numbers by consistently submitting STRs which are not materially related to ML/TF predicates and fall outside the FIU’s remit. SIPA explained that these STRs related to minor tax and foreign exchange offences made out of an abundance of caution due to gaps in CDD information held at the time (an issue that has since been resolved).

592. Also, the NRA, case studies, and supervisory inspections have revealed weaknesses in the timing of delivery and quality of STRs submitted by banks, including: (i) reports submitted after being instructed to do so by supervisors; (ii) reports lacking relevant information and actual description of suspicion; and (iii) late reporting after the transaction has been executed. There have also been two cases where sanctions have been applied for failure to report, and delayed reporting has been identified as a potential issue (see Chapter 3 (IO.6)). However, these shortcomings are not considered systemic by the supervisor.

593. Amongst other FIs, it seems that reporting is driven by factors other than inconsistent activity, e.g., adverse media reports and failure to provide CDD. This confirms that monitoring systems are less developed than for banks. At the same time, too much reliance is placed on reporting of cash transactions to the FIU that exceed BAM 30 000 (approximately EUR 15 000) with insufficient consideration given to identifying whether there are any grounds for also making an STR. The FIU consider that more training is needed for non-bank FIs to be better positioned to detect and report. The contrast between levels of reporting of large cash transactions and suspicious activities in the securities sector is notable. Chapter 3 (IO.6) identifies that non-bank FIs are failing to provide all necessary data as part of reports.

**Table 5.2:** number of CTRs submitted by FIs to the FIU

Year	2019	2020	2021	2022	2023
<b>Banks</b>	387 446	329 279	405 994	487.615	512 069

<b>Postal service operators (MVTs)</b>	221	158	180	192	652
<b>Currency exchange offices</b>	25	15	82	213	191
<b>Insurance companies</b>	-	6	11	104	49
<b>Other MVTs</b>	6	20	14	9	14
<b>Brokers</b>	76	51	23	16	-
<b>Leasing providers</b>	4	7	11	2	1
<b>Investment, pension funds and companies</b>	-	-	1	-	1

594. The FIU provides annual feedback on submitted STRs to obliged entities which covers the status of reports that have been made (closed, under investigation etc). While FIs welcome this feedback, it may be delivered too late (up to 13 months after an STR has been made) limiting the opportunity for FIs to make improvements to reports especially when facing similar situations.

595. The FIU organises or regularly participates in training sessions in collaboration with supervisors or representative bodies during which they share reporting statistics and observed trends with the private sector. These sessions were well acknowledged and deemed to be a valuable and positive step towards enhancing detecting capabilities, particularly in the context of TF even though authorities maintain that reporting on this front was minimal due to limited exposure.

#### Tipping-off

596. The risk of “tipping-off” is adequately managed by banks through policies, training, and user access management, and there have been no cases of tipping-off by FIs during the period under assessment.

#### *DNFBPs*

#### Reporting obligation

597. Reporting by DNFBPs account for a negligible amount of STRs, including in sectors exposed to high or medium-high ML risk according to the NRA, i.e.: (i) notaries (services cover real estate transactions and legal persons); (ii) real estate sector; and (iii) lawyers (services cover real estate transactions and legal persons). This level of reporting is also inconsistent with main typologies in the NRA (real estate and misuse of legal persons). Lack of risk awareness and minimal supervisory oversight are the main contributing factors to reporting levels according to the NRA Addendum.

**Table 5.3:** number of STRs (ML and TF) submitted by DNFBPs to the FIU

<b>Year</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>
<b>Notaries public</b>	1	2	6	8	16
<b>Accountants</b>	1	-	2	-	-
<b>Lawyers</b>	-	1	-	-	-
<b>Total</b>	<b>2</b>	<b>3</b>	<b>8</b>	<b>8</b>	<b>16</b>



598. As highlighted above, DNFbps providing services to legal persons demonstrated a lack of understanding of the risks presented. Generally, DNFbps demonstrated a lack of understanding of reporting obligations. Examples were given by professionals (including a notary) of cases that should have led to a STR but were not reported because a relationship had not been established or had been terminated.

599. Lawyers acknowledged that they were not fully aware of their reporting obligations until recently and highlighted training and on-site inspections as the main motivators to improve. As a result, the bar associations have noted an increase in the number of registrations by lawyers to the FIU. One lawyer considered that legal professional privilege interferes with reporting obligations.

600. There is over-reliance in some sectors when cash is used, particularly amongst notaries (which account for the majority of CTRs), on reporting of transactions (cash or otherwise) over BAM 30 000 (approximately EUR 15 000) without adequately assessing whether there are factors giving rise to suspicion.

**Table 5.4:** number of reports (other than STRs) submitted by DNFbps to the FIU

Year	2019	2020	2021	2022	2023
<b>Notaries public<sup>55</sup></b>	2 151	1 755	1 650	2 989	2 446
<b>Casinos</b>	61	10	54	66	51
<b>Accountants</b>	1	1	2	1	-
<b>Lawyers</b>	-	1	-	-	-

#### Tipping-off

601. A notary was convicted under the CC for an act that included disclosing to their client a request to provide information to SIPA. This is not strictly a tipping-off offence.

#### *VASPs*

602. VASPs in FBiH and BD fell outside reporting requirements during the period under assessment. Relevant legal provisions obliging VASPs to report in the RS came into force in October 2022 and required VASPs to comply by January 2023. Accordingly, there were no reports up to and including 2022. Subsequently, seven STRs have been received from two VASPs, which appears consistent with the modest level of activity recorded by the authorities.

### **5.2.6. Internal controls and legal/regulatory requirements impending implementation**

603. Generally, obliged entities apply internal controls that are proportionate to risk, context and materiality. Larger institutions, especially banks, adhere to a more disciplined approach, while smaller businesses and sole practitioners, including notaries, typically opt for less formalised mechanisms, reflecting their smaller workforce size and simpler business processes. Legal or regulatory requirements do not impede internal controls of procedures.

---

<sup>55</sup> Reports submitted by notaries are not necessarily in relation to cash transactions but may relate also to any loan agreements which exceed BAM 30 000 (approximately EUR 15 000).

### *Financial institutions*

604. Senior compliance officers (authorised persons) in banks have a direct reporting line to higher management and the supervisory board. The senior compliance officer is responsible for quarterly and annual reporting on AML/CFT activities, as well as an annual assessment of the AML/CFT programme including proposed areas for improvement.

605. Internal audit functions in banks evaluate the AML/CFT programme at least once a year and report their findings to supervisors. Additionally, banks engage an external auditor to test the effectiveness of AML/CFT controls on an annual basis. Banks shared extracts of recent internal and external audit findings and these covered a wide range of obligations, including, customer risk assessments, identification and verification procedures, and transaction monitoring.

606. The NRA Addendum and case-studies shared by banking supervisors suggest that internal and external audit functions have yet to become fully effective. Areas for improvement on this front relate to scoping, quality, and frequency.

607. Banks recognise the significance of training and offer a diverse range of training and development opportunities to cater for various needs, including, self-paced training through e-learning platforms, in-house training, and external training. Banks acknowledged shortcomings in training programmes, particularly in relation to CDD processes, which were highlighted in the NRA Addendum and by supervisors, and improvements have been made on this front. The NRA Addendum also highlights that training has had a positive impact on the quality of STRs (based on feedback from the FIU).

608. Banks adopt a strict employee screening process at the time of recruitment which includes fit and proper checks, e.g., absence of a criminal record.

609. Approaches adopted by other obliged entities differ. FIs supervised by banking supervisors have internal and external audit reviews. Other larger FIs have internal audit functions in place which cover AML/CFT obligations to various extents either through dedicated audits or as part of wider audits. Smaller institutions generally rely on written procedures in place since more sophisticated internal controls, including the three-lines of defence model, are not logically possible. Training and development programmes also vary with smaller institutions and sole practitioners relying on provision of training by supervisors, representative bodies, or the FIU.

610. Where obliged entities form part of groups, group policies also apply. In case of conflicts with domestic AML/CFT regulations or guidelines, the stricter of the two will prevail. Good practices in knowledge sharing among groups were identified, including sharing of internal blacklists, and using BO information for common customers.

### *DNFBPs*

611. Except for larger accounting firms and gaming operators, internal controls at DNFBPs are less sophisticated due to simpler business processes, however, they are commensurate with their level of risk. Larger accounting firms and gaming operators generally have an internal audit function in place and a fully-fledged AML function which reports to the board. Other DNFBPs, generally have a dedicated compliance officer, when the number of resources permit this, and written procedures.

#### *Overall conclusions on IO.4*

612. Banks demonstrated a good understanding of ML/TF risk - based on which they applied targeted and commensurate AML/CFT controls, including EDD measures to counter higher risk scenarios. There are no significant concerns with the number of reports, although there have been issues with quality and timing, with improvements in the former recognised in recent years. On the other hand, low levels of account refusals and terminations raise some concerns, as do the reasons given by banks for making STRs which are not consistent with threats identified in the NRA or NRA Addendum. Overall, a level of improvements between moderate and major are needed in the banking sector, the most important financial sector by some way.

613. Ranked as an important sector because of its gate-keeper role for real estate and legal persons, public notaries' risk understanding, level of AML/CFT measures, and reporting are not sufficiently developed or applied. The sector fails to recognise the relevance of the main national risks to their business. CDD measures tend to be more prescriptive or limited to identification and verification. Despite the sector's inherent risk (especially in relation to real estate deals), the reporting of suspicious transactions is extremely low. Fundamental improvements are needed in this sector and the AT attaches significant weighting to this finding.

614. Varied understanding and application of AML/CFT measures was noted across other FIs and DNFBPs, with the former generally demonstrating a more developed approach. Certain shortcomings in relation to notaries were also common in other DNFBP sectors, including lawyers and real estate agents. Overall, major improvements are needed in these other sectors.

615. **Considering these factors, BiH 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) Controls implemented by banking supervisors prevent criminals and their associates from holding or being the BO of a significant or controlling interest or holding a management function. This is the case for other core principles supervisors, notwithstanding some shortcomings in the scope of underlying legislation. In the case of foreign exchange offices, which must operate under a contract with a bank, controls can also be considered effective taking account of complementary checks applied on owners and management by banks. Controls in place in the gambling sector are not effective. Accreditation of notaries, lawyers and certified accountants (but not other accountants) prevents criminals from acting in these professional roles. Information has not been provided on other DNFBPs. Effective controls are in place for VASPs in the RS, but not otherwise.
- b) Core principles supervisors have a comprehensive or good understanding of ML risks at institutional and at sectoral level. Information is collected through questionnaires and other supervisory engagement, and, in the case of banking entities, a risk matrix is used to calculate institutional risk. Fundamental changes are not needed to this approach. Use is also made of questionnaires to support risk understanding in some other sectors but, except for notaries in RS, the concept of risk identification and assessment is still nascent and so understanding is, at best, limited. DNFBP supervisors have recently taken steps to improve their risk understanding. The supervisor of VASPs in RS has demonstrated a good understanding of ML risks in the sector. In line with shortcomings identified in national risk assessments, understanding of TF risk is less developed across all sectors.
- c) Application of a risk-based approach is generally well developed in the banking sector, where the frequency and scope of AML/CFT on-site supervision are risk-based and consider higher risk areas identified in risk assessments. There are elements of risk-based AML/CFT supervision in the insurance sector, notwithstanding the very limited number of inspections in the FBiH. The extent to which risk drives the frequency and scope of AML/CFT supervision in the securities sector is unclear. For DNFBPs, important steps have been taken towards introducing risk-based AML/CFT supervision, including for notaries in the RS. However, it is too soon to determine how effective these new measures will be and supervision of notaries in the FBiH has been reactive and not focussed on AML/CFT compliance. A supervisory framework for VASPs has not been introduced in the FBiH or BD and VASPs have not been subject to risk-based supervision in the RS.
- d) There are no published policies on sanctioning practice, and there is inconsistent use of measures in practice amongst banking supervisors. There is also evidence of a rather conservative sanctioning approach. In particular, the level of fines imposed on banks is not likely to dissuade others or to be effective at ensuring future compliance by the sanctioned institution. Given the nascent state of supervision of DNFBPs and VASPs, no remedial actions or sanctions have been applied. The level of fines that is set in law for failing to comply with AML/CFT requirements is low, particularly those that may be imposed by supervisors. In

practice, it is possible to apply more than one fine where there are multiple failures to apply the AML/CFT Law.

- e) Supervision, in particular follow-up inspections, is making a positive difference to the level of AML/CFT compliance by FIs. However, supervisors do not measure the success of what they do at a more strategic level. Given the absence of supervision of DNFBPs for much of the period under review, it was not possible to demonstrate any effect on compliance.
- f) Core principles supervisors have proactively promoted understanding by FIs of AML/CFT obligations and risks. There has been little effort to promote understanding of AML/CFT requirements by DNFBPs until comparatively recently, though the supervisor of notaries in the RS has arranged two training workshops. However, initial inspections act as a form of bespoke training, helping to increase overall knowledge and awareness of AML/CFT requirements and compliance. As part of the registration process in the RS for VASPs, the supervisor has worked successfully with applicants to promote understanding of AML/CFT requirements.

### ***Recommended Actions***

#### ***Immediate Outcome 3***

- a) DNFBP supervisors should continue to develop their overall understanding of sectorial and institutional risks, where work has already started in this respect. In the case of: (i) operators of games of chance and notaries in FBiH; and (ii) real estate agents, DPMS and CSPs, supervisors should start with the collection of information to support risk analyses and risk assessment.
- b) DNFBP supervisors should continue to develop risk-based supervisory models, where work has already started in this respect. In the case of: (i) games of chance in FBiH and BD; and (ii) real estate agents, accountants, DPMS and CSPs in all jurisdictions, supervisors should develop models.
- c) All elements of AML/CFT supervision of DNFBPs should be coordinated and overseen at entity level to promote a consistent approach by supervisors across different sectors. Inter alia, coordination and oversight should consider consistency of supervisory risk assessments, supervisory effort and findings, and application of remedial measures and sanctions across different DNFBP supervisors.
- d) Authorities should establish a supervisory framework for VASPs in FBiH and BD and all VASP supervisors should apply market entry requirements and risk-based supervision.
- e) Supervisors should adopt consistent sanctioning policies to ensure that proportionate and dissuasive sanctions are applied, including to responsible persons. The level of fines applied for non-compliance in the banking sector should be increased considering ownership and profitability of the sector. In addition, the maximum level of fines available to supervisors under the AML/CFT Law should be substantially increased and not based solely on amount (instead e.g. a percentage of financial turnover) and consideration given to introducing higher fines for systemic and serious failure to apply AML/CFT requirements.
- f) Market entry requirements in legislation should be reviewed and amended as appropriate to ensure that criminals and associates of criminals are prevented from becoming controllers or owners of obliged entities in a consistent way across all sectors. Action is most

urgent in the gambling sector where there are the greatest number of shortcomings and with real estate agents and DPMS where information has not been provided.

- g) Securities supervisors, the insurance supervisor – F BiH and currency exchange office supervisors should supervise compliance by obliged entities with AML/CFT requirements based on risk. Securities and insurance supervisors should ensure that inspections cover higher risk areas identified in national risk assessments.
- h) DNFBP supervisors should develop programmes and take action to promote understanding of AML/CFT requirements by DNFBPs.

616. 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)

617. The financial system in BiH is dominated by the banking sector which accounts for around 90% of the market. There is no separate licencing of banks (or other banking entities) in the district, where only banks licenced in F BiH, or RS may operate (under appropriate supervision in the entities). Though legally possible, no securities firms have been licensed in the district. Whilst insurance companies (and agents and brokers) may be established in the district, the founder must select which entity framework to be supervised under.

618. Insurance agents work on behalf of an insurance company. They do not collect premium and are an extension of the insurance company. If the agent wishes to work for a second insurance company, then they must follow policies and procedures for both companies. Brokers are third entities and act as an intermediary between the customer and insurance company. They are standalone and have own their own policies and procedures.

619. Considering the materiality and risk in the country (see section 1.4.3), the effectiveness of preventive measures applied by the relevant sectors is weighted as follows:

**Most important:** banks (as providers of conventional banking services and MVTs).

**Highly important:** public notaries.

**Moderately important:** (i) securities; (ii) MCOs; (iii) currency exchange offices; (iv) postal service operators (as providers of MVTs); (v) operators of games of chance; (vi) real estate agents; (vii) lawyers; (viii) accountants/tax consultants; and (ix) VASPs.

**Less important:** (i) insurance; (ii) other lending; (iii) CSPs; and (iv) DPMS.

620. Where banks act as agents for global MVTs operators, this agency work is assessed as part of banking activities.

### *6.2.1. Licensing, registration and controls preventing criminals and associates from entering the market*

621. Controls implemented by banking supervisors prevent criminals and their associates from holding or being the BO of a significant or controlling interest or holding a management function. This is the case for other core principles supervisors, notwithstanding some shortcomings in the scope of underlying legislation. In the case of currency exchange offices, which must operate under a contract with a bank, controls can also be considered effective taking account of complementary checks applied



on owners and management by banks. Controls in place in the gambling sector are not effective. Accreditation of notaries, lawyers and certified accountants (but not other accountants) prevents criminals from acting in these professional roles. Information has not been provided on other DNFBPs. No controls are yet in place for VASPs.

622. Where shares are held, or to be held, by a legal person, then checks are also performed for the BOs of that legal person.

623. In some cases, explained under c.26.3 in the TC Annex, it has not been demonstrated that supervisors have the necessary powers to apply criminal record checks to all owners and managers of: (i) professional intermediaries – F BiH; (ii) insurance brokers that are legal persons; or (iii) leasing providers – RS.

624. In some cases, explained under c.26.3 in the TC Annex, it has not been demonstrated that supervisors have the necessary powers to take all relevant criminal offences into account for: (i) professional intermediaries – RS; (ii) insurance brokers or insurance agents – RS; (iii) currency exchange offices; (iv) MCOs – F BiH; or (v) factoring companies – F BiH. In practice, supervisors collect information on such offences and consider them as part of a more general assessment of fitness and propriety.

*Banks, leasing companies and MCOs (banking entities)*

625. In the F BiH, responsibility for issuing licences for banking entities rests with the Legal Support and Licensing Sector/Licensing Department of the Banking Agency - F BiH.

626. The Department issues consent to: (i) hold a qualifying interest in shares; and (ii) act in a management capacity (as specified under c.26.3 in the TC Annex). It collects certificates issued by competent authorities demonstrating: (i) the absence of specified criminal offences (see c.26.3 in the TC Annex); and (ii) that there are no ongoing criminal proceedings. Certificates cannot be more than three months old. The Department also checks: (i) the supervisor's internal databases; (ii) information held by other divisions (e.g. supervision and AML/CFT supervisory team); (iii) information held by the FIU; and (iv) public sources, including courts and prosecutor's offices. Where an applicant has worked outside the entity then it also requests information on criminal offences and proceedings in those other jurisdictions (as well as information from other supervisors). Compliance officers (authorised persons) are subject to the same tests on criminality. The source of funds for qualifying interests is also checked.

627. Inter alia, banks assess the status of key function-holders on at least an annual basis (board and senior management) and provide this information to the supervisor within 30 days for review. In addition, unauthorised changes in ownership or management, or subsequent convictions are picked up by reviews of external sources (e.g., internet and media) and the AML/CFT supervisory team (as part of ongoing supervision of banking entities). Such monitoring has picked up adverse information on a member of a supervisory board linked to a prosecution, where it was found that the individual had already resigned from their post. Mandates for senior management last four years, and so it is necessary to re-apply at that time.

628. To identify connections with criminals, unspecified public data and records are reviewed.

629. The Banking Agency - RS applies a similar approach to licensing. Checks are performed within the Department for the Processing of Applications, Objections and Legal Support. In addition, interviews are conducted for banks and board members must provide annual asset declarations.

630. Between 2018 and 2022, there were no applications to licence new banks in the F BiH, but two applications were processed for MCOs and one for a leasing company. In the same period, there were



no applications for banks and four MCOs were licenced in RS. No issues with criminality were picked up in these applications.

631. In the FBiH, no applications to acquire a qualified interest or hold a key function have been refused on the grounds of criminality, though some minor offences have been picked up and considered. In the RS, the supervisor has rejected: (i) several applications to acquire qualified shares due to criminality; and (ii) one request for membership of a supervisory board due to concerns about ability and adequacy. Just one application to hold a management function was withdrawn in the period and was not connected to criminality.

#### Securities sector and VASPs

632. Dedicated departments in entity supervisors are responsible for licensing (Securities Commission – FBiH and Securities Commission – RS). The Securities Commission – RS is also responsible for licensing of VASPs in the RS.

633. In the securities sector, supervisors request evidence that persons holding qualifying interests or key functions (as specified under c.26.3 in the TC Annex) have not committed specified criminal offences (see c.26.3 in TC Annex) and that there are no ongoing criminal proceedings. Certificates cannot be more than 30 days old at the time of presentation. Where an applicant has worked outside the entity then the supervisor also requests information in respect of criminal offences and proceedings in those other jurisdictions. The same approach is also applied to the compliance officer (authorised person). Applicants are interviewed by the supervisor.

634. Checks are also made against other sources, e.g., information held by other competent authorities and publicly available information. There is also good cooperation with foreign supervisors. The origin of funds for qualifying interests is also assessed.

635. Each person holding a qualifying interest or key function must submit an annual confirmation to the supervisor that there have been no criminal proceedings during the past 12 months. Supervisory activities also identify unauthorised changes in ownership or management, or subsequent convictions.

636. Checks outlined above apply also to VASPs in the RS. In the FBiH, the supervisor does not apply controls to prevent criminals from owning shares or holding senior positions in VASPs.

637. To identify connections with criminals, background checks are conducted, e.g. with other supervisors and using social media.

638. No applications have been refused on grounds of criminality (though some applications have referred to traffic offences). However, one qualified participation in an investment fund was refused since the applicant did not submit all information, including BO, and approval to act as a director of a securities broker was withdrawn due to violations of securities regulations.

#### Insurance sector

639. Separate departments are responsible for licensing of insurance companies, insurance brokers (companies and individuals) and insurance agents (individuals) in entity supervisors (Insurance Supervision Agency – FBiH and Insurance Supervision Agency – RS).

640. Supervisors request evidence that persons holding qualifying interests or key functions (as specified under c.26.3 in the TC Annex) have not been convicted of specified offences (see c.26.3 in the TC Annex). Certificates cannot be more than: (i) in the FBiH - three months old; and (ii) in RS –six months old. Where an applicant has worked outside an entity then they would also request information in respect of external offences, but this has not been necessary during the period under

assessment. Ongoing criminal proceedings are considered only by the Insurance Supervision Agency – RS. The same approach is applied to compliance officers (authorised persons).

641. Any subsequent changes in ownership or management, or subsequent convictions are picked up during supervision (at least once a year). Insurance brokers and agents are licenced only for a set period (e.g. two years in FBiH).

642. There were no refusals of applications during the period under assessment based on criminality. However, in 2023 the chief executive officer of an insurance company in FBiH was found guilty of a criminal offence and removed from their post by the insurance company prior to submission of an application to the supervisor to renew the mandate of the board (which had expired).

643. To identify connections with criminals, checks are conducted, e.g. against publicly available information.

#### Currency exchange offices

644. Ministries of Finance in the entities approve applications by currency exchange offices. Information has not been provided on the district. In practice, before concluding a contract with a currency exchange office, banks also conduct criminal record checks.

645. Applications to be licenced must be supported by: (i) a signed contract with a bank; and (ii) for the owner - certificates from competent authorities demonstrating the absence of specified criminal offences (see c.26.3 in the TC Annex) and that there are no ongoing criminal proceedings. Applicants that are legal persons must also submit certificates for the director. Checks are not conducted on the BO of an owner that is a legal person, but in practice, most exchange offices are owned by natural persons and this element is considered by banks prior to signing a contract.

646. Post licensing, banks review contracts every three months, and this review considers any changes to information provided since the last review. They report changes to data provided at the time of authorisation to the appropriate ministry within five days of becoming aware of the change.

647. No applications have been received from persons with criminal records.

648. Checks are not conducted by supervisors to highlight if owners and directors are associated with criminals.

#### Notaries

649. Responsibility for licensing of notaries rests with ministries of justice in the entities and Judicial Commission in the district. Prior to admittance as a notary public in the entities and district, appointees submit a certificate issued by a competent authority demonstrating that they have not been sentenced to a crime or found guilty of a criminal offence that renders them unworthy of admission to the notarial profession. There is no formal process for picking up ongoing criminal proceedings or any subsequent conviction for offences, but notary chambers would become aware of investigations or proceedings through the courts or media and liaise with the licensing authorities. Legal persons may not be notaries. Three notaries who committed a criminal offence have been removed from the register in FBiH (2020: two notaries; and 2023: one notary). In the RS, there has been one case where a notary was convicted of an offence, where that notary passed away before removal from the register.

#### Other DNFBPs

650. In the FBiH and BD, responsibility for licensing operators of games of chance has rested with the Ministry of Finance and Finance Directorate respectively. In the RS, the Ministry of Finance

licences online operators, and licences for terrestrial casinos are awarded by decision of the government – by concession.

651. The licensing authority obtains: (i) an ownership structure; (ii) statement on the origin of the applicant's capital (FBiH only); and (iii) proof that the founder(s), director and supervisory board members do not have a criminal record. A certificate (which cannot be older than 30 days at time of presentation) is provided by a competent authority to demonstrate the absence of specified criminal offences (see c.28.1(a) in the TC Annex). Checks are not conducted on the compliance officer (authorised person) or to identify associations with criminals. Where an individual is a foreign citizen, they provide an appropriate certificate from their state of domicile. Checks are not also made against external data sources or with the FIU.

652. Following licensing, there are no ongoing checks on changes in ownership or management, or subsequent convictions. However, licences for casinos must be renewed every five years, and every two years for other operators of games of chance (i.e. for slot machines). The supervisor in FBiH has picked up cases where ownership has changed without its knowledge, where it has been necessary to subsequently involve the competent court. Accordingly, it can be concluded that current arrangements are not operating effectively.

653. Different bodies have responsibility for the licensing of other DNFBPs: (i) real estate agents – chambers of commerce; (ii) DPMS – ministries of trade; (iii) lawyers - entity bar associations; and (iv) accountants – ministries of finance. No authority has had responsibility for applying criminal record checks to TCSPs.

654. Information has not been provided on how criminals are prevented from owning or managing real estate agents or DPMS, notwithstanding the higher risk present in the real estate sector and a recent case that has identified the involvement of a number of DPMS in ML.

655. To be registered in the directory of lawyers of the Bar Association, applicants must, inter alia: (i) be a citizen of BiH; (ii) hold a BiH or recognised foreign qualification; and (iii) be worthy of providing legal services. Prior to registration, they submit certificates issued by competent authorities demonstrating: (i) the absence of specified criminal offences (see c.28.4(b) in the TC Annex); and (ii) that there are no ongoing criminal proceedings. Post registration, courts and prosecutor's offices advise the Bar when a case is opened against a lawyer. A lawyer sentenced to any offence of six months or more imprisonment or who is ethically unfit is automatically banned from practising law. In the FBiH, there are cases when lawyers have been excluded from the profession and five ongoing suspensions, linked to misuse of position and fraud. In the RS and district, two licences have been revoked in recent years and one lawyer has been suspended due to imposition of a detention order (corruption-related offence). These demonstrate that controls work well in the legal sector. Law firms may be legal persons but only lawyers can be members of, or practice law in, the firm.

656. Licences are issued to certified accountants and certified accounting technicians in the entities by professional bodies and by the Finance Directorate of BD. When registering an accountant, certificates are provided by competent authorities demonstrating: (i) the absence of specified criminal offences; and (ii) that there are no ongoing criminal proceedings. Certificates cannot be not older than three months at time of presentation. These controls apply only to accountants that are members of professional bodies and not otherwise. The authorities have not explained what action is taken to identify convictions post registration. Legal persons may be accountants and it is not clear to what extent they may be owned or controlled by non-licensed accountants.

### *6.2.2. Supervisors' understanding and identification of ML/TF risks*

657. Understanding of ML risk by core principles supervisors is comprehensive or good. Consistent with national risk assessments, TF understanding is less developed. Banking supervisors have the most developed understanding of risk. The supervisor for notaries – RS has demonstrated an adequate understanding of general ML risks. Across other supervisors, the concept of risk identification and assessment is still nascent and so understanding is, at best, limited. DNFBP supervisors have recently taken steps to improve their risk understanding. The supervisor of VASPs in RS has demonstrated a good understanding of ML risks in the sector. There is a more limited understanding of TF risk.

#### *Banks, leasing companies and MCOs (banking entities)*

658. Both supervisors of banking entities were involved extensively in preparation of the NRA and NRA Addendum. Accordingly, they demonstrated a comprehensive understanding of ML risks in the sector, though the assessment in the NRA Addendum that the sector presents a “medium” ML risk (rather than the medium-high risk set out in the NRA) is a concern and considered more under Chapter 2 (IO.1). Limited assessments of sectoral risk have been conducted outside the NRA (scope unclear) so there is a more limited understanding of TF risk at sectoral level. There is no separate assessment of the risk of evasion of TFS.

659. There is close cooperation amongst banking supervisors, and the process for assessing risk is harmonised. The current risk-based approach has been in operation since 2018 for banks, 2019 for MCOs and 2020 for leasing companies, and is explained in various manuals<sup>56</sup>.

660. Assessment of institutional risk is based on several complementary sources. In particular, information is collected annually from banking entities through a detailed questionnaire (published in the manuals). Inter alia, information is collected on risk related to products, customers, distribution channels, quality of risk management, volume of activities and size, and more specific areas such as: (i) exposure to real estate, PEPs and high-risk countries; (ii) use of cash; and (iii) MVT transactions. As part of this questionnaire, banking entities also provide reports on compliance with AML/CFT standards: (i) quarterly reports by the compliance officer (authorised person); (ii) annual internal auditor's report; and (iii) annual external auditor's report. A copy of the banking entity's business risk assessment is also provided with the questionnaire.

661. These sources are supplemented by: (i) information obtained from on-site supervision; (ii) monthly AML/CFT reports, including information on cash transactions (including linked transactions), STRs, and suspicious customers; and (iii) monthly reports on payment transactions.

662. Based on these sources, institutional risk is calculated in accordance with a published matrix. Risk is a factor of: (i) potential ML/TF threat; and (ii) quality of AML/CFT measures in place. Each banking entity is rated as high, medium/intermediate or low risk<sup>57</sup>. When assessing risk, consideration is also given to determining the trend (increasing, stable or decreasing). An entity will not be assessed until after the completion of the supervisor's first on-site inspection. Risk must be assessed at least once per annum where an entity's supervisory cycle is longer than two years.

---

<sup>56</sup> These are: (i) manual for controlling the compliance of banks' operations with AML/CFT standards (December 2018); (ii) manual for supervising the compliance of MCOs with AML/CFT Standards (FBiH - July 2020 and RS - 2022); and manual for monitoring the compliance of leasing companies with AML/CFT requirements ( FBiH - July 2020 and RS - 2022).

<sup>57</sup> For banks in February 2024: high risk – 4; medium/intermediate risk -16; and low risk -2.

663. Information collected in annual questionnaires is used also to identify trends and developing risks within sectors.

664. There is extensive cooperation between banking supervisors and with the FIU and other competent authorities. The FIU informs supervisors in writing or orally about emerging risks or typologies. For example, the FIU reported concerns about: (i) the level of cash withdrawals at ATMs by BiH citizens using payment cards issued abroad - to avoid payment of tax in BiH; and (ii) withdrawal of cash from foreign ATMs by representative offices in BiH of foreign legal persons. However, it is not clear to what extent supervisors consider the following when identifying risk at entity level: (i) cases investigated by LEAs, to determine whether there has been egregious behaviour by banks or responsible individuals<sup>58</sup>; and (ii) intelligence on specific cases formally transmitted by the FIU to supervisors (24 during the period under review).

#### Securities sector and VASPs

665. Both securities supervisors were involved extensively in preparation of the NRA and NRA Addendum. Accordingly, they demonstrated a good understanding of ML risks in the securities sector, particularly the Securities Commission - RS. In part, this is due also to the limited size of the market, and type and number of entities under supervision. No assessments of sectoral risk have been conducted outside the NRA so there is a more limited understanding of TF risk in the securities sector. There is no separate assessment of the risk of evasion of TFS.

666. In line with the NRA Addendum, supervisors consider that the securities sector presents a medium-low risk. This is because of the relatively small number of obliged entities, the type of services and products that are provided (simple, underdeveloped and unvaried instruments), and method of performing activities (no possibility of using cash).

667. There is close cooperation amongst securities supervisors, and the process for assessing risk is harmonised. There is no dedicated risk assessment methodology for ML/TF risk factors, but a limited number of such factors are set out in entity rulebooks.

668. Assessment of institutional risk is based on the submission of annual questionnaires which include information such as volume of turnover, product risk, and customer profile. They are accompanied by AML/CFT compliance reports prepared for the obliged entity. The risk assessment is also informed by: (i) supervision activity; and (ii) prudential reports (daily and monthly). Assessments are updated at the conclusion of each on-site inspection covering AML/CFT. A split of risk-ratings has not been provided.

669. The Securities Commission – RS was involved in the preparation of the risk assessment for VAs and VASPs (2024). Accordingly, it demonstrated a good understanding of ML risks in the sector. There is a more limited understanding of TF risk. From the fourth quarter of 2022, the RS Commission has been in contact with VASPs to assist with the preparation of prescribed documentation necessary for registration. This has helped to develop the supervisor’s understanding of risk.

#### Insurance sector

670. Both insurance supervisors were involved extensively in preparation of the NRA and NRA Addendum and have demonstrated a good understanding of ML/TF risks impacting the life insurance sector. Risk reflects the nature of the market in BiH where investment periods are long-term and take-up of unit-linked products with an investment component is very limited.

---

<sup>58</sup> For example, Murguz Alen case (February 2022).

671. Insurance supervisors have adopted a specific methodology for assessing institutional ML/TF risk. The risk assessment of an obliged entity is carried out once a year during the preparation of the supervisor's supervision plan. AML/CFT risks in the FBiH are assessed as low, medium, or high for each entity. All insurance companies that perform life assurance are assessed as presenting a low risk.

672. Both supervisors collect information through an annual questionnaire, which includes separate data for life insurance. Information is collected on the number of resident and non-resident customers, PEPs, customer risk, number of policies, STRs and use of insurance intermediaries. This information is supplemented by analysis of AML/CFT compliance reports, e.g., by internal audit.

#### Currency exchange offices

673. Direct supervisors'<sup>59</sup> understanding of ML/TF risk is very limited and based on the results of the NRA and NRA Addendum. Inspections are conducted based on turnover rather than risk, though intelligence from other sources is sometimes considered.

674. In practice, all currency exchange offices have a contract with a bank to operate, and so the ML/TF risk of currency exchange is covered by the banking supervisors' overall understanding of risk.

#### Notaries

675. A questionnaire has been used in the RS to collect information on notaries (start of 2023) including on: (i) management and governance; (ii) structure and size; (iii) types of clients; (iv) transactions, services and products; (v) geographic risk; (vi) distribution channels; and (vii) risk mitigation. Based on this information, a risk matrix has also been developed to assess the risk presented by different notaries. In the RS, cash payments and lack of supervision have been identified as the main risks facing notaries and general risk understanding is already adequate. No information has been provided in respect of the FBiH.

#### Other DNFBPs

676. Gambling supervisors' understanding of generic ML/TF risks and risks specific to operators of games of chance is basic and based largely on the results of the NRA and NRA Addendum. Significant development is required. Whilst the Ministry of Finance - FBiH is not a gambling supervisor, it recognises the vulnerability of slot machine clubs – where 50% of machines in use do not identify or verify the identity of customers. Information from operators of games of chance in RS is now collected through annual questionnaires which include information on, e.g., online activities, geography, and product risk. Responses to questionnaires have been assessed by the supervisor, but no information has been provided on conclusions or on how the process has informed risk understanding. Similar information is not collected by the supervisor in the FBiH which has yet to start to assess ML/TF risk.

677. All lawyers in BiH have been sent a questionnaire to collect information on the sector, the majority of which have responded. Non-responses have been chased. Information provided had not been analysed at the time of the on-site visit to support an understanding of risk.

678. The authorities have not formally assessed the risk involved in the provision of company service activities. However, based on risks highlighted in one case, the FIU has made recommendations to regulate this sector.

679. Supervisors' understanding of ML/TF risk in other DNFBP sectors is very limited and based only on the results of the NRA and NRA Addendum.

---

<sup>59</sup> Financial Police – FBiH; Tax Administration – RS; and Finance Directorate – BD.



### *6.2.3. Risk-based supervision of compliance with AML/CFT requirements*

680. The risk-based approach to supervision of compliance with AML/CFT requirements is generally well developed in the case of banking entities, and there are some elements of risk-based supervision in the insurance sector notwithstanding the very limited number of inspections in the FBiH. It is not clear whether risk drives the frequency and scope of AML/CFT supervision in the securities sector. In the case of foreign exchange offices, which must operate under a contract with a bank, oversight can be considered effective taking account of indirect supervision by the banking agencies. Risk-based AML/CFT supervision in the DNFBP sector is nascent, with most progress being demonstrated for: (i) lawyers in the FBiH; and (ii) operators of games of chance and notaries in the RS. It is too soon to determine how effective these new measures will be. A supervisory framework for VASPs has not been introduced in the FBiH or BD and VASPs have not yet been subject to risk-based supervision in the RS.

681. Assessments of application of TFS by FIs form an integral part of AML/CFT inspections, covering areas such as the adequacy of internal written regulations, how lists used for screening are kept up-to-date and frequency of screening. Supervisory manuals cover TFS alongside other AML/CFT requirements.

#### *Banks, leasing companies and MCOs (banking entities)*

682. Banking supervisors have established dedicated units for AML/CFT supervision. They apply risk-based principles and higher risk entities (i.e., banks) are subject to more frequent and more comprehensive inspections.

683. The AML/CFT unit in the Banking Agency – FBiH has seven officers engaged in, amongst other things, on-site and off-site supervision to supervise 13 banks, 4 leasing companies and 13 MCOs. The AML/CFT unit in the Banking Agency – RS employs four officers to supervise eight banks and 14 MCOs. There is close cooperation amongst banking supervisors, and the process for supervision of compliance is harmonised.

684. Between 2018 and 2020 changes were made to strengthen AML/CFT supervision. This included adoption of AML/CFT supervision manuals<sup>60</sup> for each type of banking entity, and the collection of additional data (see earlier section).

685. The supervisory framework combines on-site and off-site measures, including targeted supervision, with different intensity and is in addition to outreach activities. The frequency and intensity of routine on-site inspections is: (i) one year for high-risk banking entities; (ii) from two to three years for the medium risk category; and (iii) up to four years for the low-risk category. This level of frequency of on-site inspections is reasonable, particularly given that there is continual off-site supervision.

686. Off-site supervision is, to a large extent, aligned to on-site supervision, and includes a full review of policies and procedures, review of transactional data and reviews of customer files. This data is analysed and verified once each year and is the same information that is used to assess risk

---

<sup>60</sup> These are: (i) manual for controlling the compliance of banks' operations with AML/CFT standards (December 2018); (ii) manual for supervising the compliance of MCOs with AML/CFT Standards (FBiH - July 2020 and RS - 2022); and manual for monitoring the compliance of leasing companies with AML/CFT requirements ( FBiH - July 2020 and RS - 2022).



(see earlier section). Where serious deficiencies are identified, off-site inspection intensity is increased and can lead to performance of a targeted inspection.

687. An annual inspection plan is adopted by supervisors.

688. Supervisory inspections are very detailed and cover all elements of compliance with the AML/CFT Law. In the case of the FBiH, there is also coverage of some areas identified in the NRA and NRA Addendum, e.g., use of cash and monitoring of transactions made through large global MVTS. Larger sample sizes are selected for banking entities with more shortcomings in the preceding on-site inspection and to address products or services that are peculiar to a particular bank. Sampling focuses on mid-level and high-risk customers and in both entities covers certain high-risk sectors identified in national risk assessments, including real estate, notaries, and lawyers.

689. Based on supervision manuals, the scope of on-site inspections does not clearly extend to: (i) discussion of the bank's risk appetite; (ii) consideration of the bank's business risk assessment, including how it might be used to launder funds from predicates identified as presenting higher threats in the NRA and NRA Addendum; or (iii) correlating bases for making STRs with threats identified in national risk assessments.

690. On-site inspections for banks last up to three weeks and up to four inspectors are involved. Findings are circulated within 20 days of the end of the on-site inspection. Visits to other banking entities are shorter and involve two inspectors.

**Table 6.1:** number of full scope and targeted on-site AML/CFT inspections of banks by Banking Agency – FBiH

	2019	2020	2021	2022	2023
Number of entities	15	15	15	13	13
Number of on-site visits related to AML/CFT	16	1	9	3	6

691. All banks were inspected in 2019 at the launch of the new methodology, and supervisory effort in 2020 and 2022 focussed on on-site examinations of the execution of written orders made by the supervisor (see later section). The number of inspections conducted is in line with the agency's supervision manual.

**Table 6.2:** number of full scope and targeted on-site AML/CFT inspections of banks by Banking Agency – RS

	2019	2020	2021	2022	2023
Number of entities	8	8	8	8	8
Number of on-site visits related to AML/CFT	4	3	3	3	3

692. All banks were inspected in 2018 and 2019 at the launch of the new methodology. The number of inspections is in line with the agency's supervision manual.

Securities sector and VASPs

693. Supervision is carried out in accordance with supervisory regulations/rulebooks<sup>61</sup>. Securities supervisors prepare an annual supervisory plan, setting out supervisory priorities for on-sites inspections. The extent to which risk drives the frequency and scope of AML/CFT supervision is unclear. Depending on risk factors and findings, regular on-site inspections may be supplemented by extraordinary inspections. Continuous off-site supervision is carried out using information collected to assess risk (see earlier section). AML/CFT supervision accounts for about 50% of supervisory activity.

694. Supervision considers compliance with AML/CFT requirements, including risk assessments, CDD measures and reporting. There is no indication that higher risk areas identified in the NRA have been given any attention in supervision.

695. On-site visits range in length from two weeks to one month. Teams consist of at least three inspectors and takes place over 20 days.

696. The fall in the number of inspections in 2020 and 2021 is linked to the effect of COVID. Supervisors have explained that off-site supervision was enhanced during this period, including the remote review of compliance reports and documents.

**Table 6.3:** number of full scope AML/CFT inspections by the Supervision Commission - FBiH

	2019	2020	2021	2022	2023
Number of entities	19	17	17	17	17
Number of on-site inspections related to AML/CFT	4	0	0	10	7

**Table 6.4:** number of full scope AML/CFT inspections by the Supervision Commission – RS

	2018	2019	2020	2021	2022
Number of entities	14	15	15	15	18
Number of on-site inspections related to AML/CFT	11	12	1	6	6

697. There was no formal supervision of VASPs during the period under assessment. However, there was ongoing dialogue between the FIU and VASPs applying for registration in RS during the period under assessment, including meetings at the FIU and VASP premises. These meetings focused on application of AML/CFT measures.

---

<sup>61</sup> These are: (i) Rules on the Method of Performing Control in the Securities Market – FBiH; and (ii) Rulebook on the Supervision of Participants in the Securities Market - RS.

### Insurance sector

698. Supervision is carried out in accordance with supervisory regulations and methodologies<sup>62</sup>. Insurance supervisors prepare an annual supervisory plan. The frequency of on-site inspections is based on the annual plan and, inter alia, considers: (i) results of previous inspections and remediation measures applied; and (ii) data in questionnaires collected to assess risk. Regular on-site inspections may be supplemented by extraordinary inspections. Continuous off-site supervision is carried out using information collected to assess risk (see earlier section). Larger insurance companies are checked at least once every two years.

699. Supervision considers compliance with AML/CFT requirements, including conducting risk assessments, CDD measures and reporting. There is no indication that higher risk areas identified in the NRA have been given any attention in supervision.

**Table 6.5:** number of full scope AML/CFT inspections by the Insurance Supervision Agency - FBiH

	2019	2020	2021	2022	2023
Number of entities	38	43	48	51	56
Number of on-site inspections related to AML/CFT	0	0	0	0	8

700. From 2019 to 2022, there were no full scope on-site inspections in FBiH. Instead, the supervisor focussed on implementation of ordered measures from earlier inspections (see later section). Notwithstanding the lower ML risk identified in the insurance sector, the absence of full scope on-site inspections in the FBiH is a concern.

**Table 6.6:** number of full scope AML/CFT inspections by the Insurance Supervision Agency - RS

	2019	2020	2021	2022	2023
Number of entities	15	18	16	19	21
Number of on-site inspections related to AML/CFT	3	3	2	4	4

### Currency exchange offices

701. In the FBiH, supervision of currency exchange offices takes place in line with instructions issued by the Financial Police. Supervision of exchange offices is based on turnover rather than risk. There is no clearly defined supervision methodology for checking AML/CFT compliance but all inspections: (i) look for a risk assessment; (ii) check that internal documents are in place; (iii) confirm that a compliance officer (authorised person) has been appointed; and (iv) identify and review all cash transactions that have not been reported (subsequently disclosed to FIU). During the period from

---

<sup>62</sup> Methodology for controlling the application of regulations concerning AML/CFT – FBiH and Insurance Supervision Methodology – RS.

2018 to 2022, the Financial Police – FBiH have conducted: (i) three direct on-site inspections of currency exchange offices; and (ii) ten reviews of foreign exchange offices at casinos.

702. In the RS, the Tax Department Foreign Exchange Inspectorate has had responsibility for supervision of currency exchange offices since June 2022 and supervises AML/CFT supervision at the same time as enforcing compliance with tax requirements, though not based on ML/TF risk. The number of inspections of currency exchange offices conducted by the Tax Department since 2022 and its predecessor supervisor has not been provided. In the district, supervisors cover only compliance with foreign exchange requirements, and not compliance with the AML/CFT Law.

703. Whilst the extent of direct supervision is limited, there is also indirect supervision of currency exchange officers by banks since: (i) to all intents and purposes, exchange offices operate as parts of the bank (by virtue of contracts in place); and (ii) banks supervise exchange offices on quarterly basis for compliance with their contract. Banks automatically see all transactions of currency exchange offices which are run through bank systems as if customers of the bank.

#### Notaries

704. In the FBiH, supervision of notaries by the Ministry of Justice has been reactive and prompted by a complaint or other factor that could lead to a disciplinary action. It has not been focussed on AML/CFT compliance. No information has been provided on the number of inspections. Under provisions set out in the new AML/CFT Law, the Chamber of Notaries – FBiH has now started to implement an AML/CFT supervisory regime: it is in the process of hiring resources and preparing rulebooks.

705. In the RS, the supervisor is more advanced in the roll-out of AML/CFT supervision to notaries. The Ministry of Justice - RS adopted an action plan for on-site supervision in 2023 which covered 35 out of 69 notaries. The criteria for selecting notaries were: (i) the period since the last notarial inspection; (ii) absence of previous inspections; (iii) presence in large urban areas; and (iv) number of STRs. The approach therefore includes some elements of a risk-based approach. Other notaries will be supervised by the end of 2024. Once this round of on-site visits and risk assessments has been completed – supervision will be fully risk-based in line with an adopted supervisory methodology. Inspections focus on: (i) adequacy of policies and procedures; (ii) training; and (iii) reporting to the FIU. The supervisor has explained that attention has also been paid to the use of cash, real estate and PEPs, all identified in the NRA and NRA Addendum as presenting a higher risk.

#### Other DNFBPs

706. There has been no targeted AML/CFT supervision of operators of games of chance in the RS until 2024, but AML/CFT matters have been considered in ongoing supervision of compliance by operators with other requirements. No further information had been provided in this respect, but supervision led to the identification of two cases of non-reporting of suspicion by operators of games of chance. The supervisor of operators of games of chance in the RS has now developed an annual supervisory plan based on responses to an annual questionnaire, and four on-site inspections were conducted in February 2024. The results of these inspections have not been shared with the AT. A supervisory manual is under development. It is not clear how ML/TF risk is considered (noting that risk has not been assessed). In the FBiH, operators are subject to tax compliance reviews, but otherwise there has been no supervision. In the BD, the supervisor conducted two tax compliance inspections, part of which checked compliance with provisions of the AML/CFT Law.

707. Both bar associations have published rulebooks for AML/CFT supervision (not provided) and questionnaires (not provided) have been used to: (i) establish whether requirements are understood; and (ii) see how lawyers comply with the AML/CFT Law, e.g., CDD for legal persons, identification of

PEPs, and use of external data (personal knowledge or media). Supervision for AML/CFT purposes has recently started in FBiH focussing on lawyers: (i) in Central Sarajevo (where most activities are conducted); (ii) in the vicinity of state borders (migrant risk); and (iii) reporting increases in real estate transactions. The approach therefore includes some elements of a risk-based approach. Inspection plans for 2022 and 2023 have not been provided and it has not been explained how data in questionnaires will be used to inform risk-based supervision. Supervision has yet to start in the RS.

708. Supervision of other DNFBPs (real estate agents, accountants and DPMS) in the FBiH is based on turnover rather than risk. There is no clearly defined supervision methodology for checking AML/CFT compliance but all inspections: (i) look for a risk assessment; (ii) check that internal documents are in place; (iii) confirm that a compliance officer (authorised person) has been appointed; and (iv) identify and review all cash transactions that have not been reported (subsequently disclosed to FIU). No information has been provided on supervision in the RS.

709. The limited number of CSPs have not been supervised at all during the period under review.

**Table 6.7:** number of inspections by the Financial Police - FBiH covering AML/CFT (2018 to 2022)

DNFBP	Number of inspections
<b>Real estate agents</b>	69
<b>Accountants (including tax services)</b>	21
<b>DPMS</b>	15

#### *6.2.4. Remedial actions and effective, proportionate, and dissuasive Remedial actions and effective, proportionate, and dissuasive sanctions*

710. There are no published policies on sanctioning practice, and there is inconsistent use of measures in practice. Whilst the supervisor of banks in the FBiH tends to impose a written order to eliminate irregularities and a fine when an inspection determines that conduct is contrary to the AML/CFT Law, less or no use is made of fining powers by other FI supervisors. There is also evidence of a rather conservative sanctioning approach. In particular, the level of fines imposed on banks is not likely to dissuade others or to be effective at ensuring future compliance by the sanctioned institution. No remedial measures or sanctions have been applied against DNFBPs or VASPs during the period under assessment.

#### *FIs*

711. Supervisors have an array of supervisory and enforcement measures available to deal with AML/CFT breaches, including the imposition of: (i) remedial measures (execution of written orders by supervisors to eliminate irregularities); and (ii) sanctions (e.g., written warnings, temporary or permanent prohibitions on conducting business and the imposition of misdemeanour fines). The level of fines that is set for failing to comply with AML/CFT requirements is low, particularly those that may be imposed by supervisors – see c.27.4, c.28(4)(c) and c.35.1 in the TC Annex.

712. In practice, supervisors do not apply measures where deficiencies picked up in inspections have already been addressed. Where orders are made to address deficiencies, then the supervisor always sets a deadline and checks that deficiencies are addressed in line with the timeline set. FIs prepare and submit a report to the supervisor after expiry of the defined deadline and the supervisor may subsequently perform a follow-up inspection to verify execution (see later section).

713. Generally, findings in on-site inspections are linked to: (i) quality of CDD documentation; (ii) updating of customer risk profiles; (iii) source of funds used for loan repayments; (iv) monitoring; (v) quality of risk analysis linked to technological developments; (vi) training; (vii) the compliance officer

(authorised person); (viii) risk management; (ix) policies and procedures; and (x) reporting of cash transactions. Supervisors do not consider these to be serious or systemic shortcomings.

714. The Banking Agency – FBiH has been most active in applying remedial measures and sanctions, mostly to banks and MCOs (reflecting the make-up of the market).

**Table 6.8:** sanctions applied by the Banking Agency – FBiH (all banking entities)

	<b>Inspections</b>	<b>Written warnings issued</b>	<b>Written orders</b>	<b>Number of issued fines</b>	<b>Value of fines<sup>63</sup> (in EUR)</b>
<b>2019</b>	24	0	19	17	175 322
<b>2020</b>	22	0	6	5	98 168
<b>2021</b>	20	2	11	8	137 538
<b>2022</b>	26	0	15	15	186 110
<b>2023</b>	24	1	9	7	105 326

715. In 2020, one of the written orders was to dismiss a leasing company’s executive director within 90 days. This came after a follow-up inspection, which concluded that the leasing company had not demonstrated the “ability and efficiency” to resolve previously established irregularities and illegalities.

716. The Banking Agency - RS has been less active in imposing fines. All fines relate to banks and written orders have been issued to banks and MCOs. Given that the majority of banks in the two entities have been assessed as medium or low risk and supervision is harmonised, there is no obvious reason for this difference.

**Table 6.9:** Sanctions applied by the Banking Agency – RS (all banking entities)

	<b>Inspections</b>	<b>Written warnings issued</b>	<b>Written orders</b>	<b>Number of issued fines</b>	<b>Value of fines (in EUR)</b>
<b>2019</b>	14	0	6	3	15 000
<b>2020</b>	9	0	5	2	12 500
<b>2021</b>	9	0	7	0	0
<b>2022</b>	11	0	6	0	0
<b>2023</b>	10	0	6	0	0

717. Many inspections do not lead to the use of remedial measures or sanctions. Banking supervisors consider that the number of written orders and fines reflects: (i) the nature of findings (which are not serious or systemic); and (ii) strong levels of compliance given the frequency with which banks are supervised. Whilst this view is broadly consistent with the assessment of medium to medium-low ML vulnerability in the banking sector for the period under review, there are two known cases where the bank has taken action rather than the supervisor itself (see boxes 6.1 and 6.2) and this is suggestive of a rather conservative sanctioning style.

---

<sup>63</sup> Excludes fines imposed on responsible persons.

### Case study 6.1: dismissal of board member

In 2020, after receiving a complaint, the supervisor conducted an extraordinary targeted on-site inspection of the implementation of customer identification measures, monitoring and risk management. The supervisor found several important shortcomings in the bank's control and risk functions and with employee training.

The bank was ordered to eliminate these shortcomings within a set period and fined BAM 70 000 (approximately EUR 35 000) and the president of the bank's management board was fined BAM 16 000 (approximately EUR 8 000).

Following the on-site visit, the bank's supervisory board ordered internal audit to conduct a review. After receiving the internal audit report, the supervisory board dismissed the member of the bank's management responsible for the identified irregularities.

718. Moreover, whilst the AT has not conducted an audit, it observes that some supervisory findings in case studies presented suggest that the level of fines imposed on banks is not likely to dissuade others or be effective at ensuring future compliance by the sanctioned institution. In one case, it was observed that a bank had failed to consider several payments by the same customer in cash just below the threshold for making a declaration to the FIU as suspicious (despite this being a "red flag" in guidance and risks presented using cash in BiH). Yet the amount of the fine against the bank was just BAM 20 000 (approximately EUR 10 000)<sup>64</sup>. In a second case, the supervisor had identified: (i) failure to conduct expected controls on contracts with currency exchange offices; (ii) lack of focus in monitoring transactions conducted as agent for MVTs operators; and (iii) absence of internal audit oversight. In this case, the amount of the fine was BAM 42 000 (approximately EUR 21 000). In a third case referred to under Chapter 3 (IO.6), a bank was sanctioned for failing to make an STR, where a fine of BAM 20 000 (approximately EUR 10 000) was applied. Considering profits in the banking sector (highest profit disclosed for a bank is BAM 41 million (approximately EUR 20.5 million)) and strong links to groups headquartered in EU Member States, this level is not considered to be sufficient.

719. In other FI sectors, some use has been made of written orders and written warnings. No other sanctions have been applied for failing to apply AML/CFT requirements. Failure to undertake the necessary remedial measures could lead to the revocation of licences or disbarment of management officials, but such powers have not been used in practice during the period under review.

#### DNFBPs and VASPs

720. Despite the availability of sanctions (see c.28.4(c) in the TC Annex), no remedial measures or sanctions have been applied against DNFBPs, though one disciplinary measure has been applied to a notary in the RS (under appeal). The absence of measures is in line with the nascent status of supervision of DNFBPs and use of initial rounds of supervision to build awareness and to educate.

721. No measures have been applied against VASPs. This sector has yet to be supervised, including in the RS where inspections had not started at the time of the on-site visit.

---

<sup>64</sup> The responsible person was fined BAM 5 000 (approximately EUR 2 500).



### 6.2.5. Impact of supervisory actions on compliance

722. Follow-up inspections are making a positive difference to the level of AML/CFT compliance by FIs. Given the absence of supervision of DNFBPs for much of the period under review, it was not possible to demonstrate any effect.

723. Core principles FIs confirmed that, where AML/CFT breaches are identified by the supervisor, they were provided with: (i) an examination report detailing the deficiencies identified; (ii) the steps required to rectify those deficiencies; and (iii) the timeframe within which remediation must be completed. They confirmed that breaches had been remediated to the satisfaction of their supervisor.

724. Depending on the determined degree of execution of the ordered measures, the supervisor may perform a follow-up inspection to verify execution. Otherwise, follow-up is completed off-site. In the case of banks, a report from internal audit must also be submitted to the supervisor explaining how deficiencies have been addressed.

**Table 6.10:** number of follow-up inspections of banks by Banking Agency – FBiH

	2019	2020	2021	2022	2023
Number of entities	15	15	15	13	13
Number of follow-up inspections	0	12	3	8	5

**Table 6.11:** number of follow-up inspections of banks by Banking Agency – RS

	2019	2020	2021	2022	2023
Number of entities	8	8	8	8	8
Number of follow-up inspections	2	1	1	3	2

725. Banking supervisors are most effective at ensuring that deficiencies identified during supervision are remediated at an individual institutional level. Banking entities spoke most favourably of their supervisor’s approach to remediating breaches of AML/CFT requirements and attach importance to responding appropriately to supervisory findings.

#### Case study 6.2: bank response to supervisory findings

Immediately after receipt of its examination report, the bank’s supervisory board dismissed the director of the compliance monitoring function.

By letter, the bank’s management informed the Agency that it took seriously the irregularities noted in the report and that it would address them. The letter stated that the bank recognised that it had a key problem in undercapacity in its control functions, especially in the AML/CFT area.

726. Supervisors do not measure the success of what they do at a more strategic level, e.g., setting objectives for, and presenting trends in, findings from supervisory engagement. This limits the extent to which supervisors can demonstrate that compliance is improving over time.

727. It has been noted that the measurement of ML/TF vulnerabilities in the banking sector, calculated using a methodology developed by the World Bank, has fallen from “medium” in the NRA to medium low in the NRA Addendum. This tends to support the general view of supervisors that banks now have better control environments and have eliminated some risks (use of cash and MVTs

operations are examples provided under IO.4). However, in respect of reporting, there is still a disconnect between threats that are identified in national risk assessments and the predicate offences underlying reports. As reported in Chapter 3 (IO.6), most STRs are related to suspicion of tax crimes and the number related to corruption and organised crime are limited. This anomaly may be indicative of some deficiencies in the application of CDD and/or reporting measures, something that supervisory action has so far not successfully addressed.

728. Banking supervisors have also pointed to an increase in the number of complaints made on the application of CDD measures by supervisors, though statistics have not been provided to support this, and the subject of complaints may not necessarily be about stricter CDD, but about the way in which measures have been applied.

729. Whilst it was not demonstrated that direct supervision of currency exchange offices has had a positive effect on compliance with AML/CFT requirements, the requirement for such offices to enter contracts with banks, and for those banks to review those contracts at least once every three months, does have a positive effect on compliance.

730. DNFBP supervisors have not provided evidence that limited engagement with their sectors has affected levels of compliance.

731. The VASP sector has yet to be supervised, including in the RS where inspections had not started at the time of the on-site visit. Whilst the supervisor in the RS had promoted understanding of AML/CFT requirements at the time of registration of applicants, it is too soon to determine whether this has had any material effect on compliance.

#### ***6.2.6. Promoting a clear understanding of AML/CFT obligations and ML/TF risks***

732. Core principles supervisors actively support FIs in raising understanding of their AML/CFT obligations in various ways, including through guidance, training, engagement with professional bodies and bi-lateral supervisory dialogue (feedback and dealing with queries). There has been little effort to promote understanding of AML/CFT requirements by DNFBPs until comparatively recently.

733. Some larger banks, insurance companies and MCOs participated directly in NRA Working Groups considering ML vulnerabilities through their professional bodies and so worked closely with their supervisor and had first-hand experience of the national risk assessment process and results. In other sectors, including securities, insurance, legal and notarial, professional bodies were involved (and able to cascade non-confidential information to their members). In most cases, FIs and DNFBPs had been made aware of the results of the NRA and NRA Addendum, a notable exception being the gambling sector.

734. Core principles supervisors have published detailed rules on applying the AML/CFT Law, and a good amount of guidance on meeting AML/CFT requirements, including on conducting customer risk assessments and implementation of the AML/CFT Law. Further information is provided under R.34 in the TC Annex.

735. In addition, banking supervisors have raised horizontal issues with the sector. Five requests for action were issued by the Banking Agency - FBiH and three requests were issued by the Banking Agency - RS. Further information is provided under R.34 in the TC Annex.

736. FI supervisors also attend meetings with professional bodies in their respective sectors, and meetings arranged by those bodies with members. For example, in 2022 and 2023, the Banking Agency - FBiH supported three workshops covering a range of matters including the use of cash and the NRA Addendum.

737. All core principles supervisors in the RS run joint training in December each year, which includes AML/CFT elements. Numbers attending from the private sector have increased from around 50 in 2018 to around 130 in 2022. Supervisors also actively support private sector training initiatives. In addition, remote training on VAs and VASPs has been run in the RS (December 2023).

738. On a bilateral basis, there are regular meetings (at least two per annum) between most FI supervisors and boards and compliance officers (authorised persons). More generally, FI supervisors respond to queries from obliged entities and work closely on promoting a better understanding of AML/CFT by institutions.

739. There has been little effort to promote understanding of AML/CFT requirements by DNFbps until comparatively recently. However, initial inspections act as a form of bespoke training, helping to increase overall knowledge and awareness of AML/CFT requirements and compliance. The supervisor of notaries in the RS has arranged two training workshops, involving international training partners.

740. As part of the registration process in the RS for VASPs, the supervisor has worked successfully with applicants to promote understanding of AML/CFT requirements.

### *Overall conclusions on IO.3*

741. Supervision of banks prevents criminals and their associates from holding or being the BO of a significant or controlling interest or holding a management function. Banking supervisors have a comprehensive understanding of ML risks, although understanding of TF risk is less developed, and the application of a risk-based approach is generally well-developed. On the other hand, it has not been demonstrated that enforcement action against banks is likely to dissuade others or to be effective at ensuring future compliance by the sanctioned institution. The AT has attached some importance to this latter finding.

742. Whilst there are effective measures in place to prevent criminals from being accredited as notaries, risk understanding and application of a risk-based approach are still under development in the RS, and, in the FBiH, only limited information has been made available. Accordingly, there has not been a framework in place to support the application of remedial actions or sanctions or to promote understanding or compliance. Consequently, at least major improvements are needed in this important sector and the AT attaches significant weighting to this finding.

743. In other sectors, understanding of risk and application of risk-based supervision is less developed, and, in some sectors entirely missing. There are also gaps in efforts to prevent criminal ownership or management of some DNFbps. At least major improvements are needed here. Given the dominant position of the banking sector, less weighting has been given to these shortcomings.

744. **BiH is rated as having a moderate level of effectiveness for IO.3.**

## 7. LEGAL PERSONS AND ARRANGEMENTS

### 7.1. Key Findings and Recommended Actions

#### **Key Findings**

##### **Immediate Outcome 5**

- a) The procedure for registration of legal persons in BiH is regulated at entity or district level. Information on the creation and types of legal persons is publicly available to a sufficient degree.
- b) BiH has conducted some analysis to understand ML risks pertaining to legal persons. This includes through the NRA, the NRA Addendum and a more recent stand-alone assessment. However, BiH's risk understanding needs to be further strengthened, including consideration of: (i) characteristics which render legal persons prone to misuse; (ii) common typologies and schemes; (iii) existing controls in place to mitigate risk; and (iv) availability of BO information. No assessment has been conducted for TF risk.
- c) BiH has taken some positive steps over the years that prevent the misuse of legal persons. However, the effect of measures taken is limited by the absence of a more coordinated approach to mitigating risk.
- d) Registries are a key source of basic information on companies (including partnerships) in BiH. Information can be accessed: (i) online from portals; and (ii) directly from competent registration courts. However, portals and registries are not adequately populated or always accessible. Evidence presented does not demonstrate the existence of an effective verification system and places doubts on the extent to which information accessible would always be up to date and accurate. BiH does not have an effective system for recording basic information for associations and foundations.
- e) In practice, competent authorities obtain basic and BO information from banks since legal requirements render them integral for all forms of legal person to conduct business. Measures applied by banks to find out the identity of BO of legal persons are largely satisfactory and supervisors did not identify any significant shortcomings. However, the authorities have provided only limited information to demonstrate that all legal persons operate active bank accounts in BiH. Notaries play a significant role in the establishment of companies. However, given that supervision of this sector is nascent in BiH, only limited reliance may be placed on them as a source for BO information.
- f) The FIU and LEAs generally provided good feedback on the quality and completeness of information from banks and registries. However, insufficient statistics or case studies have been provided to demonstrate timely access to BO information in practice.
- g) The authorities responsible for the ongoing registration of legal persons did not provide practical examples and detailed statistics on sanctions and administrative measures applied in response to non-compliant activity.
- h) There are no mechanisms in place to prevent misuse of nominee shareholders (R.24).

#### **Recommended Actions**

- a) A working group should be established under the permanent national AML/CFT coordination body to promote policy and operational coordination between the various authorities in the entities and district with responsibilities linked to transparency of legal persons.
- b) The authorities should strengthen their understanding and articulation of ML risk and carry out an assessment of TF risk associated with legal persons. In both instances, BiH should take into account the characteristics of companies, typologies and vulnerabilities and take account of the use of “phantom” companies, nominee shareholdings and nominee directorships. All relevant authorities and obliged entities should be informed about findings through effective outreach programmes. Additional mitigating measures should then be considered.
- c) The authorities should consider the adequacy of: (i) resources (both human and technical) at competent registration courts; (ii) powers to check that applicants/legal persons register accurate information and that it is updated on a timely basis; and (iii) access points for consolidated information on companies (including partnerships), associations and foundations (state, entities and district). Changes should be made in line with findings.
- d) In the RS, authorities should: (i) continue to establish and populate a digitalised BO register; (ii) review and align the definition of BO with the FATF Standards; and (iii) consider the use of obliged entities to report discrepancies with data held on the register. In line with the approach followed in RS, authorities in FBiH and district should carry out an exercise to review current access to BO information and merits in introducing similar BO registers.
- e) The authorities should consider the use of other mechanisms for accessing BO information. The country should consider widening the scope of the bank account register, which is already in place, to include BO information reported by the banking sector and subject it to routine checks to ensure that information held is accurate and up to date.

745. 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.<sup>65</sup>

## 7.2. Immediate Outcome 5 (Legal Persons and arrangements)

746. The following types of legal person are used: (i) limited liability companies; (ii) joint stock companies; (iii) general partnerships; (iv) limited partnerships; (v) associations; and (vi) foundations. Numbers registered are set out in Chapter 1. Limited liability companies are the most common form of legal person used representing over 70% of the total number of legal persons registered at the end of 2023. The Legal Entities Risk Assessment concludes that limited liability companies are the most featured in identified and documented ML typologies. As such, any findings concerning limited liability companies have been heavily weighted throughout the assessment of this Immediate Outcome.

### *Companies (including partnerships)*

---

<sup>65</sup> The availability of accurate and up-to-date basic and BO information is also assessed by the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes. In some cases, the findings may differ due to differences in the FATF and Global Forum’s respective methodologies, objectives and scope of the standards.

747. The registration of companies (including partnerships) is carried out by competent courts (municipal courts in FBiH, commercial courts in RS, and the Basic Court of BD). The operation, management and termination of companies (including partnerships) is regulated at entity and district level.

#### *Associations and foundations*

748. The operation, management and termination of associations and foundations is regulated at both state and entity level. The procedure for associations and foundations to register with relevant competent authorities is set out in state and entity level laws. All associations and foundations are obliged to register with the relevant authorities, thereby acquiring the status of a legal person. Registration of associations and foundations is handled by: (i) the Ministry of Justice – BiH; (ii) the Ministry of Justice – FBiH or cantonal ministries; (iii) Ministry of Administration of Local Self-Government – RS; and (iv) the municipal court - BD.

### ***7.2.1. Public availability of information on the creation and types of legal persons and arrangements***

#### *Companies (including partnerships)*

749. Information on the creation and types of companies (including partnerships) in the country are available publicly. In BD this is limited to information in legislation.

750. Information on the formation and basic features of companies (including partnerships) is publicly available in legislative acts. The procedure for registering companies (including partnerships) in BiH is regulated at entity and district level and formalised by entity, district and state level laws.

751. Alongside legislation, varying levels of information are accessible on the websites of entity-level competent authorities. In FBiH, forms to register a company (or partnership) or report changes are available free of charge online at the website of the Municipal Court of Sarajevo or can be obtained at the court. Applicable fees are also outlined on the website. A similar set up is in place in other municipalities. Another website (<https://bizreg.ba/>) provides end-to-end information and the facility to complete registration forms online when registering a company (including partnership) in FBiH. In RS, registration is handled by the Agency for Intermediary, IT and Financial Services (APIF) on behalf of the courts, and forms to register or report changes are available on APIF's website alongside applicable fees. Registration takes place at APIF counters in 11 locations within RS. Similar information on the creation and types of legal persons and arrangements for BD is not available.

752. The state-level Foreign Investment Promotion Agency website provides high-level consolidated information in English, targeting foreign investors intending to establish a business in BiH. Information provided caters for FBiH and RS and covers, inter alia, the main features and characteristics underlying the various forms of legal person, a step-by-step guide on establishing a person, and relevant links for additional information and applicable fees.

#### *Associations and foundations*

753. Similar levels of information do not exist on associations and foundations. Public information on their creation constitutes only the laws on associations and foundations and the accompanying rulebook.

### ***7.2.2. Identification, assessment and understanding of ML/TF risks and vulnerabilities of legal entities***

754. BiH has carried out work to understand ML risks pertaining to legal persons. These were analysed to varying extents within the NRA, the NRA Addendum, a recent stand-alone assessment, and



by SIPA. Overall, BiH has not comprehensively assessed the ML risk associated with the misuse of legal persons in a wider sense, nor developed a sufficiently granular understanding of their misuse for ML purposes. TF risks related to legal persons have not been assessed.

755. Both national risk assessments shed light on the use of “phantom”, “fictitious”, and “shell” companies, particularly in the context of VAT fraud and involvement in real-estate deals to launder funds. The latter typology is highly associated with foreign-owned companies being used to acquire real estate. Neither risk assessments analyse the characteristics of companies (including partnership) which make them more vulnerable to misuse or the controls in place to mitigate risk. The NRA Addendum briefly considers the availability of BO information and highlights the absence of a BO register as a weakness in BiH. However, this analysis is not comprehensive; it does not investigate the extent to which registered shareholder information held by competent courts may constitute BO or other sources of BO information available to the authorities e.g., information collected by banks and other obliged entities.

756. The FIU was involved in a regional project assessing legal persons’ ML risks. Results pertaining to BiH were consolidated in a stand-alone document and shared with the relevant authorities. The assessment, which is largely based on insights from government authorities and some of the private sector, explores common business activities, links to foreign jurisdictions, use of cash among non-resident legal persons, STRs, and international cooperation. The report presents comprehensive statistics; however, it does not delve deeper into: (i) the most common typologies identified in reports and cases; (ii) the effectiveness of mitigating measures in place at competent courts and other authorities (e.g., tax administration) to prevent misuse; or (iii) the availability and quality of basic and BO information from a range of registers and obliged entities.

757. Through bilateral meetings with other authorities and data collection exercises, SIPA has actively sought to understand specific ML risks in relation to legal persons owned by African and Asian nationals, particularly when involved in real estate deals. However, this work does not sufficiently identify threats nor explain why the specific demographic has been selected for this risk assessment, i.e., whether these regions were highlighted in earlier risk assessments or preceding analyses. Meanwhile, SIPA has used the data collected to explore specific vulnerabilities in BiH’s framework including the need for: (i) enhanced supervision of real estate and notarial sectors; and (ii) more scrutiny during legal persons’ registration processes. As a result, a letter was sent to parliament and other relevant bodies with a set of recommendations to address these identified vulnerabilities. Despite these efforts, SIPA maintains that the main ML vulnerabilities have not yet been addressed.

758. During the on-site visit, authorities corroborated the findings of the above-mentioned risk assessments but were not able to provide additional information to address the shortcomings identified by the AT. Whilst acknowledging - at a high-level - the need for reform (streamlining of the registration process), the authorities were unable to identify and explain the specific vulnerabilities contributing to the abuse of legal entities for ML.

759. The recent Legal Entities Risk Assessment states that “phantom” companies (defined in BiH as a business established solely for the purpose of conducting one or more transactions and then either closed or left dormant and not operating) have featured in some STRs from banks. On the other hand, banks met on-site did not appear familiar with these types of company. The FIU acknowledges that the term is not well known, and banks may find them complex to identify. However, there have been no initiatives to enhance banks’ ability to detect “phantom” companies and subsequently improve reporting on this front. Additionally, the findings of the Legal Entities Risk Assessment had not been publicly circulated at the time of the on-site visit. In addition, the typology was not recognised as a current threat by banking supervisors highlighting the need for: (i) BiH to review and update its risk assessment in this area; and/or (ii) outreach to supervisors and the private sector.



### ***7.2.3. Mitigating measures to prevent the misuse of legal persons and arrangements***

760. Notwithstanding its limited understanding of the ML risk of legal persons, BiH has taken some positive steps over the years that prevent the misuse of legal persons. These key measures promote competent authorities' access to basic and BO information and have been explained in detail under section 7.2.4. However, the effect of measures taken is limited by the absence of a more coordinated approach to mitigating risk.

761. Briefly, these include: (i) transparency of basic and shareholder information through registration; (ii) the requirement for companies (including partnerships) and associations and foundations to operate through a bank account in BiH; and (iii) the involvement of notaries, lawyers and accountants (which are obliged entities and so required to apply CDD measures to clients) throughout various stages of a company's lifecycle. Whilst the use of accountants is not directly mandated, they are commonly engaged by companies for the provision of accounting or tax advice. However, larger companies may use internal accounting teams instead. For foundations and associations, accountants are engaged to prepare and certify financial statements. The engagement of obliged entities provides an extra source for access to BO information in BiH.

762. The requirement for legal persons (including foundations and associations) to maintain a domestic bank account which serves as the main channel to perform transactions remains one of the most important measures in place. In principle, its effect is two-fold: (i) it renders companies (including partnerships) subject to banks' due diligence and transaction monitoring; and (ii) it minimises the use of cash while ensuring that companies maintain a domestic financial footprint which is critical for financial analysis and investigations involving legal persons. In fact, between 2020 and 2022, 883 STRs featuring legal persons analysed by SIPA resulted in 646 intelligence reports to tax authorities and other LEAs.

763. In addition, all legal persons must register for tax purposes (including associations and foundations) and Tax Administrations in both FBiH and RS are entrusted to ensure compliance with legal persons' tax registration obligations. In RS, this includes corroborating information held in the competent court registries. During the assessment period, the Tax Administration - RS issued a total of ten misdemeanour orders amounting to BAM 20 000 (approximately EUR 10 000). In FBiH, the authorities explained that tax registration and company registration remain two separate processes and limited efforts have been made to harmonise information. Between 2020 and 2023, the Tax Administration - FBiH performed a total of 152 inspections and fines amounting to BAM 124 300 (approximately EUR 63 500) were imposed. However, it is not clear to what extent these inspections and related sanctions covered company registration requirements since the authorities were not able to provide a breakdown of the underlying reasons behind these enforcement actions. A project is underway to streamline registration of limited liability companies into a 'one stop shop' whereby companies registering in court registers are automatically submitted to the Tax administration - RS.

764. All securities are required to be registered and therefore bearer shares cannot be issued in BiH (see R.24 in the TC Annex). The authorities have not encountered any instances of bearer shares during the period under assessment. However, there are no measures in place to ensure that nominee shareholders and directors cannot be abused (see. R.24 in the TC Annex), even though SIPA has encountered cases of nominee shareholding as explained above.

### ***7.2.4. Timely access to adequate, accurate and current basic and beneficial ownership information on legal persons***

765. Basic and BO information is available to varying extents at competent courts and public registers with different levels of coverage across constituent entities, cantons, and municipalities.

Additionally, BO information is also available through obliged entities with banks being the preferred source by the FIU, and a secondary source for LEAs.

*Source 1: Competent courts and public registers for companies (including partnerships)*

766. As part of the registration process, prospective companies (including partnerships) are required to supply competent courts with: (i) basic information - including company name, seat, activity, and amount of original capital; and (ii) shareholders' information for both natural and non-natural persons, including, name, address, shares held, and any special rights these bear. The information held in the registry is mostly self-reported, although certain declarations require validation by notaries (set out in further detail below).

767. Competent courts entrusted with the registration of companies (including partnerships) carry out high-level checks to ensure completeness of basic information and documentation submitted in relation to establishment, and any changes thereafter. Evidence provided does not show that courts are systematically doing so, although some important examples have been provided to show that action is taken. In RS, the Commercial District Court in Banja Luka refused to register 38 entities and refused to register changes in 244 cases between 2019 and 2023 due to the provision of incomplete documentation. In FBiH, the municipal court in Sarajevo rejected 531 applications in 2023 due to unrectified irregularities (not specified by the authorities).

768. Competent courts routinely collect proof of identity for shareholders or partners. Courts in BD also carry out identity checks for BiH nationals against the database of the Agency for Identification Documents, Records, and Data Exchange - BiH to ensure documents presented are not falsified. Courts in BD also consult with foreign registers when the ownership structure involves foreign persons. During the period under assessment, the authorities have not encountered any cases of fraudulent identity on the basis of which they had to reject an application or strike off a legal person. This finding is not consistent with the NRA or NRA Addendum that recognise false identity as an ML typology, especially in conjunction with legal persons.

769. Companies are legally required to update the competent courts with any changes in basic and shareholder information. Shortcomings related to this are identified under c.24.5 in the TC Annex and prevent the competent courts from ensuring that the information they hold is updated in a timely manner and is accurate when accessed. Authorities in FBiH highlighted that the competent courts are under-resourced, and this has an impact on processing new registrations and registering updates. The latter is particularly impacted since courts rely on manual methods, and digital solutions are currently lacking.

770. Basic information including information on registered shareholders is searchable through an official online single access point (<https://bizreg.pravosudje.ba/>) which provides immediate and various searching capabilities, including by constituent entity or district, company name, registration number, legal form. The platform provides statistical data regarding the number of companies included within its database. At time of access by the AT, the number of companies reported for FBiH and BD appeared broadly in line with information shared by authorities \on registered companies (see Chapter 1), however, for RS, only two companies were reported on the platform. This raises questions on the extent of coverage provided by the service. Another official website (<http://bizreg.esrpska.com>) highlighted by the authorities specifically for companies in RS was inaccessible to the AT. Competent courts in FBiH have also affirmed their difficulty in retrieving information pertaining to companies in RS and this has an impact on their operations.

771. Retrievable data from online registers is for informative purposes only and consists mainly of the latest data held by courts on companies and partnerships. Historical data related to shareholdings or other company information and copies of registration certificates can only be issued upon request

from the relevant competent courts. According to the authorities, this is a cumbersome process and has been highlighted as a weakness in the NRA Addendum.

772. In summary, registries and online platforms in place could allow for information to be accessed in a timely manner. However, these registries and platforms are not adequately populated or always accessible. Competent courts do not check that information is updated on a timely basis in registries (see c.24.5) and places doubts on the extent to which information accessible from competent courts and registries would be up to date and accurate.

773. Additionally, information on the top ten largest shareholders for joint stock companies is maintained on central registers of securities in FBiH and RS. Similar information for joint stock companies established in BD is maintained by either of the two securities registers depending on where shares are traded. Information is rendered publicly available online by both registers ([www.rvp.ba](http://www.rvp.ba) and [www.crhovrs.org](http://www.crhovrs.org)). The registers indicate whether securities are being held by a shareholder on a custodial basis. In such cases, full information on the underlying legal shareholders is available upon request for whoever demonstrates a legal interest (including LEAs). In such cases, information can be retrieved within one working day.

774. While registered shareholder information is held by the courts or registers of securities and made available online, the extent to which this constitutes BO largely depends on the complexity of, and involvement of foreign legal persons and arrangements in, the ownership structure. This challenge has also been highlighted in the NRA Addendum. In RS, around 11% of limited liability companies and 2% of joint stock companies have foreign legal persons or arrangements within their ownership structure. This means that, in a large majority of cases, there is a likelihood that the BO of a company will be available from the RS register. Equivalent data was not available for FBiH, where most legal persons in BiH are registered and so it is not possible to conclude in this respect. Moreover, other elements of BO (e.g., ownership through other means) are not addressed through this method.

775. In RS, amendments to the Law on Registration of Business Entities support the collection of BO information by requiring applicants to submit evidence of ownership of any legal person holding 20% or more of a domestic company's share capital – up until a natural person is identified. Ownership through other means is not reported. When interviewed, LEAs and prosecutors dismissed the notion that BO information was being stored in BiH and this was also highlighted as a deficiency in the NRA. This can be explained, in part, by the fact that BO information is collected in a physical format on companies established since 2019 and is more difficult to access. RS authorities noted ongoing work to digitalise this information so that it can be accessed via a future register of BOs. This will be part of the register of business entities and will include identification and ownership details of BOs. Similar provisions have not been introduced in FBiH.

*Source 2: Ministries of Justice and public registers for associations and foundations*

776. The majority of associations and foundations are established in FBiH, where basic information is dispersed across different cantonal ministries' websites. Requirements to report founders are also in place. In RS, basic information (including information on founders) is consolidated at entity level, while in BD, it is consolidated at the district level. Consolidated information for both is publicly available online.

777. In addition, there is also a national unified online platform (maintained by the Ministry of Justice – BiH) that displays information on associations and foundations. The online platform, which was still being developed at the time of the on-site visit, currently bears a standard disclaimer that data may be outdated (given delays in synchronisation with information held at entity-level). During the on-site visit, the AT also came across examples of foundations whose information was being

misreported on this unified platform and where attempts to change this information had met with little success.

778. The NRA Addendum also highlights major issues in the system of registration for foundations and associations. Due to the various levels at which registration can take place, a foundation or association can register twice with the same name and remain undetected. Additionally, the authorities responsible for registration do not consider themselves responsible for checking the accuracy and completeness of information submitted. This can create legal problems and render such structures more prone to abuse by criminals. Based on evidence provided, it is not possible to assess whether information held on associations and foundations by the Ministry of Justice and entity/district level courts is accurate and up to date.

*Source 3: Obligated entities (all legal persons)*

779. Legal persons often seek services from banks, lawyers, notaries, and accountants (accountants' involvement is explained in section 7.2.3). All obligated entities are required to apply the necessary CDD measures, which encompass the identification and verification of basic and BO information.

780. Legal requirements render banks integral for all forms of legal person to conduct business. The most critical legislative instrument is the Law on Internal Payment Transactions - which stipulates that legal persons are required to open accounts with authorised banks in FBiH for payment purposes and for storing funds. Other relevant instruments include: (i) Law on Registration of Business Entities - which requires applicants to present a bank receipt demonstrating deposit of initial share capital; (ii) Law on Foreign Exchange Operations - which requires companies and partnership to obtain an approval from the Ministry of Finance to hold funds in a foreign account; and (iii) Regulation on the Conditions and Method of Payment in Cash - which imposes restrictions on companies regarding the use of cash, specifying limited activities and thresholds where this is permissible. The Financial Information Agency - FBiH and APIF - RS are tasked to maintain a register of bank accounts opened by all legal persons based on information reported by banks on a regular basis.

781. The cumulative effect of these provisions may be to ensure that all companies have bank accounts in BiH. Authorities in FBiH partly demonstrated this by comparing similar numbers of companies in the competent court register and the registers of bank accounts (not including associations and foundations). However, this would not be sufficient evidence to demonstrate whether all companies and partnerships have bank accounts – for example, it may be the case that companies and partnerships have multiple account capture by the register of bank accounts. It is also not clear whether these are active accounts (i.e. used as part of business operations). A similar analysis carried out in RS rendered different results where under half of the registered companies have active bank accounts in RS.

782. Legal provisions within the Law on Internal Payments in FBiH and RS stipulate that a bank is precluded from closing a legal person's main account unless the latter provides proof to the bank that another main account with a bank in BiH has been opened. Banking supervisors are tasked to ensure that these conditions are adhered to. The Banking Agency – FBiH has a specific directorate which supervises compliance this requirement and has carried out 84 on-site inspections during the period between 2019 and 2023. Authorities in both entities have not encountered any cases of non-compliance during the period under assessment.

783. The control of residents' foreign exchange operations is carried out by the Foreign Exchange Department of the Financial Police - FBiH and Tax Administration - RS. No information was provided to the AT on the checks that are carried out and whether they have yielded any results. Notwithstanding, SIPA shared two ongoing cases based on intelligence provided spontaneously by

foreign counterparts which involve legal persons registered in BiH making use of unauthorised bank accounts abroad.

784. Overall, the authorities have provided only limited information to demonstrate that checks are being carried out to ensure that legal persons are complying with the above laws. Whilst company registrations have been refused in FBiH on the basis of the initial share capital not being deposited to a bank in BiH, few other examples or statistics were provided to the AT. Accordingly, the extent to which legal persons operate active bank accounts and provide a useful source of BO information in BiH is unclear.

785. Involvement of lawyers and notaries varies across the constituent entities. In FBiH and RS, founding documents of companies and partnerships are required to be notarised in line with the Law on Registration of Business Entities. However, the notaries' role in FBiH has diminished following a Constitutional Court ruling in 2019, which rendered provisions of laws unconstitutional that granted notaries exclusivity to provide certain services to companies (including notarial deeds for, inter alia, foundation acts, documents regulating changes in business operations, and agreements for acquiring ownership rights). Nevertheless, notaries in FBiH still play a significant role and engage with companies especially when it comes to purchase of real estate. Lawyers are involved in an advisory capacity which is also deemed to be a relevant activity under the AML/CFT Law. Anecdotal evidence presented during the on-site visit estimated that between one-third to one-half of companies in RS rely on advisory services from lawyers when establishing a company. This is especially the case when the structure is more complex, and the founders are more experienced. Lawyers' assistance would also be required when their corporate clients need to file for changes in shareholding or amending founding documents. However, it is still more common for small - and thus the majority - of companies to rely on notarial services. The use of accountants is considered under the previous section.

786. In the case of associations and foundations, the use of gatekeepers is more limited: the role of notaries is limited to the certification of signatures, and lawyers are not involved.

787. Findings under IO.4 relating to the practical application of CDD obligations and on the interpretation of BO have a cascading effect on the core issue. As outlined under IO.4, all FIs were able to articulate who they would consider to be the BO of a customer that is a legal person, and notaries and lawyers are establishing the BO of customers that are legal persons. No issues were identified in finding out who is the BO of a legal person and complex ownership structures are not common. However, many FIs linked ownership to shareholding thresholds in the AML/CFT Law (above 25%) and so may not be fully equipped to obtain and hold complete BO information in more complex cases. Though cases have not been identified by supervisors, SIPA has investigated cases where BO was concealed, and use made of informal nominee shareholders.

788. Findings under IO.3 relating to supervision are also relevant here. Whilst the risk-based approach to supervision of compliance with AML/CFT requirements is generally well developed in the case of banking entities, risk-based AML/CFT supervision in the DNFBP sector is nascent. This significantly limits the extent to which competent authorities can obtain adequate, accurate and current BO information from notaries and lawyers.

#### *Access to basic and BO information sources*

789. Interviews with the FIU and LEAs demonstrated that information on legal persons is generally obtained from obliged entities (mainly banks) and competent courts.

790. The FIU uses its AMLS system to facilitate communication with banks on this front. In urgent cases, the system enables it to obtain BO information in a matter of hours. Otherwise, information is usually provided within a week. Where information is used as evidence, it may also be acquired through competent courts, and this can take up to two weeks.



791. LEAs, including police administrations and prosecutors' offices, typically rely on competent courts' registers as their primary source of information, as they generally lack direct communication channels with banks and obliged entities. However, if a natural person is not identified as a founder, information is sought from banks and notaries through court orders, or from the register of securities. Between 2018 and 2022, the police administration of FBiH sent over 150 requests for information to competent courts and 92 to the FIU, with 90% being directed towards banks.

792. Notwithstanding the shortcomings identified above with respect to the different sources of information, the FIU and LEAs generally had good feedback on the quality and completeness of information collected. However, information shared has been mainly anecdotal; no statistics or case studies were provided to demonstrate the timely provision of accurate and up-to-date BO information by banks and registries. LEAs also emphasised the need for further improvement in the quality and centralisation of data within competent court registers. It was also highlighted that, historically, there have been cases where the BO information provided by banks was out of date, but the authorities state that standards at banks have recently improved.

#### ***7.2.5. Timely access to adequate, accurate and current basic and beneficial ownership information on legal arrangements***

793. BiH's legal framework does not recognise express trusts or similar legal arrangements. However, there is no prohibition on: (i) residents acting as trustee (or equivalent) for foreign trusts or legal arrangements; or (ii) foreign trusts or other legal arrangements being administered in the country.

794. BiH has not carried out an assessment to understand the extent to which: (i) residents act as trustee (or equivalent) for foreign trusts or legal arrangements; or (ii) foreign trusts or other legal arrangements are administered in the country. Nevertheless, the authorities consider that activity is minimal since: (i) LEAs have not identified any cases involving foreign trusts; and (ii) there is limited interest in establishing accounts at banks for trusts. For example, banks in the FBiH operate fewer than 100 accounts for trusts.

795. Information on BO for trusts is available through banks (as outlined above) and, to the extent that there are any, professional trustees (TCSPs). However, there has been no oversight of TCSPs (providing services also to companies) during the period under assessment and so adequate, accurate and current information may not be available.

796. LEAs did not identify any cases involving foreign trusts and so it could not be assessed whether information on legal arrangements is accessible in a timely manner.

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

797. The authorities responsible for the ongoing registration of legal persons did not provide practical examples and detailed statistics on sanctions and administrative measures applied in response to non-compliant activity.

798. Testing of BO obligations is an integral part of inspections carried out by the Banking Agencies. Notwithstanding, serious issues in relation to BO obligations have not been identified and so the practical application of sanctions by supervisors could not be explored.

#### ***Overall conclusions on IO.5***

799. In BiH, measures have been taken to promote the availability and accessibility of basic and BO information via registries and obliged entities. The requirement for legal persons to maintain and actively use a domestic bank account remains one of the most important measures in place to: (i)

improve coverage and availability of BO information through banks; and (ii) to prevent legal persons from being misused by rendering them subject to banks' due diligence and transaction monitoring regimes, while maintaining a domestic financial footprint. Overall, however, there is little evidence of consolidated action, at policy or operational level, amongst the many different authorities involved in regulating or supervising legal persons in the different jurisdictions. This shortcoming has necessarily affected the AT's rating for IO.5 and manifests itself in many ways, including, inconsistent approaches to promoting transparency and access to statistics.

800. In practice, banks and competent court registers are the most important source for BO and basic information. Banks can be relied on only to the extent that measures are in place to ensure that all legal persons have at least one domestic bank account. The legal framework mandating use of a domestic bank account amongst legal persons is sound, and the authorities have advanced a view that, in practice, it would be difficult for a legal person not to have such an account in BiH. While limited statistical evidence has been provided at a micro-level to support this, measures by banking supervisors, competent courts, and SIPA are in place to oversee certain aspects of these obligations. Furthermore, whilst it is possible that registered shareholders and BOs will be the same persons, especially considering the presence of less complex forms of companies in BiH, insufficient evidence has been provided in this respect. Accordingly, it is considered that major improvements are needed to ensure that BO information is available to competent authorities without impediments.

801. Various efforts have been taken by authorities in collaboration with the private sector to understand ML risks presented by legal persons. In fact, legal persons were analysed in two consecutive risk assessments, warranted a stand-alone assessment, and were also on SIPA's radar which proactively sought to analyse specific typologies linked with foreign-owned companies.. Notwithstanding, overall quality was lacking, and TF risks were not analysed. These shortcomings have also been weighted heavily.

802. In addition, there are insufficient checks on accuracy and currency of information held at the competent registration courts, and no information has been provided on sanctions applied to persons who do not comply with registry information requirements. These shortcomings are considered to be important.

803. The country has a functional system in place considering its legal framework and the involvement of various institutions empowered to regulate and oversee legal persons across their entire lifecycle. Notwithstanding, noted deficiencies in the implementation and effectiveness of measures being adopted call for major improvements and highlight the need for a more coordinated approach in order to realise the system's full potential. Whilst there are elements of a multipronged approach in place for accessing BO information, the limitations highlighted above indicate that major improvements are required. Accordingly, **BiH is rated as having a moderate level of effectiveness for IO.5.**



## 8. INTERNATIONAL COOPERATION

### 8.1. Key Findings and Recommended Actions

#### ***Key Findings***

#### ***Immediate Outcome 2***

- a) BiH has a sound legal framework enabling provision of MLA and extradition in relation to ML, associated predicate offences and TF. The Ministry of Justice - BiH is acting as the central authority competent for receiving and further disseminating incoming requests. There is no case management system for handling and following MLA and extradition requests. However, international feedback indicates that both MLA and extraditions are provided in a constructive manner. A significant lack of statistics and a prioritisation mechanism limit the country's ability to demonstrate timeliness of assistance provided.
- b) BiH has not presented any cases of international cooperation which resulted in managing/disposal of assets. Therefore, the AT is not in a position to conclude on the effectiveness of BiH in this respect. In addition, the impact and interpretation of the MLA Law in relation to the ability of BiH to seize and confiscate proceeds based on MLA requests is unclear which can have a negative effect on international cooperation in this regard.
- c) MLA and extradition in relation to ML, associated predicate offences and TF are sought to some extent, when a transnational element is identified. There has been a significant decrease in the overall number of outgoing MLA requests, whilst the NRA indicates an increasing trend of ML emanating from foreign predicate offences. Furthermore, the nature of MLA sought only partially corresponds with areas identified as presenting a higher threat in the NRA. The amount of MLA requests sent to high-risk jurisdictions identified by the NRA is low.
- d) International cooperation provided by the FIU is of good quality, which is acknowledged by its counterparts in the international cooperation survey. However, the FIU has not established a prioritisation mechanism for providing cooperation. Also, the AT considers the FIU should be more pro-active in seeking information from foreign FIUs given the increasing number of cases analysed and the finding in the NRA on the increasing trend of ML threat stemming from foreign countries.
- e) LEAs seek and provide constructive international cooperation on a regular basis. Having said this, there are concerns on the timeliness of international police cooperation which is affected by the lack of a formal prioritisation mechanism, as well as the fact that it is not centralised. Overall, the lack of data does not support an assessment whether the cooperation sought was in line with the risk profile of the country, however BiH was not pro-active in seeking international police cooperation with regards to TF. The AT also notes that the ITA - BiH does not cooperate with foreign counterparts specifically for AML/CTF purposes.
- f) Banking and securities sector supervisors exchange information on a regular basis in a timely manner with foreign counterparts and the quality of this exchange is satisfactory. Meanwhile, no cases of refusal were recorded. This is true also for the insurance sector supervisor of the RS. No information has been provided in respect of other supervisors.

- g) International cooperation for the purpose of exchanging basic and BO information may be affected by the absence or limited availability of relevant information (see IO.5). The FIU has somewhat better potential to have access and consequently exchange BO information compared to other competent authorities.

### ***Recommended Actions***

#### ***Immediate Outcome 2***

- a) BiH should introduce a clear policy at state level, defining the obligation to systematically seek international co-operation when investigating criminal cases of ML, associated predicate offences and TF with a foreign element, in line with its risk profile.
- b) BiH should develop a case management system, which would support timely execution of MLA and extradition requests.
- c) The FIU should take measures to establish mechanisms and procedures for prioritising cases for the purposes of providing timely cooperation to foreign FIUs.
- d) The FIU should seek international cooperation more pro-actively when analysing cases with international elements.
- e) The authorities should enhance coordination of international police cooperation.
- f) BiH should establish a mechanism to maintain clear and sustainable statistics on international cooperation on all levels of assistance (LEA cooperation, FIU cooperation, MLA, cooperation between supervisory bodies) in order to determine whether cooperation is in line with risk assessment findings.
- g) BiH should amend the MLA Law to explicitly provide for execution of foreign requests on seizure and confiscation.
- h) The ITA – BiH should enhance its AML/CFT role and seek cooperation specifically for AML/CFT purposes when relevant.

804. 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)**

805. Effective international cooperation is highly important for BiH considering its geographical position, close ties with the countries in the region, ML threats posed by the OCGs operating in the region, as well as FTFs and other potential threat to TF.

806. BiH has a sound legal system to provide international cooperation. The dual criminality is not a precondition for executing MLA requests. It serves as a precondition for executing requests on extradition without posing restrictions that the offence should be from the same category or denominated by the same terminology.

807. BiH has faced difficulties in providing sufficient and reliable statistics for showing its effectiveness in international cooperation. However, the international feedback received is generally positive and does not identify systematic issues. In the meantime, the international feedback has shown significant discrepancy between the statistics on MLA with BiH provided by Slovenia, and the

total MLA statistics provided by BiH authorities<sup>66</sup>. Based on the limited statistics available to the AT, it can be concluded that the international cooperation sought from foreign counterparts was partially in line with the ML/TF threats identified under the NRA Addendum. Also, there is room for improvement in seeking international cooperation for the majority of competent authorities in the jurisdiction. The international police cooperation lacks high level coordination, which may result in duplication of efforts.

### *8.2.1. Providing constructive and timely MLA and extradition*

808. BiH has a solid legal framework to provide MLA and extradition in relation to ML, associated predicate offences, and TF, enforcing a wide range of MLA based on various legal arrangements and international instruments including UN, Council of Europe conventions, treaties, bilateral arrangements, as well as based on reciprocity.

809. In terms of international prosecutorial cooperation, BiH still does not have an agreement signed with Eurojust. The negotiations were concluded in January 2024. However, prosecutorial operational cooperation has been conducted, and the only limitation due to the lack of an agreement is that the prosecutorial contact point, who is appointed by the decision of the Chief State Prosecutor in BiH, is still not seconded in The Hague, but functions from BiH. Nevertheless, the lack of an agreement does not prevent BiH prosecutors to exchange operational data and participate in joint cross-border investigations, including participation in JITs, on bilateral or multilateral level with competent prosecutorial offices from other countries. As indicated by the Authorities, BiH has already participated in seven JITs with France, Germany, the Netherlands, Slovenia, and Sweden.

810. There is one central authority (Ministry of Justice – BiH) on the state level mandated to receive, process and distribute incoming and outgoing MLAs and extradition requests. Once received and accepted by the Ministry of Justice – BiH, all MLA requests are forwarded to the competent prosecutorial or judicial authorities on the state, entity or BD level, based on their jurisdictions. Namely, when the foreign requests fall under the jurisdiction of the court or prosecutor’s office at state level, the Ministry of Justice - BiH forwards such requests directly to the state judicial authority (Court of BiH or the State Prosecutor’s Office - BiH). The same applies to a request that falls under the jurisdiction of the competent judicial authority of FBiH. When a foreign request falls under the jurisdiction of the competent judicial authority in RS or BD, then the request is forwarded to the Ministry of Justice of the entity/district level, which then sends it to the competent judicial authority.

811. In exceptional cases and based on the international treaties or international cooperation agreements signed with other (foreign) jurisdictions, BiH legislation recognises and provides legal bases for the exchange of foreign and domestic MLA requests directly to competent judicial or prosecutorial authorities. In such cases, a copy of the request should be provided to the central authority. In urgent cases, MLA requests can be exchanged via Interpol as well, while the copy will be communicated to the Ministry of Justice – BiH. When receiving foreign MLA requests, competent courts or prosecutors’ offices may further disseminate cases to other LEAs on the state, entity/BD level, to enforce the requested activities.

---

<sup>66</sup> According to the Slovenian statistics, in the period from **2018 to 2023** Slovenia sent approximately **1100 outgoing requests** for MLA to BiH. Based on the BiH statistics for the period 2018-2022, BiH received overall **1122 incoming MLA requests** which leads to the conclusion (irrespective of the fact that the year of 2023 is involved in the data provided by Slovenia), that almost 90% of all incoming MLAs to BiH originated from Slovenia, which probably could not be the case.

812. According to BiH legislation, the Ministry of Justice - BiH has the authority to weigh the reasonableness of the requests in order to provide information on natural or legal persons, which may negatively affect the country's ability to provide MLA.

813. There is no efficient centralised case management system available in the Ministry of Justice – BiH, which significantly hinders the prioritisation and oversight of the execution of foreign MLA requests. This may prevent systematic and overall monitoring over the timely execution of MLAs. Furthermore, the Ministry of Justice – BiH does not have the procedure for monitoring the fulfilment of foreign requests, neither does periodical reminding of competent national judicial/prosecutorial authorities in case of a delay. Consequently, the Ministry of Justice – BiH reacts only upon foreign reminders.

814. Competent authorities have fair, but still limited resources dedicated to handle foreign MLA requests. There are no dedicated prosecutors dealing with foreign MLAs, but the same prosecutors and judges are dealing with both domestic cases and the execution of foreign MLA requests.

815. According to the international feedback, in general BiH provides timely international cooperation. This is not supported by qualitative data as there are no comprehensive statistics maintained in the country on the execution of foreign MLAs. During the on-site interviews, the authorities could not accurately estimate the average duration of the execution based on the foreign MLAs, since different types of assistance need different time for the execution. Furthermore, there is no comprehensive and accurate statistics available on how long it takes each of the authorities to execute requests.

**Table 8.1: Incoming MLA requests<sup>67</sup>**

	2018	2019	2020	2021	2022	Av.	Total
<b>Incoming MLA requests, of which:</b>	333	321	177	145	146	224	<b>1122</b>
<i>ML-related</i>	6	4	10	6	4	6	<b>30</b>
<i>Main risk 1 (domestic corruption)</i>	2	3	9	6	3	5	<b>23</b>
<i>Main risk 2 (tax crimes)</i>	1	2	4	3	1	2	<b>11</b>
<i>Main risk 3 (organized crime)</i>	0	0	0	0	0	0	<b>0</b>
<i>Main risk 4 (illicit trafficking in narcotic drugs and psychotropic substances)</i>	60	39	26	25	21	34	<b>171</b>
<i>Main risk 5 (fraud)</i>	90	89	34	26	42	56	<b>281</b>
<i>Terrorism</i>	7	6	1	3	1	4	<b>18</b>
<i>TF</i>	0	1	0	3	1	1	<b>5</b>
Pending	221	161	120	75	62	128	<b>639</b>
Refused	15	22	15	23	8	17	<b>83</b>

<sup>67</sup> The data in this table is not accurate, and therefore can be used for informative purposes only, to understand the range of MLA, as BiH authorities have not provided information that could precisely show the status of incoming MLAs and their execution ratio.

Executed	97	138	40	44	77	79	<b>396</b>
----------	----	-----	----	----	----	----	------------

816. The provided statistics show that, there is a significant percentage of pending incoming MLAs, with a significant delay, for more than 1 year. 1 122 MLA requests (related to ML/TF and associated predicate offences) were received between 2018 and 2022, 639 out of which are pending, which points to there being 57% of unsolved MLA requests. There is no comprehensive analysis of the pending cases, nevertheless the Authorities indicated that is the percentage is high due to the inaccurate statistics.

817. BiH has not made available to the AT accurate and comprehensive statistics on refusals. Information has been provided only in relation to ML, TF, terrorism and corruption offences. Based on the information available it can be concluded that there were only a few cases of refusals due to formal deficiencies in the MLA requests or reasonable grounds. In most of the cases the person was not found in BiH which made it impossible to conduct the request of the foreign counterpart. During the on-site interviews, BiH authorities stated that they did not have rejections of foreign MLAs based on reciprocity. Among the most common reasons to refuse MLA requests the authorities mentioned politically motivated investigations, violation of human rights in the requesting country, and the general character of the MLA request (e.g. to check all transactions in all the banks without specifying any period).

### ***Seizures and confiscations***

818. The requests of foreign countries to identify, freeze, seize, or confiscate property are processed as regular MLA requests, and after receipt by the Ministry of Justice - BiH, they are forwarded to the competent judicial authority (a public prosecutor's office or a competent court) for enforcement.

#### **Case study 8.1: Successful execution of an ML/TF seizure and confiscation request**

In April 2019, the Prosecutor's Office of BiH received an MLA request from the Netherlands against three persons on grounds of suspicion that they invested money derived from trade in narcotic drugs in the purchase of real estates in Western European countries (requesting, inter alia, information on the bank accounts of individuals and legal entities from BiH, connected to the purchase of the real estate in the Netherlands).

Based on the order of the Court of BiH, all the requested data were collected (data on bank deposits, account balances and turnover, financial transactions and business), about which the requesting state was informed in June 2019.

In July 2019, based on the supplement to the MLA request of the Netherlands, searches of the requested facilities and hearings of persons and experts were conducted, and eventually proposals for the adoption of decisions on seizure of property (real estate) were submitted to the Court of BiH. Bank accounts and real estate identified in BiH were blocked according to the decision of the Court of BiH.

819. Based on the statistics provided for the period of 2018 to 2022, BiH competent authorities have received 6 foreign MLA requests for confiscation and 2 for seizure.<sup>68</sup> Overall, BiH authorities seized/confiscated EUR 306,068 and refused seizure/confiscation for EUR 444 639. This shows the ability of BiH to provide international cooperation in confiscating property. However, the MLA Law –

<sup>68</sup> The statistics made available by BiH are questionable, as they show the origin of MLA requests related to seizure and confiscation being Croatia and Slovenia, however the case provided in the box above is related to the Netherlands.

BiH regulates only the execution of sentences of custodial character and is silent on the procedure for execution of judgements on confiscation. The AT finds unclear the way the authorities interpret the MLA Law – BiH which enables them to confiscate property at request of foreign states.

820. According to the available statistics, the half of the requests were executed, and the rest refused. There was no explanation provided for the refusal of confiscation of the major part of the assets, however the information provided for the remaining cases show legitimate and reasonable grounds.

821. There is no time limitation for provisional measures (freezing and seizure) imposed under the enforcement of foreign requests and it is decided by the competent court on a case-by-case basis, by analogous application of the provisions of the criminal procedures codes (CPCs) related to the enforcement of national freezing and seizure orders. There is no time limit for enforcing freezing and seizure and these measures can last as long as there is a need. However, this is being evaluated periodically by the court in order to prevent the abuse of law. In this course, the court can request justification from foreign judicial authority about the reasoning for the long-lasting preventive measures.

822. Asset management is regulated only on entity/BD level. Asset management offices are established in the FBiH and RS. In BD the Expert Service of the Judicial Commission is responsible for managing seized property and the Office of Public Property is responsible for managing confiscated property (see also under IO.8). According to the interpretation of BiH authorities the lack of relevant legislation and an asset management office at state level is not an obstacle in executing MLA requests on asset management or disposal of assets. In particular, the mechanism for executing such requests is considered to be the referral of the MLA request to the Court of BiH which must decide on the competent asset management office for asset management/disposal depending on the location of the property. However, there were no examples provided to the AT in this regard which renders it impossible to conclude on BiH effectiveness when it comes to managing/disposing of property at foreign request.

*Extradition*

823. In general, the legal system of BiH 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 the simplified procedure. The existing national legislation forbids extradition of BiH nationals to another state, except in cases where a request is made in accordance with bilateral agreement signed and ratified by BiH, allowing the extradition of its own nationals. BiH has concluded several bilateral agreements with neighbouring countries that prescribe the procedure for extradition of its own nationals. The Minister of Justice is responsible for issuing a formal and final decision on granting extradition of the aforementioned persons or issuing the decision on transit of the extradited person through the territory of BiH or giving consent to the transfer of sentence of the convicted person.

**Table 8.2:** Incoming extradition requests<sup>69</sup>

	2018	2019	2020	2021	2022	Av.	Total

<sup>69</sup> The data in this table is not accurate, and therefore can be used for informative purposes only, to understand the range of extradition requests, as BiH authorities have not provided information which could precisely show the status of incoming extradition requests and their execution ratio.



<b>Incoming extradition requests, of which</b>	43	46	52	45	49	47	<b>235</b>
<i>ML-related</i>	0	0	0	0	0	0	<b>0</b>
<i>Main risk 1 (domestic corruption)</i>	0	0	1	0	0	0	<b>1</b>
<i>Main risk 2 (tax crimes)</i>	0	0	0	0	0	0	<b>0</b>
<i>Main risk 3 (organised crime)</i>	0	4	3	1	1	2	<b>9</b>
<i>Main risk 4 (illicit trafficking in narcotic drugs and psychotropic substances)</i>	4	4	5	9	7	6	<b>29</b>
<i>Main risk 5 (fraud)</i>	1	1	5	4	8	4	<b>19</b>
<i>Terrorism</i>	3	2	2	3	1	2	<b>11</b>
<i>TF</i>	0	0	0	0	0	0	<b>0</b>
Pending	0	0	0	0	0	0	<b>0</b>
Refused	7	8	10	7	7	8	<b>39</b>
Executed	36	38	42	38	42	39	<b>196</b>

824. According to the statistics for 2018-2022, there were no incoming extradition requests with respect to ML and TF.

825. According to the limited information<sup>70</sup>, BiH did not refuse extradition requests unreasonably. During the on-site interview, the AT was informed that the majority (ten) of rejected extraditions are related to the Türkiye requests regarding members of a “terrorist organisation” due to the unavailability of those persons in BiH. A few extradition requests were also refused due to the absence of the dual criminality requirement or their referral to BiH citizens. An average time for handing over the persons varies from 90 to 180 days from the day of arrest.

826. The dual criminality requirement is one of the key elements for granting extradition, according to the MLA Law - BiH. However, ML and TF are extraditable offences, and according to the on-site interviews, the AT was assured that this does not have negative effect on executing extraction requests in relation to ML and TF, neither such issues have been identified in practice. In addition, the international co-operation feedback on extradition was generally positive and did not identify any apparent systematic problems.

#### **Case study 8.2: Successful execution of an ML/TF extradition request**

Person A was deprived of his liberty on 30/06/2017 in Sarajevo based on Interpol warrant issued by the United States for committing several criminal offences related to conspiracy in providing and attempting to provide material support to a foreign terrorist organisation, in the period from 2013 to 2017. The suspect had been deprived of his liberty, based on the prior information from SIPA that the person was in BiH for a long period of time and that he was staying in the Sarajevo area using forged documents of Ukraine and Montenegro issued in false names. Based on detailed checks Person A was arrested.

<sup>70</sup> The provided information contained only Extraditions related ML, TF, terrorism, corruption and organised crime for the period of 2018-2022.



Following the arrest, the United States judicial authorities, through the United States Embassy to BiH and through the Ministry of Justice - BiH, submitted a request for extradition of the wanted person to the United States with the aim of conducting criminal proceedings before the United States judicial authorities, for the commission of the mentioned criminal offences.

Person A was extradited to the United States judicial authorities on 31 October 2017 based on the decision of the Minister of Justice - BiH, following the decision of the Court of BiH. After the completion of the proceedings in the United States, Person A was sentenced to life imprisonment in 2023.

### ***8.2.2. Seeking timely legal assistance to pursue domestic ML, associated predicates and TF cases with transnational elements***

#### **MLA**

827. The MLA requests related to ML/TF and associated predicate offences are requested by the State prosecutor's office in BiH, who is according to the Law, authorised to deal with the cases with the cross-border (international) element.

828. Neither the Ministry of Justice – BiH nor competent judicial/prosecutorial authorities have adequate case management systems that will allow them to systematically and timely monitor over the implementation of MLA requests. Instead, the authorities involved in the process rather keep track of outgoing MLA requests in paper-based forms or basic document management systems. This presents an impediment to the effectiveness of international cooperation.

#### **Case study 8.3: Seeking MLA**

On 21 December 2021, the Prosecutor's Office of BiH issued an order to conduct financial investigation and collect evidence due to the existence of grounds for suspicion that the criminal offence of organised crime had been committed, in connection with criminal offences of unauthorised traffic in narcotic drugs and disclosing secret information.

MLA requests were sent to Croatia, Montenegro, France and the United States to gather evidence on the illicit traffic in narcotic drugs and excise goods, in the region and in the countries of the EU, and the transfer of large amounts of money across international borders, in one instance over EUR 250 000.

The financial investigation showed a significant disproportion of income and expenses of the suspects/accused persons in the total amount of BAM 6.4 million (approximately EUR 3.2 million). Consequently, the Prosecutor's Office of BiH filed an indictment of ML under Art. 209 of the CC of BiH in September 2023 and proposed confiscation of the illicit property. The property (concerning a number of real estates, movable property, property held in safety boxes, cash and bank accounts) was seized based on the decisions of the Court of BiH.

829. BiH seeks MLA to some extent to pursue domestic investigations into ML, associated predicate offences and TF that have a foreign nexus, when a preliminary or criminal investigation is open, or after sentencing the convicted persons. MLA requests related to ML, and predicate offences that according to NRA Addendum pose a high or medium/high threat, and TF are significantly low comparing to the total number of MLA sought. Out of the total number of MLA requests, there is low percentage of criminal offences that pose high and medium/high ML threat (0% for OCG, 16% of

narcotics, 4% of smuggling excised goods). Furthermore, the criminal offences of ML and TF hold less than 1% of total MLA requests sent. These findings raise concerns that the instrument of MLA in criminal matters is not systematically used in investigating ML/TF and associated predicate criminal offences that are recognised as high threat, according to the risk assessment. Moreover, over the period of five years (2018 to 2022), there is a significant decrease in the overall number of MLA requests sought, even though, the NRA findings for high levels of threat predicate offences show increase or stagnation in the trend.

**Table 8.3:** Outgoing MLA requests

	2018	2019	2020	2021	2022	Av.	Total
<b>Outgoing MLA requests, of which</b>	291	369	158	135	199	230	<b>1 152</b>
<i>ML-related</i>	4	18	14	8	7	10	<b>51</b>
<i>Main risk 1 (tax crimes)</i>	9	13	14	9	0	9	<b>45</b>
<i>Main risk 2 (organized crime)</i>	0	0	0	1	0	0	<b>1</b>
<i>Main risk 3 (illicit trafficking in narcotic drugs and psychotropic substances)</i>	53	60	26	20	31	38	<b>190</b>
<i>Main risk 4 (fraud)</i>	43	70	25	25	46	42	<b>209</b>
<i>Terrorism</i>	1	2	4	4	0	2	<b>11</b>
<i>TF</i>	0	0	0	0	0	0	<b>0</b>
<b>Pending</b>	156	243	103	87	122	142	<b>711</b>
<b>Refused</b>	10	4	13	10	18	11	<b>55</b>
<b>Executed</b>	120	116	40	38	58	74	<b>372</b>

**Table 8.4:** Outgoing MLA requests to high-risk jurisdictions on ML, TF, Terrorism and Corruption

Country	MLA requests on Terrorism	MLA requests on ML	MLA requests on TF	MLA requests on Corruption
<b>Croatia</b>	0	10	0	6
<b>Serbia</b>	2	11	0	8
<b>Germany</b>	0	4	0	2
<b>Slovenia</b>	0	1	0	1
<b>Austria</b>	2	3	0	1
<b>Switzerland</b>	1	1	0	1
<b>Montenegro</b>	0	2	0	0

830. The AT is not in a position to fully assess whether the geographic picture of outgoing MLA requests correspond with the risk profile of the jurisdictions posing higher threat. According to the available statistics, out of the total number of outgoing MLA requests (see table 8.3) related to the criminal offences that pose higher threat, there are relatively small number of MLAs sent to the jurisdictions from which the main threats originate.<sup>71</sup> In the absence of comprehensive statistics on

<sup>71</sup> (i) Croatia, Serbia, Germany, and Slovenia are rated as a medium/high threat; (ii) Austria, Switzerland, and Montenegro are assessed as a medium threat.

the outgoing MLA requests per country it cannot be assessed whether the majority of MLA requests are sought from the countries identified to pose higher threat.

### **Extradition**

831. In the period of 2018-2022, BiH authorities were generally active in seeking extradition however this cooperation is partially in line with the risk profile of the country. In total, between 2018 and 2022 the Ministry of Justice – BiH has issued 517 extradition requests (see table 8.5). Among the predicate offences considered high and medium/high ML threats, the vast majority of extradition requests are related to illicit narcotic trafficking. These statistics partially correspond to the risk profile of the country. There has been 1 extradition request for ML-related offence and none for TF. According to the breakdown of outgoing extradition requests per countries, the absolute majority of the requests (343) were sent to countries presenting medium/high threat identified by NRA findings.

**Table 8.5: Outgoing extradition requests<sup>72</sup>**

	2018	2019	2020	2021	2022	Av	Total
<b>Outgoing extradition requests, of which</b>	130	117	98	76	96	103	<b>517</b>
<i>ML-related</i>	0	1	0	0	0	0	<b>1</b>
<i>Main risk 1 (domestic corruption)</i>	0	0	0	0	0	0	<b>0</b>
<i>Main risk 2 (tax crimes)</i>	0	0	0	0	0	0	<b>0</b>
<i>Main risk 3 (organized crime)</i>	3	4	4	2	8	4	<b>21</b>
<i>Main risk 4 (illicit trafficking in narcotic drugs and psychotropic substances)</i>	14	15	12	8	19	14	<b>68</b>
<i>Main risk 5 (fraud)</i>	0	4	7	4	4	4	<b>19</b>
<i>Terrorism</i>	0	0	0	0	0	0	<b>0</b>
<i>TF</i>	0	0	0	0	0	0	<b>0</b>
Pending	0	0	0	0	0	0	<b>0</b>
Refused	16	12	12	6	10	11	<b>56</b>
Executed	114	105	86	70	86	92	<b>461</b>

832. Although, BiH is generally active in requesting extradition of searched persons, around 11% of the extradition requests are rejected by foreign jurisdictions. The authorities provided information only with respect to refusals of ML, TF, terrorism, corruption and organised crime. The most common reason for refusals for the mentioned types of crimes was the inapplicability of bilateral agreements on extradition with neighbouring countries in those specific cases.

### **Seizures and confiscations**

833. BiH authorities did not proactively seek recovery of assets from abroad over the reporting period. Based on the available statistics, which are not accurate to the AT's knowledge, there were only 2 MLA requests sent (in 2019). None of the 2 MLA requests resulted in actual confiscation. Overall, the requests were made for the amount of EUR 43 295. Taking into account that ML investigations often included international elements, this amount is extremely low.

<sup>72</sup> The data in this table is not accurate, and therefore can be used for informative purposes only, to understand the range of outgoing requests for assistance, as BiH authorities have not provided information which could precisely show the status of outgoing extradition requests and their execution ratio.

#### **Case study 8.4: Seizure and confiscation**

Based on the criminal investigation conducted on ML committed in BiH and the proceeds of crime traced and located outside of BiH, in 2023 Cantonal Court of Sarajevo has issued the order to secure property benefits that were suspected to have been obtained through a criminal act. An MLA request was sent to the Republic of Croatia seeking to prohibit the alienation, burden, and disposal of an apartment worth EUR 80 000 in the Republic of Croatia. The MLA request sought the prohibition of the alienation, encumbrance, and disposal of the real estate in accordance with the Article 12 of the Convention on Laundering, Tracing, Temporary Seizure and Seizure of Criminal Proceeds in the land register of the Municipal Court in Makarska (Republic of Croatia).

The Republic of Croatia acted on MLA request from BiH and blocked and seized the real estate. In parallel, and based on the decision of the Court of BiH to block financial transactions in cryptocurrencies to the financial transaction provider, a MLA request was sent to the Cayman Islands. The request for assistance was executed by the competent authorities by seizing cryptocurrencies, and conducting asset management, where seized cryptocurrencies were sold on a crypto exchange and later transferred to the special account for criminal proceeds at the Central Bank of BiH.

#### ***8.2.3. Seeking and providing other forms of international cooperation for AML/CFT purposes***

834. BiH has several 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***

835. International cooperation provided by the FIU is of good quality. However, the FIU has not established a prioritisation mechanism for providing cooperation. Also, the AT considers the FIU should be more pro-active in seeking information from foreign FIU given the increasing number of cases and the finding of the NRA on the increasing trend of ML threat stemming from foreign countries.

836. BiH has a sound legal framework to seek and provide international cooperation related to financial intelligence.<sup>73</sup> International cooperation requests and exchange of financial intelligence are handled by the FIU, located on the state level within the SIPA. The FIU's international co-operation is provided through its membership in the Egmont Group. The Egmont Secure Web (ESW), a secure communication channel, is used for exchanging information with other jurisdictions, members of the Egmont Group. To facilitate international cooperation more effectively, the FIU has concluded many information-sharing MOUs with its counterparts, although such agreements are not required for the exchange of information.

837. The FIU provides cooperation of good quality. The AT was not provided with statistics on executions and refusals of foreign FIU requests. In the absence of this information, the AT is guided

---

<sup>73</sup> BiH legislation supports a comparison of the proportionality of the information sought on the one hand with the interests of natural and legal persons on the other hand, as a result of which the submission of information can be refused. This was provision introduced into the new AML/CFT Law, which came into force during the on-site visit. Therefore, the AT cannot conclude on its application.

predominantly by international feedback prepared for the purpose of this evaluation and concludes that the FIU provided satisfactory rather than non-satisfactory international cooperation. Based on the statistics provided, over the period of five years (2018 to 2022), there is a significant decrease both in foreign requests and spontaneous disseminations, as shown in table 8.6.

838. The cooperation the FIU provides is not timely. Though the AT was not provided with information about the timeframe taken to respond to requests, according to the most recent Egmont Group bi-annual census the FIU responded to requests on average in 34 days. This might be a consequence of the absence of a system of prioritisation of requests from the perspective of IO.2 (see also IO.6). Requests are treated on a case-by-case basis. Furthermore, the fact that real estate registers are not set up in all jurisdictions means that the FIU must contact different authorities throughout the country, and it takes time to gather such information, leading to delays in providing replies to requests of other FIUs.

**Table 8.6:** Incoming information on financial intelligence

<b>FIU BiH</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
Requests received from foreign FIUs	36	42	31	61	46
Spontaneous information received from FIUs	19	36	31	41	35
<b>Total:</b>	<b>55</b>	<b>78</b>	<b>62</b>	<b>102</b>	<b>81</b>

839. The AT was not provided with detailed statistics on international cooperation sought by the FIU. Some conclusions can be drawn from the table below:

**Table 8.7:** The correlation of the STRs and international cooperation sought by the FIU

<b>FIU</b>	<b>2023</b>	<b>2022</b>	<b>2021</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>
Total number of received and processed STR reports	1 379	1 504	1 048	812	738	455
Total number of cases opened by the FIU triggered by STRs	755	728	464	367	255	198
Outgoing requests of the FIU	154	134	157	140	135	62
Spontaneous disseminations of the FIU	32	33	35	39	9	12
Ratio (%) of opened cases and FIU's outgoing requests	20%	18%	34%	38%	53%	31%

840. The FIU's proactiveness in seeking international cooperation dropped despite the increase in opened cases. The increase in international cooperation followed by an increase in the number of opened cases in the FIU corresponds with the significant growth in STRs submitted to the FIU. The increase in the number of sent requests and spontaneous dissemination of the information corresponds with the findings of the NRA, identifying the increasing trends of foreign crime proceeds. However, the significant increase in the number of STRs, and opened cases is not followed by the same level of increase in FIU international requests in 2022 and 2023, thus resulting in a significant decrease in the ratio of opened cases compared with the outgoing FIU requests.

### ***Law Enforcement Authorities***

841. LEAs seek and provide constructive international cooperation on a regular basis. However, there are concerns on the timeliness of the international police cooperation which is affected by the fact that it is not centralised and can be established in parallel by several formal and informal channels of communication.

842. International law enforcement cooperation and requests are being exchanged mainly through the SIOPC, which serves as the National Central Bureau of Interpol, and the National Focal Point for Cooperation with the SELEC, over the dedicated and secured channels of communications. International cooperation with Europol is conducted by the NJCP, using the secure Europol (SIENA) channel of communication. The SIOPC also serves as a CARIN contact point as of December 2020.

843. Besides the mentioned channels, LEAs on state and entity/BD level use other informal channels of cooperation, such as direct communication with the network of foreign police liaison officers which is often used during terrorism related cross-border investigations and exchange of information. BiH has liaison officers in Europol, which is not the case for Interpol and the SELEC. International police cooperation is also conducted within the framework of case-by-case investigations, where the communication takes place directly between competent authorities involved in joint or parallel cross-border investigations.

844. The SIOPC uses its case management system, however, no formal or ad-hoc prioritisation mechanism has been introduced. All incoming requests are forwarded to the competent LEAs at the state and entity/BD level, through a dedicated and secure data hub service network, established for domestic inter-agency cooperation.

845. The NJCP does not have a case management system, nor an adequate document filing system or standard operating procedure for prioritisation of cases. Instead, all cases are handled in chronological order based on the time of receipt and urgency markings. The SIENA channel is deployed to the NJCP, with the intention to further be deployed to the majority of LEAs. The SIOPC has one representative in the NJCP. However, this representative is not authorised to act on behalf of the SIOPC in terms of coordination and timely crosschecks of information held by the SIOPC.

846. There are concerns about coordination and monitoring of international police cooperation which inherently cause issues in timeliness of provided cooperation. The fact that international law enforcement cooperation is not centralised in BiH and can be established in parallel by several formal and informal channels of communication, raises concerns about coordinating and monitoring the overall enforcement of requests exchanged (sent and received) with different foreign LEAs. The AT is of the opinion that there is a lack of coordination, which leads to duplication of activities and possible overlapping. During the on-site interviews, the representatives from the SIOPC and NJCP also expressed concerns over the lack of coordination. The AT finds that this lack of coordination has an impact on the timeliness of cooperation.

**Case study 8.5: Successful seeking and providing other forms of international cooperation for AML/CFT purposes**

Following the submission of a report by a legal person from BiH for the criminal offence of fraud (compromise of business communication), it was reported that the affected legal person made a payment to the perpetrator of the criminal offence in the total amount of approximately BAM 1 million (approximately EUR 500 000) to an account in Portugal, for allegedly performed non-existent services.

Upon receipt of the report, information was collected from the victim and the reported perpetrator of the crime, including transactional accounts from which payments were made and accounts to which the payment was made. Financial intelligence data was requested from the bank based on the prosecutor's order, and data on the specific monetary transactions, ownership of the used account, persons authorised to dispose of the account, as well as data on accounts to which part of the money was further transferred were requested through the FIU. Subsequently, through international police cooperation, via Interpol, information on the identities of the perpetrators of this criminal offence, criminal records, residence, data on other transactional accounts, and similar information were requested. Also, the funds on the perpetrator's transactional account to which the payment was made in Portugal, totalling approximately BAM 850 000 (approximately EUR 425 000) were blocked. Further checks were made regarding the money transferred from the perpetrator's account in Portugal to other transactional accounts in Hungary, Spain, Lithuania, France, and Germany. The case is still on-going, and police cooperation has been followed by international legal assistance to obtain material evidence for the criminal proceedings.

847. The SIOPC have direct access to all available national (state/entity/district) databases for the enforcement of international police cooperation. The NJCP does not have access to any available databases and is serving only for receiving and disseminating requests for the competent LEAs in BiH. In the course of international police cooperation, the SIOPC and NJCP send requests for providing various police and criminal intelligence data to various LEAs throughout the country and rely on their reply, which inherently is time consuming.

848. The SIOPC does not hold statistics on international police cooperation disaggregated per predicate offence, ML and TF. Instead, the statistics on incoming and outgoing requests related to ML/TF are held as of 2020, as shown in the table:

**Table 8.8: LEA international cooperation**

International co-operation (LEA)	2022		2021		2020		2019		2018	
	ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
<b>Incoming requests</b>										
SIOPC	45	1	54	1	61	1	N/A	N/A	N/A	N/A
Ministry of Interior - RS <sup>74</sup>	56	7	76	7	41	12	0	9	0	2
<b>Outgoing requests</b>										
SIOPC	15	0	12	2	8	0	N/A	N/A	N/A	N/A
Ministry of Interior - RS	3	0	6	1	4	0	9	0	1	0

<sup>74</sup> The statistics related to Ministry of Interior - RS are referring to the international LE cooperation conducted directly between Ministry of Interior - RS and foreign competent authorities (i.e. foreign ARO offices, foreign police liaison officers, etc).



849. The table does not show any abrupt fluctuations in relation to both incoming and outgoing requests. However, the table illustrates that BiH was not proactive in seeking international police cooperation with regards to TF. By contrast, foreign counterparts contacted BiH several times per year within the course of TF-related cases.

850. The NJCP does not maintain any statistics on international cooperation with Europol, as it has been operational since June 2023.

851. The AT was not provided with information on the timeliness of execution and refusals of the incoming requests; however, the international feedback prepared for the purpose of this evaluation does not indicate any persistent issues in the implementation of international police cooperation requests. The available statistics do not contain information on the type of information requested the most by BiH LEAs as well. Therefore, it cannot be assessed whether the sought international police cooperation is in line with the risk profile of the country.

### ***Indirect Taxation Administration***

852. There is no evidence that cooperation conducted by the ITA - BiH relates to ML/TF issues. International cooperation conducted by the ITA - BiH is mostly related to checking: (i) the credibility of invoices with regard to data on goods - type, value, quantity; (ii) payments in accordance with invoices; and (iii) delivery of certified copies of export customs declarations, etc. Over the period between 2018 and 2022, the ITA - BiH conducted international cooperation on 37 occasions in relation to - on average - three subjects, except for 2018, when checks were conducted with regards to ten subjects. The statistics provided to the AT demonstrate that international cooperation on tax and customs matters mostly align with the findings of the NRA on jurisdictions posing higher risk for ML/TF.

### ***Supervisors***

853. Supervisors in the banking sector and securities sectors regularly exchange information with foreign counterparts based on the AML/CFT Law and agreements/MOUs, inclusive of all neighbouring countries. International cooperation mainly took place in relation to providing supervisory information and “fit and proper” checks. In addition, banking supervisors dealt with requests on conducting supervision and permitting such by the requesting country.

854. International cooperation is provided by banking supervisors on a timely basis. According to the international feedback prepared for the purpose of this evaluation, no issues were reported on the quality of provided information. In FBiH, it took on average 11 days to provide requested information and there were no refusals for providing information. The Banking Agency – RS indicated that there has never been a case of refusing an international cooperation request. As a rule, replies were provided within the timeframe of two weeks.

855. Numbers of requests were provided only for the Banking Agency – FBiH. On a positive note, there was a considerable increase both in incoming and outgoing requests.

**Table 8.9:** Requests submitted by the Banking Agency - FBiH to other regulatory bodies

	<b>2018</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>
<b>Outbound inquiries</b>	5	6	3	22	32
<b>Replies</b>	5	6	3	20	30

**Table 8.10:** Requests from other regulatory bodies - Banking Agency - FBiH

	2018	2019	2020	2021	2022
<b>Inbound inquiries</b>	2	2	9	14	18
<b>Replies</b>	2	2	9	14	18

856. No statistics were provided for RS. However, the supervisor informed the AT of joint supervision with the Slovenian supervisor.

857. No issues were reporting in the quality and timeliness of international cooperation in the field of securities according to international feedback prepared for the purpose of this evaluation. Supervisors of the securities market are members of the International Organisation of Securities Commissions (IOSCO) and exchange information in accordance with the IOSCO MMoU. If all the preconditions are maintained no refusal can take place. In practice both supervisory bodies did not refuse to provide international cooperation. Since there is no securities market in BD, no cases of international cooperation exist.

#### **Case study 8.6: Successful cooperation of supervisors**

In 2020 based on information received from the FIU, the Securities Commission – RS issued a temporary ban on the disposal of a collective investment fund’s account and suspended the transactions of the company made through Banja Luka Stock Exchange. Thereafter the Securities Commission – RS sent a request to the Cayman Islands on revoking the license of the fund.

858. Insurance supervisors are members of the International Association of Insurance Supervisors (IAIS) and can exchange information. Over the reporting period, the Insurance Supervision Agency - RS received seven requests from EU supervisory authorities relating to “fit and proper” checks of owners holding qualified shares. It was reported that no request was refused. No information was provided for FBiH.

859. No information was provided for other supervisors.

#### ***8.2.4. International exchange of basic and beneficial ownership information of legal persons and arrangements***

860. IO.5 explains that basic information on legal persons is available through state, entity and district registries. However, there are doubts on the extent to which information accessible for companies (including partnerships) would always be up to date and accurate and BiH does not have an effective system for recording basic information for associations and foundations. There are also limitations in the availability of BO information.

861. The FIU mostly accesses information on BO from banks. LEAs and prosecutors primarily seek BO information from courts and, where this is unavailable, issue court orders to banks, where delays could be encountered.

#### **Case study 8.7: Successful cooperation of the FIU with the element of BO information**

The FIU noted that a significant amount of money was transferred from the account of a legal person from BiH to the account of a legal person in Germany, based on the purchase of an

expensive car. Considering that, according to the available data, the predominant activity of the German company was not the sale of cars, and that the documentation underlying the transaction in question appeared to be fictitious, a request was sent to the German FIU, which, amongst other things, requested data on BO of the German company. The request was replied to in a short period of time, and data and documentation from the Central Commercial Register and the Central Register of Beneficial Owners were submitted to the BiH FIU.

862. Notwithstanding the above case study, BiH has not provided information on international cooperation for the exchange of basic and BO information, though there are no limitations on the exchange of such data with foreign counterparts. The framework for holding basic and BO information may have a negative impact on international cooperation.

#### *Overall conclusion on IO.2*

863. BiH provides MLA and extradition in a good and constructive manner however there is limited evidence thereof, due to the lack of accurate and comprehensive statistics. The identified shortcomings are in relation to prioritisation mechanisms and timely execution of international cooperation. The international cooperation sought is partially in line with the findings of the NRA on threats. BiH seeks foreign cooperation in relation to ML/TF and predicate offences to a limited extent.

864. Notwithstanding the positive international image of the FIU, the timeliness of the cooperation provided thereby is concerning and the cooperation has seen a decline over the reporting period. The international police cooperation would benefit from higher level of coordination and prioritisation of requests. The supervisory cooperation takes place in a constructive and timely manner, particularly amongst competent authorities in material sectors, though the evidence provided to the AT relates not all the jurisdictions. Relevant deficiencies related to the access to basic information and verification of BO information (see IO.5) can potentially have an impact for the quality of international cooperation in this respect.

865. **BiH 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 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 published in 2015. This report is available from [Bosnia and Herzegovina - Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism \(coe.int\)](https://www.coe.int/en/web/anti-money-laundering).

### *Recommendation 1 - Assessing risks and applying a risk-based approach*

Requirements under R.1 were added to the FATF Recommendations when they were revised in 2012 and, therefore, were not assessed during the previous evaluation round.

**Criterion 1.1** - The identification and assessment of ML/TF risk in BiH has been carried out primarily through: (i) NRA (2018 to 2022) (adopted by the Council of Ministers – BiH on 29 August 2018) – based on information collected for the period between 1 January 2012 and 31 December 2016; and (ii) NRA Addendum (2022 to 2024) (adopted by the Council of Ministers – BiH on 30 March 2023) – based on information collected for the period between 2017 and 2021. The NRA Addendum is complemented by three strategic documents: (i) BiH Organised Crime Threat Assessment (2021); (ii) BiH Assessment of ML risk associated with legal persons (2024); and (iii) BiH Risk Assessment of ML and TF associated with VAs (2024).

The process and mechanism for assessing ML/TF risk is covered by legislation (AML/CFT Law, Art. 6(3), Art. 7, and Art. 8). The NRA and NRA Addendum have used the World Bank risk methodology and consist of a risk assessment at national level (ML and TF) and at sectorial level (ML) for those sectors that apply AML/CFT obligations (including banks, securities market, insurance companies, notaries, and lawyers). The assessment of risk considers both threat and vulnerabilities. Further information is provided under section 2.2.1 (IO.1). The assessment of ML and TF threat has focused on information on recorded domestic crime and has been gathered through a large number of questionnaires completed by LEAs and through reports on state security provided by the Ministry of Security -- BiH (2018 to 2022).

The following strategies also assist in the identification and assessment of ML/TF risk: (i) BiH Anti-Corruption Strategy (2015 to 2019) - expired; (ii) BiH Strategy for Combatting THB (2020 to 2023) - expired; (iii) BiH Strategy for Preventing the Proliferation of Weapons of Mass Destruction (2018 to 2022) – expired; (iv) BiH Strategy for Prevention and Combatting of Terrorism (2021 to 2026); (v) BiH Strategy for the Fight Against Organised Crime (2023 to 2026); and (vi) RS Strategy for Combatting Cyber-crime. A RS strategy for combatting corruption is to be prepared by the Ministry of Justice. As an example, the strategy against organised crime identifies ML as one of the leading challenges in the fight against organised crime.

Several shortcomings were observed in the risk assessment process which may undermine the reliability of conclusions and appropriateness of risk rating assigned. These are explained under section 2.2.1 (IO.1).

Information on FIs was collected using statutory powers (see R.27). Accordingly, all banks, leasing providers, MCOs and insurance companies provided responses to the questionnaires used. Information has not been provided on response rates in other sectors. No information has been provided on the type of information collected for DNFBPs.

The NRA Addendum determines that the risk of ML in BiH is medium-high and risk of TF is medium.

The following trade bodies and associations participated in the risk assessments: (i) Association of Banks - BiH; (ii) Association of Insurance Companies - FBiH and Association of Insurance Companies - RS; (iii) Association of MCOs - BiH; (iv) Bar Association - FBiH and Bar Association - RS; and (v) Notary Chamber - FBiH and Notary Chamber - RS.

The authorities also participated in a regional TF risk assessment of the NPO sector in the Western Balkans and Türkiye (2020 - 2021). No further information has been provided in this respect.

Risks presented by: (i) legal person; and (ii) VAs and the VASP sector have been covered by separate risk assessments (see c.24.1 and c.15.3).

**Criterion 1.2** – Based on a proposal of the Ministry of Security – BiH, the Council of Ministers must set up a permanent coordination body comprising representatives of all public authorities at all levels of government in BiH that have specific AML/CFT responsibilities (AML/CFT Law, Art. 6(1)). Composition of this body and its basis for operation must be regulated by the Council of Ministers – BiH (AML/CFT Law, Art. 6(2)). Tasks of the body include coordinating actions to assess risk (AML/CFT Law, Art. 6(3)(a)). At the time of the end of the on-site visit, such a group had not been established. Under a decision of the Council of Ministers - BiH, a temporary Working Group – an interdepartmental body of the Council of Ministers – BiH has been formed to assess risk (NRA and NRA Addendum) (Council of Ministers of BiH Law<sup>75</sup>, Art. 22 and Official Gazette - BiH No. 24/21, para. 4). However, this legal authorisation is very broad and does not establish a strict obligation for designating an authority or mechanism to co-ordinate actions to assess risk and no authority has more general responsibility for assessment of ML/TF risk on an ongoing basis<sup>76</sup>, e.g., linked to the production of national strategies.

Membership of the temporary Working Group consists of: (i) the Ministry of Security – BiH (representing the Council of Ministers) (chair) (1 member); (ii) entity and BD governments (6 members); (iii) FIU (1); (iv) BiH delegation to MONEYVAL (1); (v) Prosecutor's Office – BiH (1); and (vi) supervisors (7). Members of the group have relevant experience, and secretarial tasks are performed within the Department for Combatting Organised Crime and Corruption (Ministry of Security – BiH). The Group met nine times to prepare and finalise the NRA Addendum and meetings were quorate and attended by chairs or co-chairs of the various working groups (supporting coordination) and, occasionally, outside experts. Reports on the Working Group's output were submitted to the Council of Ministers - which had a passive role in monitoring and coordinating the work of the group.

The temporary Working Group has directed, and been supported by, eight sub-groups: (i) sub-group for assessing the threat of ML; (ii) sub-group for assessing vulnerability to ML; (iii) sub-group for assessing vulnerability of the banking sector to ML; (iv) sub-group for assessing vulnerability of the securities market to ML; (v) sub-group for assessing vulnerability of insurance companies to ML; (vi) sub-group for assessing vulnerability of the rest of the financial sector to ML; (vii) sub-group for assessing vulnerability of non-financial sector to ML; and (viii) sub-group for assessing the risk of TF. To prepare the NRA and NRA Addendum, around 40 institutions and agencies from all levels of government in BiH were represented in the sub-groups. Terms of reference are in place for the groups.

---

<sup>75</sup> Official Gazette of BiH, no. 30/03, 42/03, 81/06, 76/07, 81/07, 94/07 and 24/08.

<sup>76</sup> Following nomination of members of the Working Group and sub-groups to prepare the NRA Addendum, the Ministry of Security - BiH submitted a proposal to the Council of Ministers to confirm the nominations. There was a significant delay in doing so, which delayed preparation of the NRA Addendum.

**Criterion 1.3** – Assessment of ML/TF risk by the permanent coordination body must be updated: (i) whenever there is a change in risk context or; (ii) if sooner, after four years (AML/CFT Law, Art. 7(2)). Whilst there is no methodology in place for keeping risk assessments up-to-date, BiH has already updated its first risk assessment.

**Criterion 1.4** – Results of the risk assessment must be made available to covered obliged entities, competent authorities, other bodies and to the public in a manner and to an extent to be determined by the permanent coordination body (AML/CFT Law, Art. 8). The precise mechanism for sharing results is not set out. In practice, the full risk report with action plan (both for the NRA and NRA Addendum) were distributed by the Working Group to all relevant authorities.

In addition, risk assessments have been: (i) published on the website of the Ministry of Security - BiH in summary format, so that competent authorities (including supervisors) and others may inform others on their own initiative; and (ii) introduced by the Ministry of Security - BiH and FIU to a wider audience at ad hoc events.

**Criterion 1.5** – It has not been demonstrated how risk is subsequently considered at state or other levels when allocating resources and implementing measures to prevent or mitigate ML/TF risk, e.g., through strategies or workplans.

Nevertheless, action plans have been adopted following finalisation of the NRA and NRA Addendum (on 24 February 2021) and such plans can serve to focus the efforts and resources of the state authorities on the sectors and activities which are at higher risk from ML/TF. Whilst these plans set a timeline, it is not clear to what extent this is based on risk, which are priority actions, or how limited resources will be used (with a typical response being that funds from the regular budget will be used). Also, strategies are in place to tackle organised crime (2023 to 2026), trafficking in human beings (2020 to 2023), and to prevent and combat terrorism (2021 to 2026), all of which have been identified as threats in the NRA.

**Criterion 1.6** – Electronic money issuers are not required to conduct CDD measures where there is a low risk of ML/TF, and all of the following conditions are met: (i) the payment instrument is not reloadable, or the maximum monthly limit on payments is BAM 300 (approximately EUR 150) and can be used only in BiH; (ii) the maximum stored value on the instrument does not exceed BAM 300; (iii) the payment instrument is used only to purchase goods or services; (iv) anonymous money cannot be stored on the instrument; and (v) transactions are monitored in order to detect unusual or suspicious activity (AML/CFT Law, Art. 13). The basis for this exemption is Directive (EU) 2015/849 and is not covered in the NRA or NRA Addendum.

Obliged entities may apply simplified identification and monitoring measures to customers in the circumstances listed under c.1.8. In cases when it is not possible to verify identity through identification or business documents, such measures may limit verification of identity to the collection of a “written statement from the legal representative or proxy” (AML/CFT Law, Art. 36(3)). This is considered to have the same effect as a decision not to apply some of the FATF Recommendations. In such cases, the authorities have not demonstrated that criteria listed under c.1.6 have been followed.

Whilst the scope of the AML/CFT Law does not apply to all FIs or DNFBPs (see R.10 and R.22), these are only minor shortcomings.

**Criterion 1.7** – Enhanced measures must be applied to a business relationship or transaction for which the country has identified a high risk (rather than higher risk as required under the FATF Standard) of ML/TF (AML/CFT Law, Art. 29(5)). Specific provision has not yet been made to deal with



ML/TF risks identified in the NRA or NRA Addendum, e.g., in the real estate and motor vehicle sectors and lending<sup>77</sup>.

A covered FI is also required to take enhanced measures to manage and mitigate risks where: (i) a higher level of customer risk is identified (AML/CFT Law, Art. 9(2)(d)); and (ii) a high level of customer risk (rather than higher risk as required under the FATF Standard) is identified, taking account of its business risk assessment (AML/CFT Law, Art. 29(2)). This business risk assessment must consider the risk of ML/TF in BiH (AML/CFT Law, Art. 10(5)). Accordingly, the business risk assessment must take into account risks such as those identified in the real estate and motor vehicle sectors and lending.

**Criterion 1.8** – Inter alia, simplified measures may be applied to: (i) real estate transactions equal to or exceeding BAM 30 000 (approximately EUR 15 000) carried out using a bank payment order or wire transfer (AML/CFT Law, Art. 41(6)); and (ii) loans when the annual exposure to a customer does not exceed the amount of BAM 3 000 (approximately EUR 1 500) (AML/CFT Law, Art. 19(6)). Concession (i) is inconsistent with findings on risk.

Provided that certain conditions are met, banks may apply simplified measures to: (i) natural persons who open accounts into which regular monthly earnings are paid (salaries, pensions, etc.) and savings accounts (Decision on Banks – RS, Art. 12); and (ii) customers coming from Member States of the EU or other countries that, according to the FIU, meet internationally accepted ML/TF standards (Decision on Banks – RS, Art. 13). The latter concession is not supported by a risk analysis.

Leasing providers may apply simplified measures to commercial companies whose shares can be traded on regulated capital markets (Decision on Leasing Providers – RS, Art. 15). Insurance companies may apply simplified measures when information on a customer who is a legal person or its BO is transparent or publicly available (Guidelines on Insurance - FBiH, Art. 23 and Art. 26 and Guidelines on Insurance - RS, item 2.14).

Before applying simplified measures, a covered FI must ascertain that the business relationship or the transaction presents a lower level of risk (AML/CFT Law, Art. 30(3)). A covered FI may apply simplified CDD measures only if it has identified a lower level of risk through an appropriate risk analysis (AML/CFT Law, Art. 30(1)). Risk assessments must consider the result of ML/TF risk assessments in BiH (AML/CFT Law, Art. 30(5)).

The application of simplified measures is not acceptable when specific scenarios for higher risk levels apply to a customer relationship (AML/CFT Law, Art. 30(2)). The effect of this is that only enhanced measures should apply when circumstances would permit both enhanced and simplified measures to be applied.

**Criterion 1.9** – The AML/CFT Law lists the supervisory authorities that are responsible for monitoring compliance by covered FIs and DNFBPs with the AML/CFT Law and other laws which regulate the application of AML/CFT measures (AML/CFT Law, Art. 93 and Art. 97). Supervisory powers to support this responsibility are set out in special sectoral laws and summarised at c.27.1 (FIs). Currency exchange offices are supervised: (i) directly under the Law on Financial Police – FBiH and Law on Republic Administration – RS; and (ii) indirectly through banks, using powers under special sectoral laws. Insufficient information has been provided on legal sources for powers to directly supervise compliance by currency exchange offices with AML/CFT requirements (distinct from other obligations to which they are subject).

---

<sup>77</sup> The action plan linked to the addendum proposes amendments to the AML/CFT Law in these and other areas.



Except for casinos, no information has been provided on laws used to monitor compliance by DNFBPs with the AML/CFT Law. See c.28.4(c)).

Accordingly, except for supervision in line with the core principles (see c.26.4) and for casinos (see c.28.1(c)), it has not been demonstrated that supervisors have the necessary powers to ensure that covered obliged entities are implementing their obligations under R.1. Further, it has not been demonstrated that all elements of c.1.10 and c.1.11 are in place.

Shortcomings discussed under R.26 and R.28 apply here.

**Criterion 1.10** – FIs and DNFBPs must carry out a risk assessment to identify, assess and understand their ML/TF risks in line with the criterion (AML/CFT Law, Art. 10(1)). They are required to document their risk assessment, update it at least once per year and submit it to their respective supervisor(s) (AML/CFT Law, Art. 10(2)). Whilst there is also a requirement to consider size and the type, volume and complexity of its operations (AML/CFT Law, Art. 10(1)), there is no overriding requirement to consider all relevant risk factors, except for covered FIs supervised by the banking agencies (Decision on ML and TF risk management - FBiH, point 2.1; and Decision on managing ML and TF risk - RS, Art. 2).

Provision is made for the above requirement to be disapplied for a particular sector if risks are clear and understood in that sector. This power had not been used at the time of the end of the on-site visit to BiH.

**Criterion 1.11** – (a) FIs and DNFBPs must have policies, controls and procedures to effectively manage ML/TF risks identified which must be approved by senior management (AML/CFT Law, Art. 9).

(b) FIs and DNFBPs must monitor implementation of policies, controls and procedures and enhance where needed (AML/CFT, Art. 9(2)(b)).

(c) FIs and DNFBPs must take EDD measures to manage and mitigate risks where higher risks are identified (AML/CFT Law, Art. 9(2)(d)). However, this provision is permissive rather than mandatory.

**Criterion 1.12** – FIs and DNFBPs may only apply simplified measures to manage and mitigate risk where a lower level of risk is identified (AML/CFT Law, Art. 9(2)(e)). As explained above, some elements of c.1.9 and c1.10 are not met.

Simplified measures are not acceptable when there is suspicion of ML/TF (AML/CFT Law, Art. 6(1)).

### *Weighting and Conclusion*

Whilst a permanent coordination body for assessing ML/TF risk had not been established at the time of the end of the on-site visit, this gap has been adequately filled by “temporary” arrangements which have extended to overseeing preparation of the NRA Addendum (c.1.2). This is considered only a minor shortcoming.

However, other shortcomings cannot be considered minor: (i) whilst a comprehensive methodology has been followed to assess risk, several shortcomings were observed in the risk assessment process (c.1.1); (ii) it has not been demonstrated that resources have been allocated and measures implemented to prevent or mitigate risks identified (c.1.5); (iii) one important concession for the application of simplified CDD measures is not supported by a risk assessment (c.1.8); and (iv) no information has been provided on powers used to monitor compliance by DNFBPs, apart from casinos, with risk assessment and mitigation obligations (c.1.9). Accordingly, **R.1 is rated PC**.

## **Recommendation 2 - National Cooperation and Coordination**

In the 4<sup>th</sup> round MER, BiH was rated PC on former R.31 on points on effectiveness.

**Criterion 2.1** - Although BiH does not have an overarching national AML/CFT policy, as noted under c.1.1, risk assessments are complemented by an action plan for the period from 2022 to 2024, which focuses on key ML/TF threats, vulnerabilities, and risk, and action plan covering VAs. In addition, the following national strategies are relevant: (i) BiH strategy for Combatting THB (2020 to 2023); (ii) BiH Strategy for Prevention and Combatting of Terrorism (2021 to 2026); (iii) BiH Strategy for the Fight Against Organised Crime (2023 to 2026); and (iv) Repatriation Plan and Reintegration, Rehabilitation and Re-socialisation Programme of citizens of BiH returning from the conflict zones of Syria and Iraq (not provided). The following (not provided) may also be relevant: (i) BiH Strategy in the Area of Migration and Asylum (2021 to 2025); and (ii) BiH Strategy for the Control of Small Arms and Light weapons (2021 to 2024).

These reflect the picture of risks in BiH to a large extent e.g., organised crime, and the action plan has been recently updated. But the absence of an overarching national AML/CFT strategy militates against a uniform approach across all areas of AML/CFT, including for corruption where there is currently no national plan.

Furthermore, the basis for reviewing plans and strategies, including effectiveness and status of implementation, has not been explained. Nor has the interaction between national and entity strategies been explained, e.g., in respect of combatting cyber-crime, where a strategy is in place in RS.

**Criterion 2.2** – Based on a proposal of the Ministry of Security – BiH, the Council of Ministers must set up a permanent coordination body comprising representatives of all public authorities at all levels of government in BiH that have specific AML/CFT responsibilities (AML/CFT Law, Art. 6(1)). Tasks of the body include developing an AML/CFT strategy (AML/CFT Law, Art. 6(3)(a)). At the time of the end of the on-site visit, such a group had not been established.

Separately, a Working Group had been designated to coordinate action in the field of AML/CFT<sup>78</sup> of 17 different authorities. The role of the Working Group is to: (i) increase the overall coordination of relevant institutions' work in relation to AML/CFT; (ii) develop an AML/CFT Strategy; and (iii) propose amendments to existing AML/CFT laws and regulations, and should be chaired by the FIU, with the Chief State Prosecutor serving as deputy chair. Notwithstanding the complexity of the institutional framework in BiH, evidence has not been provided that the Working Group actively coordinated national AML/CFT policies during the period under review.

Other bodies have also been formed by the Council of Ministers - BiH over time (see c.2.3), with overlapping responsibilities, and include some relevant authorities that are not members of the permanent Working Group, e.g., entity ministries of justice and finance and the Anti-Corruption Agency. In addition, the Government of the RS has formed a working group for implementing international AML/CFT obligations (Intersectoral Work Group) which is made up of representatives from four ministries and six agencies in RS.

**Criterion 2.3** – Working groups have been established to promote cooperation in distinct areas, e.g.,: (i) for the purpose of drafting the NRA, NRA Addendum and action plan for 2022 to 2024 (see c.1.2); (ii) for the preparation and adoption of the new AML/CFT Law; (iii) for development of the BiH Strategy for the Fight Against Organised Crime (2023 to 2026); and (iv) for development of the BiH

---

<sup>78</sup> Decision on the Establishment of the Working Group of Institutions of BiH for the Anti-Money Laundering and Combating the Financing of Terrorism (Official Gazette of BiH, No. 92/08).

Strategy for Prevention and Combatting of Terrorism (2021 to 2026). The working group for organised crime and a coordinating body for the terrorism strategy have been given a mandate to coordinate and monitor the implementation of reference strategies through respective action plans<sup>79</sup> (BiH Strategy for the Fight Against Organised Crime, Decision of Council of Ministers, Art. 7 and BiH Strategy for Prevention and Combatting of Terrorism, Art. 8) and to improve their interaction with other relevant strategies.

A Strategic Forum of Chief Prosecutors and Directors of Police Agencies in BiH has been established to consider issues of detection, investigation and prosecution of the most serious crimes. This forum consists of state, entity and district chief prosecutors, the head of SIPA, and heads of entity and district police agencies. The aim of the forum is to improve work and cooperation between prosecutors and police agencies. In addition to cooperation at strategic level, operational fora promote cooperation between prosecutor and policy agencies at jurisdictional level. The work at operational level is reported up to the Strategic Forum.

Based on the Strategy for Prevention and Combating of Terrorism, two separate task forces, led by state prosecutors, have been established to combat terrorism and terrorism-related crimes, including TF, and address risks presented by migration. Inter alia, both task forces have a mandate to secure better cooperation and coordination between competent authorities at all levels in BiH. The Task Force for Combatting Terrorism has formed an investigative team for dealing with terrorism-related cases (including TF), consisting of representatives from all relevant LEAs operating at state, entity and district level.

The FIU is responsible for promoting cooperation at operational level between competent authorities in the field of AML/CFT (AML/CFT Law, Art. 55(1)). In support of this: (i) other authorities are required to provide information, data and documentation to the FIU that are needed for the performance of its duties (AML/CFT Law, Art. 61); and (ii) the FIU is able to disseminate information to other competent authorities (AML/CFT Law, Art. 62). The FIU has no specific plan to promote operational cooperation.

At supervisory level, different financial sectoral laws oblige individual supervisory authorities to cooperate and share information with their domestic counterparts, though it is not always clear that underlying powers extend to supervision of AML/CFT matters (see c.1.9). Furthermore, sectoral legislation enables supervisory authorities to provide information to other national authorities based on concluded agreements. These legal provisions are supported by bilateral and multilateral agreements at entity level between banking, securities and insurance supervisors. Most worthy of note is the permanent Committee for Coordination of Supervision of the Financial System – RS, covering operational and strategic issues. No similar mechanism is in place in FBiH.

In addition, the FIU is required to cooperate with supervisory authorities on supervisory matters linked to AML/CFT (AML/CFT Law, Art. 80(4)). Supervisory authorities are also obliged to submit to the FIU information on supervisory actions and their outcome (AML/CFT Law, Art. 81(2)). The FIU is obliged to inform supervisors on further actions it has undertaken (AML/CFT Law, Art. 82).

There are also overarching obligations for a wide range of state authorities and LEAs to help the SIPA, and for the SIPA to provide these authorities with information relevant to their work (SIPA Law, Art. 21 and Art. 22). In line with this, SIPA participates in joint strategic and operational fora of police

---

<sup>79</sup> Article 8 of the Strategy for the Fight Against Organised Crime - BiH (2023 to 2026), and Article 7 of a special decision of the Council of Ministers - BiH respectively.

agencies and prosecutor offices in BiH, with the purpose of promoting and enhancing cooperation among competent authorities.

Co-operation is also realised through joint investigative teams that are formed for prosecution and supervisory cases. The jurisdiction over the prosecution of criminal offences (including ML/TF criminal offences) is defined by the state and entities/BD criminal codes<sup>80</sup>.

**Criterion 2.4** – At policy level, there is no permanent body in charge of co-operation and, where appropriate, co-ordination mechanisms to combat PF. However, the Council of Ministers - BiH has formed a Working Group (Body for Oversight of the Implementation of the BiH Strategy for Preventing the Proliferation of Weapons of Mass Destruction) to assess the PF risk and to produce a related strategy and action plan, both for the period 2023 to 2027, involving relevant agencies and institutions at state and entity level and from BD. Its activities are chaired and coordinated by the Ministry of Foreign Affairs - BiH. No further information has been provided on this Working Group. In the past period, a similar working group produced a strategy to prevent the proliferation of weapons of mass destruction for the period 2018 to 2022 and accompanying action plan. However, information has not been provided on: (i) the success of this earlier strategy; (ii) implementation of the associated action plan; or (iii) extent to which measures against PF are included in the documents.

Information has not been provided on specific operational coordination on PF matters.

**Criterion 2.5** – All new legislation must be verified by Data Protection Agency before it can be adopted by the Council of Ministers – BiH to ensure compatibility with data protection and privacy rules (Law on Personal Data Protection, Art. 40). Except in the case of the ministries of finance in the entities, information has not been provided on ongoing cooperation and coordination with the Data Protection Agency - BiH when drafting new AML/CFT legislation.

#### *Weighting and Conclusion*

Whilst the body designated to coordinate action in the field of AML/CFT has not demonstrated that it has done so, other bodies have filled this space during the period under review. Accordingly, this is considered to be a minor shortcoming (c.2.2). However, other shortcomings cannot be considered minor: (i) the lack of an overarching strategy militates against a uniform approach across all areas of AML/CFT and active coordination of the various national documents has been absent (c.2.1); (ii) at policy level, there is no permanent body in charge of co-operation on PF matters and insufficient information has been provided on operational coordination (c.2.4); and (iii) information has not been provided on cooperation and coordination on data protection matters (c.2.5). Accordingly, **R.2 is rated PC**.

#### *Recommendation 3 - Money laundering offence*

In the 4th round MER, BiH was rated LC on former R.1. BiH was not reassessed on former R.2 under MONEYVAL's 4th Round Rules of Procedure and its LC rating from the 3<sup>rd</sup> round maintained. Ratings reflected: (i) the overall numbers of convictions being modest and prosecutors in some parts of the country still not giving sufficient priority to ML; and (ii) lack of clarity as to the jurisdiction for ML increasing the risk of legal challenges to prosecutions.

**Criterion 3.1** – Criminalisation of ML is provided under Article 209 of the CC of BiH, Article 263 of the CC of RS, Article 272 of the CC of FBiH and Article 265 of the CC of BD. All four ML offences incorporate

---

<sup>80</sup> In accordance with Art. 7 of the Court of BiH Law, the Court of BiH resolves conflicts of jurisdiction between entity courts, between entity courts and BD, and between the Court of BiH and any other court.

all elements established under Art. 6(1)(a) of the Palermo Convention and Art. 3(1)(b) of the Vienna Convention. The offence includes: (i) accepting, exchanging, keeping, disposing of, using in commercial or other business operations the proceeds of crime; (ii) and performing conversion or transfer or otherwise concealing or attempting to conceal the true nature, origin, location, disposal of proceeds of crime. The offence does not require any particular intention and therefore covers commission of the offence with the purpose to help others to evade legal consequences.

**Criterion 3.2** – Criminalisation of all four ML offences follows an “*all-crimes approach*”. The AT considers that all designated predicate offences are covered in all four criminal codes.

**Criterion 3.3** – This criterion is not applicable because all four ML incriminations apply an all-crimes approach, in the terms referred to under c.3.2.

**Criterion 3.4** – The ML offence applies to money or property, with property being defined broad enough to include all types of assets (CC of BiH, Art. 26 and 27; CC of RS, Art. 123 (1 (34)) and CC of BD Art 2(25)). However, no relevant provisions have been provided in order to assess if property is defined in the same way in the criminal legislation of FBiH.

**Criterion 3.5** – A conviction for a predicate offence is not necessary in all four entities when securing a conviction for ML or establishing that property represents the proceeds of crime.

**Criterion 3.6** – The predicate offence for ML extends to conduct that occurred in another country (CC of BiH, Art. 209). In such instances only CC of BiH is applicable.

**Criterion 3.7** – The ML offence in all four entities can apply to a person who has committed the predicate offence (CC of BiH, Art 209(2); CC of FBiH, Art. 272 (2); CC of RS Art. 263(2); and CC of BD, Art. 265(92)).

**Criterion 3.8** – It is possible for intent or knowledge required to prove a ML offence to be inferred from objective factual circumstances (CC of BiH, Art. 209(6)). In relation to criminal legislation of FBiH and RS, the authorities have indicated that the crime may be intentional or negligent. However, the requirement is not about the necessary requirement for the mental element; rather it is about the way how to prove the mental element, i.e., if it is possible to prove intent (intentional or negligent) using objective factual circumstances. Furthermore, BD criminal legislation does not recognise the possibility to prove the intent and knowledge of the perpetrator using the objective factual circumstances.

**Criterion 3.9** – Sanctions prescribed for the ML offence in CC of BiH are proportionate. Natural persons convicted for a ML offence are subject to imprisonment for a period from one to eight years and in the case of high value ML, the penalty is at least three years of incarceration.

Sanctions prescribed for the ML offence in CC of FBiH are proportionate. Natural persons convicted for a ML offence are subject to imprisonment for a period from six months to 12 years.

Sanctions prescribed for the ML offence in CC of RS are proportionate. Natural persons convicted for a ML offence are subject to imprisonment for a period from six months to five years and a fine and, for a high value ML offence, the penalty is up to 15 years of incarceration. Fines applicable for ML offence can range from BAM 300 (approximately EUR 150) to BAM 200 000 (approximately EUR 100 000) and it cannot be concluded that they are dissuasive.

Sanctions applied for the ML offence in CC of BD are proportionate. Natural persons convicted for a ML offence are subject to imprisonment for a period from six months to five years and a fine and, for a high value ML offence, the penalty is up to 12 years of incarceration. In addition, the sanction for a negligent ML offence is either a fine or imprisonment up to three years. Comparing the sanctions for ML offences with the ones for other offences, it can be concluded that they are dissuasive.



**Criterion 3.10** – BiH has introduced legal measures establishing the liability of legal persons for the ML offence in all four entities (CC of BiH, Art. 122-144; CC of FBiH, Art. 126-148; CC of RS Art. 105; and CC of BD, Art. 128-148).

Sanctions applicable for legal persons for a ML offence seem to be proportionate and dissuasive. Fines range from BAM 5 000 to BAM 5 000 000 (approximately EUR 2 500 to EUR 2 500 000), and dissolution of the legal person can be applied.

**Criterion 3.11** – The ancillary offences to the ML offence include participation in, association with, or conspiracy to commit, attempt, aid and abet, facilitate, and counsel the commission of an act of ML (CC of BiH Art. 26-32 and 249-250; CC of FBiH, Art. 32-33 and 338-342; CC of RS 37-40 and 365 of CC of RS and CC of BD, Art.28-33 and 334-336).

#### *Weighting and Conclusion*

ML offences in all four CC are criminalised mostly in line with the requirements. Nevertheless, there is no definition of property in CC of FBiH (c.3.4) and in criminal proceedings conducted in FBiH, RS and BD, there are no legal provisions enabling the intent and knowledge of the ML perpetrator to be proved by objective factual circumstances (c.3.8). These deficiencies are considered to be minor.

**R.3 is rated LC.**

#### *Recommendation 4 - Confiscation and provisional measures*

In the 4th round MER, BiH was rated PC on former R.3 due to imprecise conditions applying to the confiscation of instrumentalities in most cases.

**Criterion 4.1 - (a) property laundered** - In a case when a perpetrator is convicted for the ML offence in all four jurisdictions, laundered property is subject to mandatory confiscation (CC of BiH, Art. 209 (5); CC of FBiH, Art. 272 (6); CC of RS, Art. 263 (6); and CC of BD, Art 266 (6)).

**(b) proceeds of or instrumentalities used or intended for use in, ML or predicate offences** - A mandatory legal provision envisages that no person may retain proceeds of crime, whether income, profits or other benefits of the proceeds (CC of BiH, Art. 110 and 110a; CC of FBiH, Art. 114; CC of RS, Art. 8; and CC of BD, Art. 114). Instrumentalities used or intended for use, in the commission of ML or the predicate offence shall be also confiscated (CC of BiH, Art. 74; CC of FBiH, Art. 78. CC of RS, Art. 82; and CC of BD, Art. 78).

**(c) property that is the proceeds of, or used in, or intended for use in the financing of terrorism, terrorist acts or terrorist organisations** –In the event of a conviction for a TF offence, funds intended for use in the commission of the offence or arising from the committed offence shall be confiscated (CC of BiH, Art. 202 (3); CC of FBiH Art. 202 (3); CC of RS, Art. 300 (7) and CC of BD, Art. 199). Proceeds of any crime (including TF and other terrorism related offences) shall be confiscated based on the general legal provisions in the criminal codes (see c.4.1.b).

**(d) property of corresponding value** - In cases where confiscation of proceeds of crime is impossible, the perpetrator shall pay “the corresponding money equivalent”. Other property can be targeted in the execution stage of the conviction (CC of BiH, Art. 111; CC of FBiH, Art. 115 (1), CC of RS, Art 84 and CC of BD, Art. 115(1)).

**Criterion 4.2 – (a) identify, trace, and evaluate property that is subject to confiscation** - There are measures in place that enable identifying, tracing and evaluating property subject to confiscation. The prosecutors are entrusted with the power to establish necessary facts and collect evidence in order to ensure forfeiture of assets (CC of BiH, Art. 35 and 392-394; CC of FBiH, Art. 413-415; CC of RS, Art. 386-388; CC of BD, Art. 392-394).

***(b) carry out provisional measures, such as freezing or seizing, to prevent any dealing, transfer, or disposal of property subject to confiscation*** –Property subject to confiscation can be seized by court order based on the prosecutor’s proposal (CPC of BiH, Art. 73 (1); CPC of FBiH, Art. 87, CPC of RS, Art.138(1) and CPC of BD, Art. 73). In instances where there is a risk of delay, property may be seized by a police officer and a preliminary judge will decide on seizure within 72 hours (CPC of BiH, Art. 73(2); CPC of FBiH, Art. 87 (2), CPC of RS, Art. 138(2) and CPC of BD, Art. 73 (2)). The seizure will be executed without notifying the party concerned.

***(c) take steps that will prevent or void actions that prejudice the country’s ability to freeze or seize or recover property that is subject to confiscation*** - BiH, FBiH, RS and BD – The authorities did not provide legal provisions addressing this requirement.

***(d) take any appropriate investigative measures*** - Investigative measures are provided by the CPC at the level of BiH, FBiH, RS and BD (CPC of BiH, Art. 35; and CPC of FBiH, Art. 45, CPC of RS, Art. 43; CPC of BD, Art.35) and at the level of BD by the Law on Confiscation of Property Illegally Acquired by Criminal Offense (Art. 8).

**Criterion 4.3** – The rights of bona fide third party shall be respected when confiscating instrumentalities (CC of BiH, Art. 74 (2), CC of FBiH, Art. 78 (2), CC of RS, Art. 82 (3) and CC of BD, Art. 78 (2)) as well as proceeds of crime (CPC of BiH, Art.393 (3); CPC of FBiH, Art. 414; CPC of RS, Art. 387 and CPC of BD, Art. 393).

**Criterion 4.4** – There are measures in place dealing with the safekeeping of property seized and confiscated by the courts of BiH (CPC of BiH, Art.70). These measures are mostly related to storage of assets rather than their management. Nevertheless, on case-by-case basis, entities’ management agencies are sometimes used to manage seized and confiscated property.

At the entities’ level (FBiH and RS) there are mechanisms in place and relevant legal provisions enabling management of seized and confiscated property. Special agencies entrusted with the power to manage seized and confiscated property have been established in FBiH and RS. (Law on forfeiture of proceeds of criminal offence of FBiH, Art. 4; and Law on Confiscation of Unlawfully Acquired Property - RS, Art. 8).

Management of seized property in BD is entrusted to the specialised Expert Service of the Judicial Commission (Law on Seizure of Unlawfully Acquired Property - BD, Art. 2) while management of confiscated property falls within the competence of the Office of Public Property - BD. Nevertheless, it appears that management measures are only limited to storage without possibility of pre-sale or use of property in a case when there is a danger of dissipation (Law on Confiscation of Illegally Acquired Property – BD Art. 25 and Art. 26).

#### *Weighting and Conclusion*

In BiH there are legislative measures in place that meet most of the requirements. However, there are some deficiencies identified such as (i) no legal possibility to take steps that will prevent or void actions that prejudice country’s ability to freeze, seize or recover property subject to confiscation and (ii) there is no effective mechanism in place enabling proper management of seized and confiscated property at the state level and inadequate one related to management of assets at BD level. However, these deficiencies are considered to be minor.

**R.4 is rated LC.**



## *Recommendation 5 - Terrorist financing offence*

In the 4th round MER, BiH was rated PC on former SR.II due to: (i) the TF offences in the four criminal codes not being wide enough to encompass the provision of funds to terrorist organisations or individual terrorists other than for the purposes of a terrorist act; (ii) some elements of the treaty offences in the annex to the TF Convention not being covered by the CC BiH and so not within the ambit of the TF offence; and (iii) legislation being insufficiently clear as to whether the offence of terrorism in the CC FBiH, CC RS and CC BD, and therefore the offence of TF, applied in relation to acts that may cause damage solely to the entities and BD themselves.

**Criterion 5.1** – The CC - BiH incriminates TF offence (CC of BiH, Art. 202) as an act of directly or indirectly giving, collecting or otherwise providing funds for the purpose of their use or knowing that they shall be used, in whole or in part, for the perpetration of the following criminality: (i) taking hostages (Art. 191); (ii) endangering persons under international legal protection (Art. 192); (iii) unauthorised acquisition or disposal of nuclear material (Art. 194); (iv) threatening a nuclear facility (Art. 194a); (v) piracy (Art. 196); (vi) abduction of aircraft or ship or occupation of a fixed platform (Art. 197); (vii) endangering the safety of air or sea navigation or fixed platforms (Art. 198); (viii) destruction and removal of signs serving air traffic safety (Art. 199); (ix) abuse of telecommunications signs (Art. 200); (x) terrorism (Art. 201); (xi) public incitement to terrorist activities (Art. 202a); (xii) recruitment for terrorist activities (Art. 202b); and (xiii) training for the performance of terrorist activities (Art. 202c). These listed offences cover the majority of the offences required by the TF Convention, but some deficiencies remain<sup>81</sup>.

The article also covers financing of any other criminal offence that may cause death or serious bodily injury to civilians or persons who do not actively participate in hostilities in an armed conflict, when the purpose of such an act is, by its nature or context, to intimidate the population or force the authorities of BiH or other authorities or an international organisation to do something (or not to do something), regardless of whether the terrorist activities are performed and whether the funds are used for the performance of terrorist activities. Financing of individual terrorist or terrorist organisation for any purpose is also criminalised under the same article.

The other three criminal codes also have TF incriminations<sup>82</sup>, which are narrower in its scope than the state level TF criminal offence. This because the offences listed in the annex to the TF Convention are under the exclusive jurisdiction of the state level courts (BiH), as they are only criminalised by the CC

---

<sup>81</sup> CC does not cover the following acts: (i) provision of funds for the purposes of hostage taking where this is aimed at compelling action or forbearance by legal or natural persons within the scope of, and as defined in, the 1997 International Convention for the Suppression of Terrorist Bombings - covered to some extent under the criminal offence of terrorism (CC, Art.97); or (ii) provision of funds for the purpose of threatening to carry out acts defined under Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and Convention for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf.

<sup>82</sup> CC of FBiH and BD criminalise TF (CC of FBiH, Art. 202; and CC of BD, Art. 199) as directly or indirectly giving or collecting funds with the purpose that they shall be used in whole, or in part, to commit criminal offences of: (i) hostage taking; (ii) terrorism; or (iii) any other criminal offence that may cause death or serious bodily injury to a civilian or a person who does not actively participate in hostilities in armed conflict, when the purpose of such act is to intimidate the population or force the authorities to do something (or not to do something), regardless of whether the terrorist activities were carried out and whether the funds were used to carry out terrorist activities. In addition, financing of an individual terrorist or terrorist organisation for any purpose is also criminalised under the same article.

The entity of RS criminalises TF (CC of RS, Art. 300) as directly or indirectly giving or in any way providing or collecting money, property or any other means intended to be used, or known to be used, or to be used in whole, or in part, for the commission of offences in Chapter XXIII, as well as the criminal offences of: (i) damage or destruction of public devices; (ii) damage to dams and water management facilities; or (iii) causing death or serious bodily injury to a civilian or a person who does not actively participate in hostilities in an armed conflict, if such an act is aimed at intimidating citizens or forcing the authorities to perform or not to perform an act.

of BiH. Therefore, the gaps in the TF incriminations in the CC of FBiH, RS and BD in relation to the financing of the offences from the annex to the TF Convention do not in itself present the deficiency, since these activities are criminalised at the state level.

**Criterion 5.2** – Criminal legislation at all levels provides that the TF offence extends to any person who wilfully provides or collects funds directly or indirectly knowing that they will be used, in full or in part, to commit the criminal acts of terrorism or by a terrorist organisation or an individual terrorist (CC of BiH, Art. 202 (2); CC of FBiH, Art. 202(2); CC of RS, Art. 300 (2); and CC of BD, Art. 199(2))

**Criterion 5.2bis** – TF offence in all four criminal codes incriminates provision, collection or giving funds, property or other assets with the intent of their use or knowing that they would be used, in full or in part, in any manner by terrorist organisations or individual terrorists (CC of BiH, Art. 202 (2); CC of FBiH, Art. 202 (2); CC of RS; Art. 300 (2) and CC of BD, Art. 199 (2)). The AT considers that these provisions are broad enough to cover the travel of individuals for the purpose of perpetration of, planning of, preparation of, or participation in, terrorist acts. Such interpretation was also confirmed by the official interpretation of TF offence issued by the Ministry of Justice.

**Criterion 5.3** – The TF offences in BiH, FBiH and BD criminal legislations extend to any funds irrespective of how they were acquired (CC of BiH, Art. 202(4); CC of FBiH, Art. 202(4) and CC of BD Art. 199(4)). However, in RS, the authorities indicated that funds for TF purposes can be from legitimate or illegitimate sources. There is no definition of funds, but the authorities refer to the definition of property as the applicable one. Nevertheless, the definition of property is not in line with the scope of funds and other assets as required by the methodology.

**Criterion 5.4** – Incrimination for the TF offence in all four CCs does not require that the funds or other assets are used to commit or attempt a terrorist act; neither should there be a link to a specific terrorist offence.

**Criterion 5.5** – It is possible for intent or knowledge required to prove a TF offence to be inferred from objective factual circumstances (CC of BiH, Art. 209(6)). In relation to criminal legislation of FBiH and RS, the authorities have indicated that the crime may be intentional or negligent. However, the requirement is not about the necessity for the mental element; rather it is about how to prove the mental element, i.e., if it is possible to prove intent (intentional or negligent) using objective factual circumstances. Furthermore, BD criminal legislation does not recognise the possibility to prove the intent and knowledge of the perpetrator using the objective factual circumstances.

**Criterion 5.6** – Criminal sanctions applicable for TF offences are: (i) BiH - at least three years imprisonment (CC of BiH, Art. 202); (ii) FBiH - one to ten years of imprisonment (CC of FBiH, Art. 202); (iii) RS - a minimum of eight years (CC of RS, Art. 300); and (iv) BD - one to ten years imprisonment (CC of BD, Art. 199). When compared to the sanctions that can be imposed for other serious offences, these sanctions appear to be proportionate and dissuasive.

**Criterion 5.7** – Legal measures establishing the liability of legal persons are introduced in Chapter XIV of each of the criminal codes and therefore they are applicable to the TF offence. These measures are without prejudice to the criminal liability of a natural person. Nevertheless, liability is conditioned where a TF crime is committed in the interest of legal persons which narrows the application of the provisions. These shortcomings significantly impact the liability of legal persons for TF.

**Criterion 5.8** – The TF offence extends to participation in, association with, or conspiracy to commit, attempt, aid and abet, facilitate, and counsel the commission of an act of TF (CC of BiH, Art. 122-144; CC of FBiH, Art. 126-148; CC of RS Art. 105; and CC of BD, Art. 128-148).

**Criterion 5.9** – Due to the "all crimes" approach applied in all four ML incriminations, TF offences are designated as ML predicates.

**Criterion 5.10** – The scope of TF offences in all four CCs is not confined to the location of a terrorist or terrorist organisation. In relation to terrorist act, the state level incrimination covers terrorist acts whether they occurred BiH or another country.

#### *Weighting and Conclusion*

The TF offence is criminalised, but certain important shortcomings are identified. While TF offence cover financing of the majority of offences from the annex of TF Convention, financing of some of the offences is not envisaged (see c.5.1). Funds and other assets are not defined in the criminal legislation of RS (c.5.3). In addition, in criminal proceedings conducted in FBiH, RS and BD, there is no legal possibility to prove the intent and knowledge of the TF perpetrator by using objective factual circumstances (c.5.5). Also, there are deficiencies identified in relation to the liability of legal persons for TF offence (c.5.7). **R.5 is rated LC.**

#### **Recommendation 6 - Targeted financial sanctions related to terrorism and terrorist financing**

BiH was rated PC under former SR.III as several deficiencies were identified. These deficiencies were: (i) lack of a formalised procedure to create a national list of terrorists under UNSCR 1373; (ii) lack of procedures to make requests and to respond to third country requests that met the criteria set out in UNSCR 1373; (iii) failure to publish a consolidated list without delay; (iv) insufficient outreach to the private sector and other key stakeholders; and (v) conditions for accessing frozen funds not being fully in line with the requirements of UNSCR 1452.

Decision 18/2024 provides the legal framework for implementation of the TFS related to TF, and sets out provisions relating to UNSCRs 1267/1989 and 1988 and UNSCR 1373.

**Criterion 6.1** - For designations under UNSCRs 1267/1989 and 1988 (UN sanctions regimes):

a) The Ministry of Security is the competent authority responsible for proposing designations to the UN via the Ministry of Foreign Affairs - BiH, following a decision by the Council of Ministers (Decision 24, art.5 (1)).

b) Competent authorities (State Agency for Investigation and Protection, the Intelligence and Security Agency of BiH, the Ministry of the Interior - FBiH, the Ministry of the Interior - RS, the Police of BD and the competent prosecutor's offices) are responsible for identifying targets for designation and submit these to Ministry of Security. Submissions must be substantiated according to the criteria in the relevant UNSCR (Decision 24, Art.4).

c) When deciding whether or not to make a proposal, BiH applies “reasonable grounds” as an evidentiary standard of proof. Proposals for designation are not conditional on the existence of criminal proceedings (Decision 24, Art. 4).

d) The law requires submissions to be made using the procedures and forms of the relevant committees (Decision 24, Art.5).

e) When submitting a designation proposal, the Ministry of Security shall provide as much information as possible to facilitate the clear identification of a proposed person or entity, as well as a detailed statement on the reasonable grounds for the designation. They shall also provide a decision on whether their status as a designating state may be made known (Decision 24, Art.5).

**Criterion 6.2** – For designations under UNSCR 1373:

a) The Council of Ministers - BiH is responsible for designating an individual or entity based on the relevant criteria under UNSCR 1373. They can make this decision based on the country’s own motion or as the request of another country.

b) Competent authorities (State Agency for Investigation and Protection, the Intelligence and Security Agency of BiH, the Ministry of the Interior - FBiH, the Ministry of the Interior - RS, the Police of BD and the competent prosecutor's offices) are responsible for identifying targets for designation and submit these to the Ministry of Security. Submissions must be substantiated according to the criteria in the relevant UNSCR (Decision 24, Art.4).

c) When receiving only a freezing request from another country, the Council of Ministers is required to promptly make a designation based on reasonable grounds and the criteria set out under UNSCR 1373 (Decision 18/24, Art. 7 (6)). This is once the Ministry of Security has coordinated the request and received the opinion of the Task Force for Combatting Terrorism on whether the relevant UNSCR criteria would be deemed met.

d) The Council of Ministers are required to designate based on "reasonable grounds". This applies both when the decision is being made based on the country's own motion or at the request of another country. The Council of Ministers shall adopt the decision irrespective of the existence of criminal proceedings (Decision 18/24, Art. 6 and 7).

e) When making a request to another country to freeze assets and give effect to the actions initiated under its freezing mechanisms, BiH shall provide as much information, data and documents as possible to support a freeze request.

#### **Criterion 6.3 –**

a) At national level, the competent authorities can make use of their powers granted by specific legislation, to collect and require information to identify the persons and entities meeting the designation. Additionally, competent authorities could use powers under R.31, but the same shortcomings will apply. While the Ministry of Security - BiH has the legal authority to collect or solicit information on targets for designation, authorities failed to provide information on mechanisms that would allow for LEAs and the Ministry of Security - BiH to exchange information on designation proposals.

b) With respect decisions relevant to UNSCR 1373, these should be made *ex parte* (Decision 18/24, Art. 6). For designations under UNSCRs 1267/1989 and 1988, the legislation does not require a person or entity identified to be consulted or present during the designation process. Therefore, authorities are implicitly permitted to operate *ex parte*.

**Criterion 6.4 –** Designations pursuant to the UN sanctions list are implemented in the BiH without delay. In BiH, UN sanctions decisions enter into force on the day of enactment and shall have the immediate effect of freezing funds and other assets of designated persons (Decision 18/24, Art. 11). As per BiH's TFS guidelines, without delay is defined as immediately, and in any case within 24 hours.

With respect to UNSCR 1373, the decision of the Council of Minister to freeze the economic and financial resources of individuals and entities shall apply without delay and without prior notice (Decision 18/24, Art. 6).

#### **Criterion 6.5 –**

a) All natural and legal persons are required to freeze, without delay and without prior notice, the funds or other assets of designated persons or entities subject to decisions of the Council of Ministers - BiH, as well as the UN (Decision 18/24, Article 14 (1)).

b) The obligation to freeze extends to (i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities,

as well as (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities (Decision 18/24, Art.14 (3)).

c) In BiH, there is a provision in the law whereby natural and legal persons shall not, directly or indirectly, make funds, goods and other financial or economic resources available to designated persons or entities, in whole or in part. This applies also to persons associated with designated persons or entities, as well as those who act under their control. They shall not provide any services, carry out any transactions or operations directly or indirectly for the benefit of designated persons or entities, or for entities held or controlled directly or indirectly, or for any person or entity acting on behalf or under their direction (Decision 18/24, Art. 14 (5)).

It is important to note that for the purposes of UNSCR 1373, the legislation articulates a designation as a decision that subjects individuals to freezing measures. As such, the AT for the purposes of UNSCR 1373 designation, the AT noted the ambiguity in the law questioned whether the scope of the legislation, in being limited to freezing, would prohibit services from being made available to individuals. The AT therefore also considered a decision issued by Council of Ministers which sets out how the law should be interpreted, and concluded that albeit a shortcoming in the drafting, would not be a moderate issue.

d) By law, the Ministry of Security is required deliver the information on UN updates to responsible bodies and competent institutions and agencies in BiH, any persons subject to the AML/CFT law, as well as all other natural and legal persons, immediately upon receiving information from the Ministry of Foreign Affairs - BiH (which is also required to convey updates immediately, on the same day). The mechanism by which the communication takes place is the following: the Ministry of Security shall communicate updated UN lists via multiple channels including 1) direct and indirect email and fax correspondence to competent authorities and professional associations 2) a Ministry of Security webpage (Decision 18/24, Art. 12). The Ministry of Security - BiH does not directly communicate DNFBPs and FIs of updates. The authorities did not demonstrate a mechanism whereby responsible bodies, competent institutions, and other agencies forward on communication received from the Ministry of Security - BiH to FIs and DNFBPs immediately – there is no formalised mechanism, including how the Ministry of Security - BiH ensures that relevant competent authorities are disseminating lists immediately.

With respect to BiH's national designations, the TFS law only requires that decisions are made public on the website of the Ministry of Security - BiH. National designations and requirements with respect to UNSCR 1373, are not required to be actively communicated with FIs and DNFBPS beyond this.

The law also notes the obligation of the Ministry of Security - BiH to publish guidance to FIs and the non-financial sector (Decision 18/24, Art. 12). The Ministry of Security - BiH published these guidelines on its webpage during the on-site visit. While there is some mention of a "local list", the guidance concerns only FI's and DNFBP's obligations relating to designations made by the UN.

e) All natural and legal persons are required to report to the Ministry of Security any assets frozen and actions taken against designated individuals or entities. These obligations cover attempted transactions (Decision 18/24, Art.14 (4)).

f) In BiH, freezing shall not affect the rights of third parties who have acted in good faith (Decision 18/24, Art.16).

#### **Criterion 6.6 -**

a) In BiH, individuals and legal entities residing in BiH can submit a request for delisting directly to the UN Office of the Ombudsperson or via the country of residence.

The Ministry of Security submit a delisting request to the Council of Ministers when a person or entity designated under the relevant UNSCRs no longer meets the designation criteria under UNSCRs 1267(1999), 1988(2011), 1989(2011) and their successors. The Council of Ministers is required to take a decision and the Ministry of Security through the Ministry of Foreign Affairs - BiH is responsible



for sending the request for removal from the list to the competent Committee (Decision 18/24, Art. 21).

b) BiH has procedure for delisting and unfreezing assets with respect to national designations. This is to be used following an appeal from a designated individual or entity, at the initiative of the Council of Ministers (including in response to a request from a competent authority or other country), or as part of BiH's yearly review of national designations (Decision 18/24, Art.19 and Art. 20).

c) A person can file a lawsuit with the Court of BiH within one month of a designation decision. (Decision 18/24, Art. 10). After a month, all appeals must be filed to the Ministry of Security - BiH and decided on first by the Council of Ministers. Only, if they do not make a decision can appeals then be filed with the Court of BiH (Decision 18/24, Art. 19). The gap that remains are the time limits set by the provisions. For example, for any appeal that takes place after a month, where the Council of Ministers decides to retain their decision on a listing, the procedures would not allow, upon request, review of the designation decision before a court or other independent competent authority.

d) Procedures to facilitate review by the 1988 Committee in accordance with any applicable guidelines or procedures adopted by the 1988 Committee, including those of the Focal Point mechanism established under UNSCR 1730 are set out in guidance that was published alongside new TFS legislation.

e) BiH has a procedure to notify a listed person or entity and providing them with information regarding the possibility to submit a request to the Ombudsman in line with the UNSCRs 1904(2009), 1989(2011), 2083(2021) and their subsequent resolution (Decision 18/24, Art. 13).

f) A person or entity with the same name or similar name to a designated person or entity, inadvertently affected by a freezing measure, may submit the request to unfreeze its funds and other assets to the Ministry of Security. Once a decision has been made, this can be appealed at the Court of BiH (Decision 18/24, Art.18).

Guidance on the website of the Ministry of Security -BiH sets out how they can do this and sets out the specific procedure for UNSCR 1267/1988 and 1989.

g) The mechanism used for communicating listings to the financial sector and DNFBP sector also applies when the UN de-lists individuals or entities (Decision 18/24, Art. 12). For national designations, there is no mechanism for communicating de-listing to FIs or DNFBPs.

**Criterion 6.7** – BiH authorises access to frozen funds or other or basic expenses or for extraordinary expenses. This includes payment of certain types of fees, expenses and service charges (Decision 18/24, Art. 2 and 24) BiH authorises access to funds or other assets to persons or entities desingated by a (supra-) national country pursuant to their mechanism for implement UNSCR 1373.

#### *Weighting and Conclusion*

BiH has the mechanisms to implement TFS without delay and a designation framework for the purposes of UNSCR 1267/1989 and 1988. There remain shortcomings related to a designated individual's ability to appeal to a court, BiH's framework for communicating listings and de-listings and a lack of information on the powers that enable information exchange between LEAs and the Ministry of Security - BiH on targets for designation. Given that the BiH is bank-centric and most banks in BiH have automatic screening mechanism, a lack of direct communication to FIs and DNFBPs is not considered a moderate deficiency. Additionally, the shortcoming described under c.6.3 is important, however in practice, designations carried out have not been indicative of issues in legal gateways for information sharing. Finally, notwithstanding an absence of due process with respect to criterion 6.6c, which is considered a moderate shortcoming for the criterion rating, the deficiency related to court appeal does not undermine the overall TF-related TFS process. Overall, in consideration of the overall TFS framework, the shortcomings identified are considered minor. **R.6 is rated LC.**

## ***Recommendation 7 – Targeted financial sanctions related to proliferation***

Requirements under R.7 were added to the FATF Recommendations when they were last revised in 2012 and, therefore, were not addressed during the previous evaluation round.

As of 18 October 2023, TFS set out in UNSCR 2231 related to Iran have ceased to apply. This directly impacts the scope of FATF Recommendations on PF and related assessment work.

The UNSCR 2231 list has since been removed from the UNSCR website and corresponding changes were made to the Consolidated List. As UNSCR 2231 is the legal basis for some elements of R.7, the scope of those requirements on PF has also changed. After 18 October 2023, R.7 no longer requires countries to apply TFS to individuals and entities designated under UNSCR 2231.

**Criterion 7.1** – Decision 18/2024 provides the legal framework for implementation of the TFS related to PF, in line with UNSCR 1718 (2006) and its successors. Any decisions taken by the UN with respect to this and successor resolutions comes into effect immediately and have the immediate effect of freezing funds and other assets of designated persons or entities (Decision 18/24, Art. 11).

**Criterion 7.2** – The competent authority for the relevant UNSCR is the Ministry of Security - BiH.

a) All natural and legal persons are required to freeze, without delay and without prior notice, the funds or other assets of designated persons or entities subject to decisions of the relevant UNSC (Decision 18/24, Article 14 (1)).

b) The obligation to freeze extends to (i) all funds or other assets that are owned or controlled by the designated person or entity, and not just those that can be tied to a particular terrorist act, plot or threat; (ii) those funds or other assets that are wholly or jointly owned or controlled, directly or indirectly, by designated persons or entities; and (iii) the funds or other assets derived or generated from funds or other assets owned or controlled directly or indirectly by designated persons or entities, as well as (iv) funds or other assets of persons and entities acting on behalf of, or at the direction of, designated persons or entities (Decision 18/24, Art.14 (3)).

c) Decision 18/24, Art. 14 prevents all natural and legal person from making any funds or other assets available to or for the benefit of designated persons or entities. The same shortcomings identified under C.6.5 (c) apply here.

d) The Ministry of Security - BiH is required deliver the information on UN updates to responsible bodies and competent institutions and agencies in BiH, as well as all other natural and legal persons, immediately upon receiving information from the Ministry of Foreign Affairs - BiH (which is also required to convey updates to the Ministry of Security - BiH immediately, on the same day). The Ministry of Security shall communicate updated UN lists via multiple channels including 1) direct and indirect email and fax correspondence to competent authorities and professional associations 2) a Ministry of Security webpage (Decision 18/24, Art. 12).

There is no provision which requires responsible bodies, competent institutions, and other agencies to forward on this communication to FIs and DNFBPs immediately.

The law also notes the obligation of the Ministry of Security - BiH to publish guidance to FIs and the non-financial sector (Decision 18/24, Art. 12). The Ministry of Security - BiH published these guidelines on its website during the on-site visit.

e) All natural and legal persons are required to report to the Ministry of Security any assets frozen and actions taken against designated individuals or entities. These obligations cover attempted transactions (Decision 18/24, Art.14 (4)).

f) Decision 18/24 states that freezing shall not affect the rights of third parties who have acted in good faith.

**Criterion 7.3** - Decision 18/24 sets out the following obligation: “competent supervisory bodies, institutions and agencies in BiH, when supervising the implementation of measures to prevent money



laundering and terrorism financing, perform actions and measures within their competence in order to supervise the implementation of this decision” (Art. 30). While this provision gives authorities responsibility to supervise against TFS obligations related PF, it does not set out and does not set out an explicit power and supplementary legislation would be required to set out this power.

With respect to Banks, relevant Banking Agency Laws give supervisors the powers to monitor and ensure compliance with TFS legislation and meet the obligation noted above. Similar provisions were found for the securities (only in FBiH, as in BD and RS supervision is explicitly limited to the prevention of ML/TF) and insurance sectors. The powers of DNFbps to monitor and ensure compliance could not be found in BiH’s legislation.

With respect to sanctions, there are no provisions which directly subject FIs and DNFbps to civil, administrative or criminal sanctions for failure to comply with TFS obligations. While the authorities cite the Law on Restrictive Measures as the legal basis for this, when reviewed, the sanctions set out therein were not relevant to the obligations related to R.7. It can be noted that sanctions may be applied indirectly by banking, securities and insurance supervisors under sectoral laws where non-compliance is linked to failure to establish comprehensive and efficient risk management systems. These sanctions would include revocation of a licence.

#### **Criterion 7.4 -**

a) A listed person can petition a request for de-listing through the contact point or Ministry of Security in accordance with UNSCR 1730 (Decision 18/24, Art. 22).

b) A person or entity with the same name or similar name to a designated person or entity, inadvertently affected by a freezing measure, may submit the request to unfreeze its funds and other assets to the Ministry of Security. Once a decision has been made, this can be appealed at the Court of BiH (Decision 18/24, Art. 18). Guidance published by the Ministry of Security – BiH sets out how an individual or entity can do this.

c) A designated person may submit a request for exemption to the Ministry of Security - BiH, so that the frozen funds to be used if they meet the exemption conditions set in UNSCR 1718 (Decision 18/24, Art. 2 and 24).

d) BiH’s mechanism for communicating de-listings and unfreezings to the financial sector and the DNFbps is the same as the mechanism designated for communicating the new entries on the relevant UN lists, thus including the sanctions list under UNSCR 1718. The same shortcomings discussed under c.7.2 (d) apply here.

#### **Criterion 7.5 -**

a) The Ministry of Security may authorize the addition of interest or other income to frozen accounts, which has been blocked according to the UNSCR 1718, or payments due under contracts, agreements or obligations concluded prior to the date on which these accounts were frozen, and any payments intended for persons or entities on the list (Decision 18/24, Art. 26). This shall be conditional upon the interest, income, payments and other receipts and payments still being subject to the freezing provisions.

b) Not applicable.

#### *Weighting and Conclusion*

BiH has mechanisms to implement TFS related to PF, without delay and required freezing obligations for the implementation and enforcement of TFS. However, deficiencies remain related to the communication of designations (c.7.2) supervision and monitoring of TFS implementation by FIs and DNFbps, and the availability of sanctions (c.7.3). For most core principle FIs, supervisors have powers to supervise, monitor and impose indirect sanctions. For DNFbps, supervisors do not have the powers to meet their obligation to monitor for the purposes of PF related TFS implementation. Additionally, in BiH, no sanctions can be imposed directly on FIs and DNFbps for failing to implement

TFS obligation directly. Whilst the AT acknowledges the BiH's compliance with many R.7 criteria, the shortcoming found under c.7.3 cannot be considered minor. **Therefore R.7 is rated PC.**

### ***Recommendation 8 – Non-profit organisations***

#### ***Criterion 8.1 -***

- a) It is not possible to identify the subset of organisations that fall within the FATF definition of NPO since registers of associations and foundations at the four levels of government do not record whether an organisation is an NPO. Whilst there has been some consideration of NPO activity by the authorities, both in the NRA and NRA Addendum as well as intelligence work, the analysis is too generic and the country has not: (i) identified the subset of NPOs that are likely to be at risk of TF abuse that are included within the total number of associations and foundations (total figure not verified); or (ii) identified those likely to be at risk of TF abuse by virtue of their activities or characteristics.
- b) BiH has not identified the nature of threats posed by terrorist entities for the NPOs that are at risk of being abused, as well as how terrorist actors abuse those NPOs.
- c) BiH has not reviewed the adequacy of measures, including laws and regulations, related to the subset of the NPO sector that may be abused to support TF.

The AML/CFT Law includes a provision for the Council of Ministers, to form a permanent coordination body with competent authorities, and this body has the responsibility to assess the adequacy of measures, including laws and by-laws, related to NPO sector, for the purposes of establishing proportional and effective activities to eliminate or mitigate the related identified risks (Art. 6 (3) (h)). This has not taken place.

- d) Whilst the NRA Addendum gives some attention to the NPO sector, the country does not periodically re-assess the TF-related vulnerabilities of the NPO sector and their mitigation. The AML/CFT law includes a generic provision on BiH's need to carry overall AML/CFT risk assessments (Art.7).

#### ***Criterion 8.2 -***

- a) There are no policies to promote accountability, integrity, and public confidence in the administration and management of NPOs.

However, in BiH, associations and foundations are required to: (i) submit financial reports to the relevant competent authority and Ministry of Justice - BiH to be published on the latter's website; and (ii) make publicly available all information regarding activities performed (Associations and Foundations Law - BiH, Art. 5). Furthermore, at state-level, foundations that receive funds for the implementation of programmes or projects must submit a report to the fund provider and inform the public through their website (Associations and Foundations Law – BiH, Art. 21).

In the F BiH and RS, similar obligations exist, except that information is not made publicly available (Associations and Foundations Law – F BiH, Art. 40; and Associations and Foundations Law - RS, Art. 5).

Registration/information recording requirements and related obligations discussed under R.24 can also be considered here.

- b) Two events have been held thus far related to the prevention of AML/CFT in relation to the NPO sector, in 2017 and 2021. Material from one of these show that TF risks associated with NPOs were discussed to some extent. However, the evidence presented did not sufficiently demonstrate that the authorities encourage and undertake outreach and educational programmes to raise

awareness among NPOs as well as the donor community about: (i) the potential vulnerabilities of NPOs to TF abuse and TF risks; and (ii) the measures that NPOs can take to protect themselves against such abuse.

- c) While there are plans under the AML/CFT law, work has not been undertaken with NPOs to develop best practices to address TF risks and vulnerabilities for the purpose of protecting NPOs from TF abuse.
- d) NPOs, like all legal persons, are required to keep all funds in bank accounts and make all payments through those accounts (Law on Internal Payment Transactions – FBiH, Art. 2, - RS, Art.3, BD – Art. X). NPOs are also obliged to have an authorised bank account for the registration process. There are no other initiatives specifically geared towards encouraging NPOs to conduct transactions via regulated financial channels.

**Criterion 8.3** – There are no measures to promote effective supervision or monitoring the NPO sector in terms of risks of ML and TF. As noted under c.8.1, the subset of NPOs that are vulnerable to TF abuse has not been identified.

The country has established responsible authorities (the competent ministries of justice) to check: (i) the accuracy of information held on registered associations and foundations; (ii) whether registered associations and foundations submit financial reports; and (iii) the information they use in legal transactions (Associations and Foundations Law – BiH, Art. 47). These measures are not specific to NPOs; nor do they cover unincorporated associations.

The country also enforces payment of taxes (entity and district level) and compliance with the Accounting and Auditing Law.

**Criterion 8.4** –

- a) See c.8.3.
- b) Risk-based measures do not apply to NPOs. As such, there is no mechanism for applying effective, proportionate and dissuasive sanctions for violations by NPOs (or persons acting on behalf of those NPOs) of such measures.

Sanctions may be applied to registered associations and foundations when registration requirements are not followed (Laws on Associations and Foundations). The maximum thresholds for the fines are low: BAM 3 000 (approximately EUR 1 500) and BAM 1 000 (approximately EUR 500) in case of directors (responsible persons). R.35 sets out the sanctions that may be applied to NPOs that fail to comply with the AML/CFT Law.

Associations and foundations may also be de-registered, but use of this sanction is not linked to TF abuse.

Information has not been provided on sanctions applicable to institutions, institutes or religious communities.

**Criterion 8.5** –

- a) A memorandum of understanding is in place in respect of the Common Register of Associations and Foundations in BiH – a state level common register. Also, there is co-operation, coordination and information sharing amongst competent authorities for the purposes of implementing the AML/CFT Law (see R.2).

No other mechanisms enabling effective co-operation, co-ordination and information sharing, e.g., between registrars and law enforcement have been identified.

- b) There is a lack of investigative expertise and capability, despite there being an institutional framework to do so (see IO9 and IO10).
- c) Information held by obliged entities including banks on NPOs, may be accessed by supervisors (see R.27 which applies to FIs but is relevant also to NPOs) and the FIU (see c.29.3). Other powers for law enforcement to obtain financial records is captured under R.31 including shortcomings law enforcement cannot obtain financial records related to TF offences (see c.31.1).

In addition, information held on associations and foundations in state, entity and district registers is generally publicly available<sup>83</sup> (Associations and Foundations Law – BiH, Art. 25, Associations and Foundations Law – RS, Art. 25, Associations and Foundations Law – BD, Art.3 and Business entities law – BD, Art. 3). However, with respect to associations and foundations, an authorised representative may request the registry to prohibit disclosure of certain recorded data if the disclosure of such data could undermine the personal integrity of the founders or members of the association or foundation.

- d) The mechanism applicable for sharing information among the competent authorities and bodies when suspicions related to NPOs is integrated in the exchange information mechanism put in place at the state level. This includes reporting obligations among the authorities, as well as the obligation of the authorities to provide relevant information at the requests submitted by other authorities, as stated in the specific legislation.

**Criterion 8.6** - Deficiencies identified under R.37-40 are relevant here, and BiH's international cooperation mechanism impacts information-sharing related to NPOs suspected of TF. No points of contact or procedures have been developed to respond to international requests specifically related to NPOs.

#### *Weighting and Conclusion*

Major shortcomings remain in BiH. The country has not identified a subset of NPOs falling under the FATF definition nor identified the features and types of NPOs likely to be at risk of TF abuse. There are no targeted risk-based measures to monitor NPOs, nor sustained outreach on TF issues. **Therefore, R.8 is rated NC.**

#### *Recommendation 9 – Financial institution secrecy laws*

##### Access of authorities to information:

The AML/CFT Law lifts confidentiality (secrecy) requirements for all obliged entities (including FIs) when such information is disclosed to the FIU (AML/CFT Law, Art. 90). For LEA's access to information, the Criminal Procedure Codes (on state and entities/BD level) lifts confidentiality for banks and any legal persons (including FIs), by imposing an obligation for information on the bank accounts and other financial transactions of suspects or of persons to be accessible on the request of a judge, if such information could be used as evidence in the criminal proceedings related to ML or other proceeds generating offences (excluding TF offences) (CPC – BD, Art.86, CPC – FBiH, Art.86, CPC – RS, Art.136). The Law on Protection of Personal Data does not prohibit access to information for the purposes of AML/CFT.

---

<sup>83</sup> An authorised representative may request the registry to prohibit disclosure of certain recorded data if the disclosure of such data could undermine the personal integrity of the founders or members of the association or foundation.

Other sectoral laws provide the possibility for a secrecy exemption (referred to as banking, business, official or other professional secrets, or confidential information). Some exemptions are limited and could inhibit competent authorities access to information. These are set out below.

### *Banks*

In FBiH and RS, banks are required to keep bank (business)<sup>84</sup> secrets, (Banking Law – FBiH, Art. 102 and Art. 103, and Banking Law - RS, Art. 126 and Art. 127).

The obligation to keep bank secrets is lifted if the data is required by a wide range of competent authorities (including disclosure to a competent court, prosecutor's office, supervisory authorities, and competent AML/CFT authorities, including LEAs and the FIU), in compliance with AML/CFT regulations (AML/CFT Law, Art. 75; Banking Law – FBiH, Art. 104(1); and Banking Law – RS, Art. 128(1)).

### *Securities market*

Securities firms are obliged to keep all data on transactions performed for customers secret (Securities Market Law – FBiH, Art. 82; and Securities Market Law - RS, Art. 104(1) and Art. 132).

However, this does not apply where information is requested by the supervisor, or judicial and administrative authorities in performance of their powers (Securities Market Law – FBiH, Art. 82; and Securities Market Law - RS, Art. 104(2) and Art. 132).

Data concerning unitholders (including also data concerning shareholders of the management company, balance of units, payments and payouts) constitutes a business secret of the management company of an investment fund and depository bank.<sup>85</sup> It may be disclosed only with a court order, at the request of a unitholder, or to a depository bank (which may then be accessed through the supervisor, indirectly) (Investment Funds Law – FBiH, Art. 30(1)(e); Investment Funds Law – RS, Art. 30(1)(d); and Investment Funds Law<sup>86</sup> - BD, Art 30(1)(e). Accordingly, the scope of the exemptions is limited.

### *Insurance market*

An insurance company in FBiH may not disclose data collected from customers (Insurance Law – FBiH, Art. 105(1)). Inter alia, the concept of secrecy does not apply: (i) if information is required to establish the facts in criminal proceedings and if presentation of this information is required or ordered in writing by the competent court; (ii) in cases provided by the AML/CFT Law and bylaws adopted thereunder; and (iii) to information requested by supervisory bodies (Insurance Law - FBiH, Art. 105(2)(c) and (d)). In RS, the concept of professional secrecy is also defined in law (Insurance Law – RS, Art.18). Whether the same exemptions apply in in BD and RS is not clear from the information provided.

### *Other*

Legal gateways for exchanging information exist in the following cases: (i) when specified in AML/CFT regulations (Leasing Law – FBiH, Art. 83d(2)(c)); and Factoring Law – FBiH, Art. 97(4)(f)); (ii) in cases where information is requested by the supervisor or a judicial or administrative body (Factoring Law – RS, Art. 36); and (iii) in cases where information is requested for supervision purposes (Law on Foreign Exchange Operations – FBiH (Art. 49)) and RS (Art. 49). The scope of (i) is limited since the

---

<sup>84</sup> A bank secret is a business secret (Banking Law – FBiH, Art. 102(4); and Banking Law – RS, Art. 126(4)).

<sup>85</sup> An entity which maintains the register of units of the open alternative investment fund.

<sup>86</sup> Official Gazette - BD, 30/07 and 18/17.

AML/CFT Law includes only a requirement to deliver information to the FIU. The concept of secrecy is not explicitly defined in the laws considered above.

#### Sharing of information between authorities:

Banking secrecy provisions and confidentiality requirement have no effect as soon as information is made available by FIs to competent authorities. Once competent authorities hold information on an FI, they are able to share this information with other authorities without obstacles.

#### Sharing of information between FIs:

Under R.13, it may be necessary for a domestic respondent bank to provide CDD information about customers that have direct access to the account of foreign correspondent bank. And under R.17, a domestic FI (third party that is relied upon) may be called on to disclose information and provide documentation on request to a foreign FI, DNFBP or VASP that has relied upon the domestic FI (under foreign legislation). The absence of some exceptions to secrecy provisions, may inhibit the implementation of R.13 and R.17.

#### *Weighting and Conclusion*

Generally, BiH has legal mechanisms to ensure that banking and professional secrecy are not enforceable when competent authorities request information from obliged entities (excluding for TF when it comes to LEAs). Banking and professional secrecy provisions are also not enforceable when information is shared between competent authorities. It is unclear how professional secrecy provisions would be overcome when FIs implement R.13 or R.17 – this is considered a minor deficiency. **Therefore, R.9 is rated LC.**

#### *Recommendation 10 – Customer due diligence*

In the 4th round MER of 2015, BiH was rated PC on former R.5 largely since obliged entities were not explicitly obliged to apply CDD measures to all existing customers.

The following persons are subject to AML/CFT obligations only when conducting activities with authorisation (AML/CFT Law, Art. 5): (i) insurance companies for life insurance business; and (ii) currency exchange offices<sup>87</sup>. The following activity is not subject to AML/CFT obligations: issuing financial commitments. Given the nature of the financial market in BiH, these are only minor shortcomings.

**Criterion 10.1** - Covered FIs are prohibited from opening or maintaining anonymous accounts or other products enabling the customer's identity to be hidden (AML/CFT Law, Art. 40(1)). The latter is considered sufficient to cover accounts in obviously fictitious names.

**Criterion 10.2** - Covered FIs are required to undertake CDD measures (as defined in AML/CFT Law, Art. 11(1)) when: (i) establishing a business relationship (AML/CFT Law, Art. 12(1)(a)); (ii) carrying out a transaction or a series of linked transactions of BAM 30 000 (approximately EUR 15 000) or more (AML/CFT Law, Art. 12(1)(b)); (iii) carrying out an occasional transaction that constitutes a transfer of funds in the amount of BAM 2 000 or more (approximately EUR 1 000) (AML/CFT Law, Art. 12(1)(c)); (iv) doubting the veracity or adequacy of previously obtained information about the

---

<sup>87</sup> Article 5 of the AML/CFT Law extends to: (i) insurance businesses licenced for life insurance business (and not to any that may be conducting unauthorised life insurance); and (ii) authorised currency exchange offices (and not to any that may be operating outside the law).



customer or the BO (AML/CFT Law, Art. 12(1)(d)); and (v) there is suspicion of ML/TF, regardless of amount and any exemption, derogation or threshold (AML/CFT Law, Art. 12(1)(e)).

**Criterion 10.3** - Covered FIs are required to identify and verify the customer's identity using: (i) documents, data, or information obtained from reliable and independent sources; (ii) electronic identification; or (iii) by directly accessing a public register in BiH (AML/CFT Law, Art. 11(1)(a)). For (ii) and (iii), there is no overriding requirement for electronic documents or public registers to be reliable or independent. These requirements apply when the customer is a natural person (AML/CFT Law, Art. 16) or legal person (AML/CFT Law, Art. 18). Guidance sets out documents, data or information that are acceptable for identification and verification purposes.

**Criterion 10.4** - Covered FIs are required to verify whether any person purporting to act on behalf of a customer is so authorised and establish and verify the identity of that person (AML/CFT Law, Art. 11(3), Art. 16(1) and Art. 17(1)).

**Criterion 10.5** - Covered FIs are required to: (i) identify the BO of the customer; and (ii) take reasonable measures to verify that person's identity using relevant information or data obtained from a reliable source such that the covered FI is satisfied that it knows who the BO is (AML/CFT Law, Art. 11(1)(b)).

The BO of a customer shall be understood to mean any natural person who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction is being conducted (AML/CFT Law, Art. 4(p)).

**Criterion 10.6** - Covered FIs are required to obtain information on the purpose and intended nature of a business relationship or transaction (AML/CFT Law, Art.11(1)(c) and Art. 15(1)(g)). There is no explicit requirement to understand the business relationship or transaction.

**Criterion 10.7** - Covered FIs are required to conduct ongoing monitoring of business relationships (AML/CFT Law, Art. 11(1)(d) and Art. 27(2)(b) and (c)). This includes:

(a) Scrutiny of transactions undertaken throughout the course of that relationship to ensure that transactions being conducted are consistent with the covered FI's knowledge of the customer, their business and risk profile, and, as needed, the source of funds; and

(b) Ensuring that documents, data and information collected under the CDD process are relevant and kept up to date, by inspecting existing records, particularly for higher risk categories of customers.

**Criterion 10.8** - Covered FIs are required to take measures necessary to understand: (i) the nature of the customer's business; and (ii) the ownership and control structure of a customer that is a legal person or legal arrangement (AML/CFT Law, Art. 11(1)(b)).

**Criterion 10.9** - As part of CDD measures, covered FIs are required to obtain the following information for a legal person: (i) name, legal form, and unique identification number (proof of existence); and (ii) registered office address (AML/CFT Law, Art. 15(1)(d)).

There is no explicit requirement for covered FIs to obtain information on powers that regulate and bind the person, persons having a senior management position (except when representing or authorised to act on behalf of a legal person), or the principal place of business if it differs from the registered address.

**Criterion 10.10** - For customers that are legal persons, covered FIs are required to identify and take reasonable measures to verify the identity of: (i) the natural person who ultimately owns or controls the legal person through direct or indirect ownership of a sufficient percentage of shares, voting rights, equity interests, or similar; (ii) the natural person who exercises control in some other manner; and (iii) the natural person who provides funds giving a right to significantly influence decision-making by



the management body when taking financial and operational decisions. If no natural person is identified under (i) to (iii) or there is suspicion that the natural person identified is not the BO, and where all possible means have been exhausted to define the BO, the natural person(s) in the most senior management position shall be considered the BO (AML/CFT Law, Art. 4(p), Art. 11(1)(b), and Art. 18(4)).

**Criterion 10.11** – For customers that are legal arrangements, covered FIs are required to identify and take reasonable measures to verify the identity of the following: (i) settlor; (ii) trustee(s); (iii) protector, if any; (iv) beneficiaries, or where individuals benefiting have yet to be determined, the class of persons in whose main interest the legal arrangement is set up or operates; and (v) any other natural person exercising ultimate control (AML/CFT Law, Art. 4(p), Art. 11(1)(b) and Art. 18(5)). For other types of legal arrangement, the identity of persons holding equivalent or similar positions should be identified and verified (AML/CFT Law, Art. 18(5)(f)). Legal arrangement should be understood to mean a legal form of organisation for the purpose of managing and disposing of assets (AML/CFT Law, Art. 4(oo)).

**Criterion 10.12** – In addition to the CDD measures required for the customer and BO, covered insurance companies, brokers and agents are required to conduct the following CDD measures on the beneficiary of life assurance and other investment-related insurance policies as soon as the beneficiary is identified or designated:

(a) For a beneficiary that has been identified or designated – establishing the identity of the beneficiary (AML/CFT Law, Art. 20(1) and Art. 61(4)).

(b) For a beneficiary that is not designated by name – obtaining sufficient information to establish identity at the time of payout of the sum insured, exercise of rights to surrender, or any advance payment or pledging of the insurance policy (AML/CFT Law, Art. 20(2) and Art. 61(4)).

(c) For both cases, verification of identity should take place at the same time as identity is established (potentially earlier than the time of payment) (AML/CFT Law, Art. 20(1) and Art. 61(4)).

**Criterion 10.13** – There is no requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether EDD measures are applicable. If the beneficiary of insurance is in the category of high ML/TF risk (distinct from higher under the Standard), covered insurance companies, brokers and agents must: (i) inform a member of the senior management before the payout of the sum insured and carry out EDD (AML/CFT Law, Art. 20(5)); and (ii) undertake reasonable measures to identify the BO of the insurance beneficiary, at the latest at the time of the payout, exercise of rights to surrender, advance payment or pledging of the insurance policy (AML/CFT Law, Art. 20(4)). There is no requirement to verify the identity of the BO of the beneficiary.

**Criterion 10.14** – Covered FIs are required to verify the identity of a customer and BO before and (in prescribed cases) during establishing a business relationship or conducting an occasional transaction (AML/CFT Law, Art. 14(1) and (2)). Covered FIs may also verify identity after the establishment of a business relationship if there are appropriate protective mechanisms in place to ensure that the relationship cannot be used to carry out transactions (AML/CFT Law, Art. 14(3)), but this exception is not limited to cases where it is essential not to interrupt the normal course of business; nor is there an explicit requirement for verification to occur as soon as possible. However, ML/TF risks are effectively managed by prohibiting use of an account pre-verification of identity.

**Criterion 10.15** – There is no possibility that business relationships may be used prior to verification (AML/CFT Law, Art. 14(3)).

**Criterion 10.16** – Covered FIs are required to continually apply CDD measures to all existing customers based on materiality and risk and conduct CDD measures on those relationships at

appropriate times, considering whether and when CDD measures have been previously undertaken and adequacy of data obtained (AML/CFT Law, Art. 12(2)).

**Criterion 10.17** – Inter alia, enhanced identification and monitoring measures must always be applied to: (i) correspondent relationships; (ii) PEPs; and (iii) business relationships or transactions involving high risk countries (AML/CFT Law, Art. 29(1) and Rulebook on Implementation of the AML/CFT Law, Art. 4(1)(b)). Enhanced measures must also be applied to a business relationship or transaction for which BiH has identified a high risk of ML/TF (AML/CFT Law, Art. 29(5)).

A covered FI is also required to take enhanced measures to manage and mitigate risks where: (i) a higher level of customer risk is identified (AML/CFT Law, Art. 9(2)(d)); and (ii) a high level of customer risk is identified, taking account of its business risk assessment (AML/CFT Law, Art. 29(2)). This business risk assessment must consider the risk of ML/TF in BiH (AML/CFT Law, Art. 10(5)).

**Criterion 10.18** – Before applying simplified measures, a covered FI must ascertain that the business relationship or the transaction presents a lower level of risk (AML/CFT Law, Art. 30(3)). A covered FI may apply simplified CDD measures only if it has identified a lower level of risk through an appropriate risk analysis (AML/CFT Law, Art. 30(1)). Simplified measures must be proportionate to lower risk factors but are not acceptable when there is a suspicion of ML/TF or when specific higher risk scenarios exist (AML/CFT Law, Art. 30(2)). Risk assessments must consider the result of ML/TF risk assessments in BiH (AML/CFT Law, Art. 30(5)). Factors to be used when assessing whether a customer presents a low risk must be defined in an implementing regulation passed by the Council of Ministers – BiH.

**Criterion 10.19** - Covered FIs must: (i) not commence a business relationship or perform a transaction; and (ii) discontinue an established relationship - in situations where they are unable to comply with relevant CDD measures (AML/CFT Law, Art. 14(4) and (5)).

A covered FI is required to consider making an STR to the FIU when it is unable to identify and verify the identity of the customer, BO, or person purporting to act on behalf of the customer (AML/CFT Law, Art. 14(4)). There is no explicit requirement to consider making a STR when it is not possible to conduct ongoing monitoring (though the reporting obligation set out under R.20 applies).

**Criterion 10.20** – Where a covered FI reasonably believes that performance of CDD measures will tip off the customer, there is no possibility not to pursue the CDD process.

#### *Weighting and Conclusion*

While the necessary CDD requirements are in place, minor shortcomings are identified. In particular: (i) not all FI activities are covered; (ii) there is no overriding requirement for electronic documents or public registers to be reliable or independent (c.10.3); (iii) there is no explicit requirement for covered FIs to obtain all the information set out under c.10.9; and (iv) there are no requirements against tipping off (c.10.20). **R.10 is rated LC.**

#### ***Recommendation 11 – Record-keeping***

In the 4th round MER of 2015, BiH was rated LC on former R.10 because obliged entities were not explicitly obliged to keep records of business correspondence.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

**Criterion 11.1** - Covered FIs are required to maintain necessary records of transactions for at least 10 years after the end of a business relationship or occasional transaction (AML/CFT Law, Art. 59(1)(a)).

**Criterion 11.2** - Covered FIs are required to maintain all records related to CDD measures, account documents, business correspondence and the results of any analysis undertaken for at least 10 years

after a business relationship is terminated or an occasional transaction completed (AML/CFT Law, Art. 59(1)(b)).

**Criterion 11.3** - Transactions records must be sufficient to allow reconstruction of individual transactions to provide, if necessary, evidence for conducting criminal proceedings (AML/CFT Law, Art. 59(2)).

**Criterion 11.4** - Covered FIs are required to forward CDD information and transaction records without delay and no later than eight days following a request from the FIU - with the possibility to extend in cases of extensive documentation or other justifiable reasons subject to the FIU's approval (AML/CFT Law, Art. 64). Where ML, associated predicate crimes and TF are suspected then, in urgent cases, the FIU may request information orally and review it at the covered FI's premises (including when requested to do so by competent authorities).

#### *Weighting and Conclusion*

Shortcomings underlined in the conclusion to R.10 regarding the scope of application of the AML/CFT Law are also relevant here. **R.11 is rated LC.**

#### **Recommendation 12 – Politically exposed persons**

In the 4th round MER of 2015, BiH was rated LC on former R.6 due to minor shortcomings in the effectiveness regime.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

**Criterion 12.1** - The definition of a foreign PEP under the AML/CFT Law is in line with FATF Standards (AML/CFT Law, Art. 4(t)). A person remains a PEP until the later of: (i) one year following relinquishment of their prominent public role; and (ii) such time as there is no longer any specific PEP risk (AML/CFT Law, Art. 34(4)). This time limit has previously been accepted by the FATF as reasonable, provided that a risk-based approach is continued. (a) Covered FIs are required to establish appropriate procedures to determine whether a customer or a customer's BO is a PEP (AML/CFT Law, Art. 34(1)).

(b) Covered FIs are required to obtain written approval from senior management before entering such relationships (AML/CFT Law, Art. 34(2)(b)). If an existing customer, or BO thereof, becomes a PEP during the business relationship, a similar requirement is triggered (AML/CFT Law, Art. 34(3)).

(c) Covered FIs are required to collect data to establish the source of funds and source of wealth for the customer or the customer's BO (AML/CFT Law, Art. 34(2)(a)).

(d) Covered FIs are required to apply EDD measures on an ongoing basis when dealing with PEPs (AML/CFT Law, Art. 34(2)(c)).

**Criterion 12.2** - The definition of a domestic PEP is in line with the FATF Standards (AML/CFT Law, Art. 4(s)) and includes a person who has been entrusted with a prominent function by an international organisation. A person remains a PEP until the later of: (i) one year following relinquishment of their prominent public role; and (ii) such time as there is no longer any specific PEP risk (AML/CFT Law, Art. 34(4)). This time limit has previously been accepted by the FATF as reasonable, provided that a risk-based approach is continued.

Legislation does not differentiate between foreign and domestic PEPs (AML/CFT Law, Art. 34). As such, measures described under c. 12.1 are equally applicable to domestic PEPs.

**Criterion 12.3** – The measures set out for PEPs apply also to closest family members and close associates (AML/CFT Law, Art. 3(u) and (v)). The definition for closest family members does not cover

siblings or stepchildren, and the definition for close associates does not cover persons that are connected socially or politically to a PEP. The definition for close associate does not include a case when a person has joint BO of a legal person or legal arrangement set up for the *de facto* benefit of a PEP.

**Criterion 12.4** – In relation to life insurance policies, covered insurance companies, brokers and agents are required to determine whether the beneficiary and any BO of that beneficiary is a PEP. This should occur, at the latest, at the time of the payout, exercise of rights to surrender, advance payment, or pledging of the policy (AML/CFT Law, Art. 20(4)). Where high (rather than higher) risks are identified, covered insurance companies, brokers and agents must inform senior management before payout of the sum insured and carry out EDD measures. There is no explicit requirement to consider making a STR.

#### *Weighting and Conclusion*

Enhanced CDD measures do not extend to siblings or persons that are connected socially or politically to a PEP. Taking account of the risk presented in BiH by corruption, this is a moderate shortcoming. Other shortcomings, including those underlined in the conclusion to R.10 regarding the scope of application of the AML/CFT Law, are considered minor. **R.12 is rated PC.**

#### *Recommendation 13 – Correspondent banking*

In the 4th round MER of 2015, BiH was rated LC on former R.7 due to requirements applying only to relationships with banks in some foreign countries and there being no explicit requirement to assess information provided by respondents.

Correspondent provisions extend to the provision of cross-border banking services by one bank/other FI to another bank/other FI (AML/CFT Law, Art. 4(n)).

**Criterion 13.1** - When establishing a correspondent business relationship, a covered FI is required, inter alia, to:

(a) Gather sufficient information about a respondent institution to understand fully the nature of its business, and to determine from publicly available information the reputation of the institution and the quality of supervision, including whether it has been subject to an ML or TF investigation or to supervisory action (AML/CFT Law, Art. 31(1)(a)).

(b) Assess internal controls and procedures related to AML/CFT (AML/CFT Law, Art. 31(1)(c)).

(c) Obtain written consent from senior management prior to entering such a relationship (AML/CFT Law, Art. 31(2)).

(d) Document and understand the respective responsibilities of each institution (AML/CFT Law, Art. 31(1)(f)).

**Criterion 13.2** – For payable through accounts, a covered FI must satisfy itself that the respondent bank: (i) has verified the identity of the customer and continuously undertaken CDD measures in relation to its customers that have direct access to the account of the correspondent; and (ii) is able to provide relevant CDD information upon request to the correspondent bank (AML/CFT Law, Art. 31(4)).

**Criterion 13.3** – Banks must not establish or maintain a correspondent relationship with a "shell bank" (Decision on ML and TF Activity Risk Management - FBiH, Art. 37(4); and Decision on Banks - RS, Art. 18). When establishing a correspondent relationship, a covered FI is required to ensure that the respondent does not do business with shell banks (AML/CFT Law, Art. 31(1)(g)).

### *Weighting and Conclusion*

All elements are met. **R.13 is rated C.**

### ***Recommendation 14 – Money or value transfer services***

In the 4th round MER of 2015, BiH was rated PC on former SR.VI due to there being: (i) no registration or licensing requirements for MVTS (except for banks); (ii) an absence of monitoring measures; (iii) no obligation to maintain a current list of agents; and (iv) an absence of sanctions.

**Criterion 14.1** – Only banks and postal operators may offer MVT services in their capacity as: (i) principal; or (ii) agent or sub agent (such as for Western Union and MoneyGram) (Law on Payment Transactions – F BiH, Art 14 to Art. 17; Law on Internal Payment System – F BiH, Art. 5; Law on Foreign Exchange Operations - F BiH, Art. 7(1); Law on Payment Transactions – RS, Art 14 to Art. 17; Law on Internal Payment Transactions – RS, Art. 6; and Law on Foreign Exchange Operations - RS, Art. 7(1)). Banks that provide MVT services are required to be licenced – see R.26. Other MVTS operators (registered postal operators) - that act as sub-agents for banks - must appoint an authorised person, details of which must be disclosed to the FIU within eight days of appointment (AML/CFT Law, Art. 48(5)). The effect of this is for the FIU to have a register of non-bank MVTS operators.

**Criterion 14.2** – It is an offence to operate a bank without a licence and this offence is subject to a term of imprisonment of between three months and ten years, depending on the gain made from the unauthorised activity (CC – F BiH, Art. 269; CC – RS, Art. 275; and CC - BD, Art. 263). It is an offence for a covered FI to fail to disclose the name of an authorised person to the FIU (AML/CFT Law, Art. 100(1)(d)) and this offence is subject to a fine of between BAM 5 000 (approximately EUR 2 500) and BAM 20 000 (approximately EUR 10 000). These are proportionate ranges of sanctions. The authorities have not explained what action is taken to identify unauthorised MVTS activities (taking place other than through banks or postal operators).

**Criterion 14.3** - MVTS operators that are banks are subject to supervision by banking supervisors. Other MVTS operators are subject to supervision by the Banking Agency – F BiH, Administration for Inspection Affairs – F BiH, Administration for Inspection Affairs – RS and Finance Directorate - BD (AML/CFT Law, Art. 93(1)(o) and (p)).

**Criteria 14.4** - MVTS providers are able to use only agents that are authorised to perform payment transactions (Law on Payment Transactions – F BiH, Art 14 to Art. 17; Law on Internal Payment System – F BiH, Art. 5; Law on Foreign Exchange Operations - F BiH, Art. 7(1); Law on Payment Transactions – RS, Art 14 to Art. 17; Law on Internal Payment Transactions – RS, Art. 6; and Law on Foreign Exchange Operations - RS, Art. 7(1)).

**Criterion 14.5** – There is no explicit requirement for MVTS providers that use agents to include them in their AML/CFT programme and monitor them for compliance with those programmes. Notwithstanding, MVTS providers: (i) must monitor implementation of policies, controls and procedures, which necessarily covers activities conducted through agents (AML/CFT, Art. 9(2)(c)); and (ii) are able to use only agents that are authorised to perform payment transactions (and so both principal and agent are subject to the AML/CFT Law).

### *Weighting and Conclusion*

The authorities have not explained how they would identify unauthorised MVTS activities and there is no requirement for agents to be covered by AML/CFT programmes. These are considered minor shortcomings, given that only banks and postal operators provide MVT services, and agents must themselves be authorised to perform payment transactions (and so directly subject to requirements of the AML/CFT Law). **R.14 is rated LC.**



## *Recommendation 15 – New technologies*

In the 4th round MER of 2015, BiH was rated LC on former R.8 due to there being: (i) lack of guidance on the application of CDD measures to non-face to face transactions; and (ii) lack of awareness of risks regarding misuse of new technologies.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

**Criterion 15.1** - ML/TF risk assessments conducted at state level do not systematically identify and assess risks that may arise in relation to the development of new products and business practices, or use of technology.

Covered FIs are required to identify and assess the ML/TF risk that may arise in relation to the development of new products and new business practices, including new delivery mechanisms, and the use of new or developing technologies for both new and pre-existing products (AML/CFT Law, Art. 10(6) and Art. 32(1)).

**Criterion 15.2** - (a) Covered FIs are required to carry out risk assessments prior to the launch or use of products, practices or technology (AML/CFT Law, Art. 10(6) and Art. 32(1)).

(b) Covered FIs are required to take appropriate measures to mitigate and effectively manage the risk (AML/CFT Law, Art. 10(6)).

**Criterion 15.3** - (a) The Council of Ministers - BiH adopted a ML/TF risk assessment associated with VAs on 1 February 2024. The risk assessment was conducted by a Working Group appointed by the Council of Ministers – BiH and conducted in accordance with a methodology developed by the Council of Europe covering: (i) threats (predicate offences, profile of customers and sectors used); and (ii) vulnerabilities (VAs used, activities conducted and legislative and regulatory framework). In addition to risk presented by VASPs, the assessment considers VA mining and peer to peer transactions, as well as use of foreign VASPs. Data was collected through tables and questionnaires covering the period 2020 to 2022. The risk of ML through VAs is assessed as being high whilst the risk of use of VAs for TF is assessed as a medium risk.

Limited data is held by the authorities on VAs and VASPs and the risk assessment focused on the two known VASPs providing services in the period under review. As a result, the risk assessment also considered information available on international trends, analyses from blockchain analytic companies, and risk assessments conducted elsewhere. There is only limited analysis in the assessment of the risk of TF through VAs.

(b) An action plan for combatting ML and TF associated with VAs (2024 to 2027) was adopted by the Council of Ministers – BiH on 1 February 2024. The plan assigns a priority to each action, and so displays features of a risk-based approach. However, the plan is drafted in very general terms and does not specifically deal with risks identified in the risk assessment, in particular, the prevalent use of foreign VASPs and domestic platforms used to buy and sell VASPs.

(c) The same shortcomings identified at c.1.10 apply to covered VASPs.

**Criterion 15.4** - (a) The Securities Commission - RS must keep a record of covered VASPs (Securities Market Law - RS, Art. 260b). This record covers: (i) persons established in the RS to provide services related to virtual currencies<sup>88</sup>; and (ii) legal persons established outside the RS which provide these services in the RS through a branch office (Securities Market Law - RS, Art. 260(2)). Whilst VASPs are not required to be registered in the FBiH or BD, they must appoint an authorised person, details of

---

<sup>88</sup> Established as an entrepreneur or as a legal person.

which must be disclosed to the FIU within seven days of appointment (AML/CFT Law, Art. 4(n)(2) and Art. 40(1)). The indirect effect of this is for the FIU to have a register of VASPs. However, the application of this requirement to legal persons created in BiH that carry on VA activities exclusively outside BiH has not been explained.

(b) The Securities Commission – RS may request documentation that it deems necessary for deciding on entry into the record of covered VASPs (Rulebook on the records of service providers to virtual currencies, Art. 5(4)). However, the Commission is obliged to register an applicant once a “proper application” has been submitted and so it is not clear that necessary measures could be taken to prevent criminals or their associates from holding, or being the BO of, a significant or controlling interest in a VASP, or holding a management function in a VASP. Measures are not in place in the FBiH or BD.

**Criterion 15.5** - In the RS, a covered VASP that is a legal person, as well as the responsible person of that legal person, will be subject to a fine of BAM 10 000 to BAM 50 000 (approximately EUR 5 000 to EUR 25 000) for a misdemeanour if they fail to submit a notification on the provision of services related to virtual currencies within the time limit established (i.e. over an extended period of time) (Securities Market Law - RS, Art. 261 and Art. 296(1)(117) and (2)). The range of fines is not considered to be proportionate to sanction greater or lesser breaches of requirements. There are no comparable provisions for natural persons. The authorities have not explained what action is taken to identify unauthorised VA activities in the RS. VASPs are not required to be registered in the FBiH or BD.

**Criterion 15.6** - (a) The Securities Commission – FBiH, the Securities Commission - RS and the Finance Directorate – BD are competent to supervise the compliance of covered VASPs with AML/CFT requirements (AML/CFT Law, Art. 93(1)(i)). Supervisors must base the schedule and scope of supervision on: (i) results of the risk assessment (see c.15.3(a)); (ii) the VASP’s business risk assessment; and (iii) on their own assessment of entity risk (AML/CFT Law, Art. 97(4)). The authorities have not provided evidence that systems (e.g., use of manuals) are in place for ensuring compliance with the AML/CFT Law.

(b) Under sectoral legislation, the Securities Commission – RS has powers to: (i) supervise compliance with AML/CFT requirements (though information has not been provided on sanctions that may be applied for failing to cooperate with the supervisor (see c.27.1)); (ii) conduct on-site and off-site supervision (see.c.27.2); and (iii) impose sanctions (see c.27.4). VASPs are required to make premises and employees available as requested, make available and deliver documentation and documents as requested, and provide statements and declarations (see c.27.3). Similar powers are not available to other VASP supervisors.

**Criterion 15.7** – The legal basis for publishing AML/CFT guidance under the AML/CFT Law and Securities Market Law – RS applies to VASPs (see R.34). This includes Guidance on Securities – RS. Supervisors have not issued tailored guidance to VASPs.

The Securities Commission - RS is in regular contact with VASPs that have notified an intention to provide VA services and helps applicants to prepare appropriate documentation which, amongst other things, addresses implementation of the AML/CFT Law and related by-laws. The legal basis for providing feedback is explained under R.34.

**Criterion 15.8** – (a) The range of sanctions available to supervisors and competent courts in the event of failure to comply with requirements in the AML/CFT Law cannot be considered proportionate (see c.35.1).

(b) A sufficient range of sanctions can be applied proportionately in RS to deal with greater or lesser breaches of requirements by directors or senior management of VASPs. This includes fines under the



AML/CFT Law and dismissal of members of the governing body or senior management under securities legislation. In FBiH and BD, only fines are available and so the range of sanctions is not considered sufficiently proportionate.

**Criterion 15.9** - R.10 to R.21 apply to covered VASPs in the same way as FIs, except that: (i) correspondent banking-type relationships are not covered as these are expressly stated in the AML/CFT Law as applying to relationships between FIs (R.13); (ii) monitoring of compliance by VASPs that are MVTS operators is the responsibility of securities supervisors (c.14.3); and (iii) provisions dealing with VA transfers do not apply as they are expressly stated in the AML/CFT Law as applying to credit institutions and FIs (R.16).

The occasional transaction designated threshold above which VASPs are required to conduct CDD is more than BAM 1 000 (approximately EUR 500) (EUR 1 000 or more in Standard). Shortcomings identified in relation to FIs under R.10, R.12 and R.17 to R.21 are also relevant for VASPs.

**Criterion 15.10** – The same communication mechanisms, reporting obligations and monitoring set out under R.6 and R.7 are applicable to VASPs.

**Criterion 15.11** – There are no restrictions regarding the exchange of information by the FIU related to VAs (AML/CFT Law, Art. 65 to Art. 67). The Securities Commission - RS can cooperate with corresponding organisations abroad (Securities Market Law - RS, Art. 260(1)(n)). Information has not been provided by LEAs.

#### *Weighting and Conclusion*

The authorities have comprehensively identified and assessed ML risks emerging at state level from VAs (c.15.2(a)) but there is only limited analysis of the risk of TF through VAs (c.15.3(a)) and it has not been demonstrated that measures applied to prevent or mitigate risks are commensurate with risks identified (c.15.3(b)). There are other shortcomings in particular: (i) measures are not in place to register or supervise VASPs in the FBiH or BD (c.15.4 to c.15.6); (ii) only limited measures to prevent criminals or their associates from holding, or being the BO of, a significant or controlling interest in a VASP, or holding a management function in a VASP are in place in RS; (iii) the range of fines available to deal with failure to register as a VASP in RS is not proportionate; (iv) no provisions are in place to regulate VA transfers (c.15.9); and (v) there are gaps in the application of R.6 and R.7 to VASPs. These are considered major shortcomings.

Shortcomings underlined in the conclusion to R.10 regarding the scope of application of the AML/CFT Law are also relevant to c.15.1 and c.15.2. Overall, **R.15 is rated NC**.

#### *Recommendation 16 – Wire transfers*

In the 4th round MER of 2015, BiH was rated LC on former SR.VII due to there being no obligation placed on FIs to adopt effective risk-based procedures on identifying and handling wire transfers not accompanied by complete originator information.

The application of requirements to funds transfers is not fully in line with the FATF Standards because: (i) the exception to the use of credit and debit cards does not explicitly require all transfers flowing from the transaction to be accompanied with a card number (AML/CFT Law, Art. 39(1)(b)(1); and (ii) the exception for propriety transfers does not specify that this must be limited to FI to FI transfers and settlements (AML/CFT Law, Art. 39(1)(b)(2)).

**Criterion 16.1** – Ordering FIs are required to collect “complete” information about the *originator* and *beneficiary* of each transfer and include it in the form or message accompanying the electronic transfer of funds (AML/CFT Law, Art. 37(1)). The term “complete” has the same effect as “required” – the term

used in the Standard. The following information on the originator must accompany each transfer: (i) name; (ii) address; (iii) unique identification number, or date and place of birth; and (iv) account number or unique transaction reference (AML/CFT Law, Art. 37(2)). The following information on the beneficiary must accompany each transfer: (i) name; (ii) account number where an account is used or, in the absence of an account, a unique transaction reference number which permits traceability of a transaction.

Data on the originator must also be “accurate”, i.e., verified for accuracy in line with c.10.2(a) and (c)) (AML/CFT Law, Art. 12 and Art. 38(1) and (2)).

**Criterion 16.2** – Where several individual cross-border transfers from a single originator are bundled in a batch file for transmission to beneficiaries, the batch file must contain “required and accurate” originator information, and full beneficiary information, that are fully traceable within the beneficiary country, and the ordering FI must include the originator’s account number or unique transaction reference number in each transfer.

**Criterion 16.3** – A *de minimis* threshold is not applied to cross-border transfers – see c.16.1.

**Criterion 16.4** – A *de minimis* threshold is not applied to cross-border transfers – see c.16.1. Notwithstanding, an ordering FI must establish and verify the identity of the originator whenever there is suspicion of ML or TF (AML/CFT Law, Art. 38(2)) (see also c.10.2).

**Criterion 16.5** – The same requirements that apply to cross-border transfers apply to domestic transfers, except that the ordering FI: (i) is not required to verify the identity of the beneficiary (AML/CFT Law, Art. 37(1) to (4)); and (ii) may make information available to the beneficiary FI or appropriate authorities by other means (AML/CFT Law, Art. 37(6)).

**Criterion 16.6** – Where the information accompanying a domestic transfer can be made available to the beneficiary FI and appropriate authorities by other means, the ordering FI need include only the account number or a unique transaction reference number in the transfer, provided that this number or identifier will permit the transaction to be traced back to the originator or the beneficiary. The ordering FI must make the information available within three business days of receiving the request either from the beneficiary FI or from appropriate competent authorities (AML/CFT Law, Art. 37(6)). Law enforcement access is covered under c.31.1 – where minor shortcomings are identified.

**Criterion 16.7** – The ordering FI is required to keep information, data and documentation obtained under the AML/CFT Law for at least 10 years following the termination of a business relationship or completion of a one-off transaction (AML/CFT Law, Art. 92(1)).

**Criterion 16.8** – The ordering FI is not permitted to execute a transfer if it does not comply with the requirements specified under c.16.1 to c.16.7 (AML/CFT Law, Art. 37(13)).

**Criterion 16.9** – For cross-border transfers, an intermediary FI must ensure that all originator and beneficiary information accompanying a transfer is retained with it (AML/CFT Law, Art. 37(7)).

**Criterion 16.10** – Where technical limitations prevent required originator or beneficiary information accompanying a cross-border transfer from remaining with a related domestic transfer, the intermediary FI must keep a record, for at least five years, of all the information received from the originating FI or other intermediary FI (AML/CFT Law, Art. 37(8)).

**Criterion 16.11** – Intermediary FIs must take reasonable measures that will enable them, during automatic transaction processing, to identify cross-border transfers that lack required information on the originator or the beneficiary (AML/CFT Law, Art. 37(9)).

**Criterion 16.12** – Intermediary FIs must have risk-based policies and procedures for determining: (i) when to execute, reject, or suspend a transfer lacking required originator or required beneficiary information; and (ii) the appropriate follow-up actions (AML/CFT Law, Art. 37(12)).

**Criterion 16.13** – There are no specific requirements for beneficiary FIs covering the application of reasonable measures to identify transfers that lack required originator or required beneficiary information.

**Criterion 16.14** – For cross-border transfers of BAM 2 000 (approximately EUR 1 000) or more, a FI must verify the identity of the beneficiary, if the identity has not been previously verified, and keep this information (AML/CFT Law, Art. 37(10)).

**Criterion 16.15** – There are no specific requirements covering the application of risk-based policies and procedures for dealing with missing information.

**Criterion 16.16** – Persons transferring money or value (MVTS providers), including agents, are subject to R.16 as described under c.16.1 to c.16.15.

**Criterion 16.17** – In the case of a MVTS provider that controls both the ordering and the beneficiary side of a transfer, the provider shall:

(a) Consider all information from both the ordering and beneficiary sides to determine whether a STR must be filed (AML/CFT Law, Art. 37(11(a))); and

(b) File an STR in any country affected by the transfer and make relevant transaction information available to the FIU (AML/CFT Law, Art. 37(11)(b)).

**Criterion 16.18** – As reported under c.6.5(c) an exemption allows resources to be released, if they are linked to contracts concluded prior to a freezing decision coming into force. Additionally, there is no mention of an exemption should a designated person be licensed, authorised or otherwise notified in accordance with the relevant UNSCRs.

### *Weighting and Conclusion*

Whilst the majority of necessary requirements are in place, some shortcomings are identified. In particular: (i) some provisions are missing for beneficiary FIs (c.16.13 and c.16.15) and there are some shortcomings in the implementation of TFS. Overall, these are minor deficiencies and so **R.16 is rated LC**.

### *Recommendation 17 – Reliance on third parties*

In the 4th round MER of 2015, BiH was rated LC on former R.9 due to there being: (i) no clear requirements for non-banking FIs to satisfy themselves that third parties relied upon were regulated and supervised; and (ii) no direct requirement for the competent authorities to determine in which countries third parties could be based.

**Criterion 17.1** - Covered FIs are permitted to rely on a third party to conduct elements (a) to (c) of the CDD measures set out in R.10. Final responsibility for implementing these elements rests with the covered FI placing reliance (AML/CFT Law, Art. 24(1) and (4)).

(a) The covered FI placing reliance is required to ensure that the third party submits without delay information concerning elements (a) to (c) of CDD measures set out in R.10 (AML/CFT Law, Art. 25(1)(a)).

(b) The covered FI is required to ensure that the third party submits without delay copies of identification data and other relevant CDD documentation at the covered FI's request (AML/CFT Law, Art. 25(1)(b)).

(c) Covered FIs are required to establish beforehand if a third-party meets the conditions prescribed by the AML/CFT Law (AML/CFT Law, Art. 24(2)), i.e. the third party: (i) applies CDD and record-keeping measures that are in line with, or stricter than, the requirements in force in BiH; and (ii) is monitored regularly and continuously by competent authorities in the country in which it is based for compliance with AML/CFT requirements – in the same manner and scope in which supervision is carried out in BiH (AML/CFT Law, Art. 23(1)). Element (i) is not strictly in line with the Standard which refers to compliance with R.10 and R.11 (rather than domestic provisions).

**Criterion 17.2** – It is not permitted to rely on third parties based in countries with strategic deficiencies in their ML/TF regime (AML/CFT Law, Art. 23(2) and Art. 86(1)(a)). However, it is not necessary to consider other elements (e.g. prevalence of corruption) that contribute to country risk.

**Criterion 17.3** – Covered FIs may rely on a third party based in a country with strategic deficiencies where the third party is a subsidiary of the covered FI and the BiH group: (i) applies CDD and record-keeping measures that are in line with, or stricter than, the requirements in force in BiH; and (ii) is monitored regularly and continuously by competent authorities in BiH for compliance with AML/CFT requirements - in the same manner and scope in which supervision is carried out in BiH (AML/CFT Law, Art. 23(2)). Element (i) is not strictly in line with the Standard which refers to compliance with R.10 and R.11 (rather than domestic provisions). As explained under c.18.2, the group is expected to apply an “appropriate” AML/CFT programme, though there is no explicit requirement for that programme to adequately mitigate any higher country risk.

### *Weighting and Conclusion*

Whilst the majority of necessary requirements are in place, some shortcomings are identified. In particular, when determining which foreign countries reliance may be placed on third parties, it is not necessary to consider elements of risk other than those related to ML/TF risk. Overall, this shortcoming and others are considered to be minor and **R.17 is rated LC**.

### ***Recommendation 18 – Internal controls and foreign branches and subsidiaries***

In the 4th round MER of 2015, BiH was rated PC on former R.15 and LC on former R.22 due to: (i) limitations on the appointment of compliance officers at management level; (ii) absence of requirements for employee screening and an independent function to test the system at securities firms; (iii) missing information from the BD; and (iv) no requirement to notify banking supervisors where regulations of a foreign country did not allow the implementation of equivalent AML/CFT measures.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

**Criterion 18.1** – Covered FIs must establish internal AML/CFT controls which are appropriate to the nature and size of the business (AML/CFT Law, Art. 55(1)). There is no requirement to implement a more general programme against ML/TF, including policies and procedures.

(a) Covered FIs are required to appoint an authorised person (and one or more deputies) to coordinate AML/CFT activities (AML/CFT Law, Art. 48(1)). When appropriate to the size and nature of business (but not otherwise), this authorised person must be appointed at management level (AML/CFT Law,

Art. 48(2)). Inter alia, this authorised person is responsible for establishing, functioning and development of AML/CFT systems, including operational procedures, ensuring compliance with the AML/CFT Law, and reporting to the FIU (AML/CFT Law, Art. 50).

For covered FIs with four or fewer employees, the director (legal representative) or another person who manages the covered FI's affairs shall be deemed to be the authorised person (AML/CFT Law, Art. 48(4)).

(b) Covered FIs must have procedures in place to apply integrity checks during the appointment of an authorised person (and deputies) and a covered FI cannot establish an employment relationship with a candidate if they do not meet the integrity checks (AML/CFT Law, Art. 53). Procedures do not cover other elements such as qualifications and experience (but see below). The authorised person (and deputies) cannot have been convicted by a final court decision or be subject to criminal proceedings. They must also hold a relevant professional qualification, have necessary experience, and understand how FIs may be used to launder the proceeds of crime or finance terrorism (AML/CFT Law, Art. 49(1)). Screening procedures must also be applied to other staff of securities firms (FBiH) and insurance companies, but not by banks or more generally (Guidance on Securities – FBiH, Art. 44(5); Guidance on Insurance – FBiH, Art. 44(5); and Guidance on Insurance – RS, point 6.2).

(c) Covered FIs must ensure continuous professional education, training and development of all relevant employees (customer and non-customer facing) (AML/CFT Law, Art. 54(1); Decision on ML and TF Activity Risk Management – FBiH, Art. 7; Decision on Banks – RS, Art. 41; Decision on Leasing Providers - RS, Art. 34; and Decision on MCOs – RS, Art. 34). Education, training and development must include familiarisation with the provisions of legal requirements, internal policies and procedures, professional literature, and list of indicators for identifying suspicious activities of customers and suspicious transactions (AML/CFT Law, Art. 54(2)). Covered FIs must prepare an annual programme for “AML/CFT employees” no later than the end of March each year (AML/CFT Law, Art. 54(3)).

(d) At least once a year, covered FIs are required to have an independent audit to assess the adequacy, reliability and effectiveness of the AML/CFT system (AML/CFT Law, Art. 55(2)).

**Criterion 18.2** – Groups established in BiH are required to ensure that the AML/CFT Law is applied to the same extent in branches and majority-owned subsidiaries (AML/CFT Law, Art. 52(1)).

(a) There is no explicit requirement for financial groups to have policies and procedures for sharing information. However, this may be implied (see (b) and (c) below). Such groups are permitted to exchange data where this is necessary for ML/TF risk management (AML/CFT Law, Art. 52(4)).

(b) Data may be exchanged about the customer, account and transaction with other members of the group. This includes: (i) data on, and analyses of, transactions or activities that appear unusual; and (ii) STRs, underlying information, or fact that an STR has been submitted (AML/CFT Law, Art. 52(5)).

(c) Programmes and procedures must cover adequate safeguards regarding the confidentiality and use of exchanged information, including data protection policies and safeguards to prevent tipping off (AML/CFT Law, Art. 52(2)).

**Criterion 18.3** – Covered FIs are obliged to apply measures that are consistent with the AML/CFT Law to majority-owned foreign subsidiaries and branches (AML/CFT Law, Art. 52(1)), where the minimum requirements of the host country are less strict than those applying in BiH.

If the host country does not permit proper implementation of measures consistent with home country standards, the covered FI shall be required to immediately notify the FIU and its supervisor and to take appropriate measures to eliminate ML/TF risk (AML/CFT Law, Art. 52(8)).

### *Weighting and Conclusion*



Whilst most elements of this Recommendation are met, there are some shortcomings, in particular: (i) some discretion on application of the general rule to appoint a compliance officer (authorised person) at management level; (ii) some gaps in the application of screening procedures when hiring employees; and (iii) scope of application of the AML/CFT Law underlined under R.10. Overall, these deficiencies are considered minor and so **R.18 is rated LC**.

### ***Recommendation 19 - Higher-risk countries***

In the 4th round MER of 2015, BiH was rated PC on former R.21 due to there being: (i) no requirement for non-banking FIs to pay special attention to relationships or transactions with countries that do not, or insufficiently, apply the FATF Recommendations; (ii) no effective measures to notify non-bank FIs about concerns in the AML/CFT systems of other countries; (iii) no mechanism to apply countermeasures; and (iv) no requirement to examine transactions with no apparent economic or unlawful purposes.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

**Criterion 19.1** - Covered FIs must apply EDD measures to a business relationship or transaction “involving a high-risk country” with strategic deficiencies in its ML/TF regime that is designated by the Council of Ministers – BiH (AML/CFT Law, Art. 35 and Art. 86(1)(a)). This requirement goes beyond the Standard which calls for measures to be applied to customers “from countries” for which there is a call by the FATF (i.e., having the nationality of, or resident in, such a country), In addition to this requirement, covered FIs must apply EDD measures to a customer “based in” a country which is designated by the FATF as a country that lacks internationally accepted standards for preventing and detecting ML/TF (which will include those countries subject to an FATF “call for action”) (Rulebook on Implementation of the AML/CFT Law, Art. 4(1)(b)). Enhanced measures should be applied “as necessary” (i.e., proportionate to risk (AML/CFT Law, Art. 35(2)).

**Criterion 19.2** – Competent supervisory authorities may apply one or more measures to high-risk countries designated by the Council of Ministers – BiH, including: (i) refusing the establishment of subsidiaries or representative offices of FIs in BiH; (ii) prohibiting covered FIs from establishing subsidiaries or representative offices; (iii) requiring increased supervisory oversight or external audit requirements; and (iv) termination of correspondent relationships (AML/CFT Law, Art. 35(3)). When drawing up a list of high-risk countries, the Council must take evaluations and reports of competent international institutions and organisations into account (AML/CFT Law, Art. 35(4) and Art. 86(3)).

**Criterion 19.3** – Covered FIs must apply EDD measures on receipt of a notification from the FIU about weaknesses in the AML/CFT system of a particular country (Rulebook on Implementation of the AML/CFT Law, Art. 4(2)). The authorities have not explained how such notification is made.

#### ***Weighting and Conclusion***

The authorities have not explained what measures are in place to ensure that FIs are advised of concerns about weaknesses in AML/CFT systems in other countries (c.19.3). Considering that the list is published in legislation, this shortcoming is minor. So too is the gap in the scope of application of the AML/CFT Law underlined under R.10. **R.19 is rated LC**.

### ***Recommendation 20 - Reporting of suspicious transaction***

In the 2015 MER, BiH was rated PC on former R.13 and former SR. IV. The assessment found that by-laws did not cover funds but rather transactions.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

**Criterion 20.1** – Obligated entities are required to report to the FIU in the case of: (i) any attempted or conducted suspicious transactions; (ii) suspicious funds, regardless of the amount of the transaction; and (iii) any suspicious customer or person (AML/CFT Law, Art. 42(1)).

The definition of a "suspicious transaction" covers any attempted or completed cash or cashless transaction, regardless of its value and method of execution, in which there are grounds for suspecting that ML or TF has been committed, that the transaction involves the proceeds of crime or is linked to TF, or there are other reasons surrounding the customer or funds to suspect ML/TF (AML/CFT Law, Art. 4(b)). However, the definition of TF provided for under Article 3, para. 3 of the AML/CFT Law does not cover the financing of the travel of individuals who travel 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. Also, the deficiency under c.5.1 applies.

The obliged entity is required to immediately, before carrying out the suspicious transaction, report to the FIU (AML/CFT Law, Art. 42(2)). If the obliged entity, due to the nature of the transaction and/or funds, the transaction is not carried out in full, or for other justified reasons, is not able to report prior to the transaction, it shall report to the FIU without delay, and no later than the next business day after conducting the transaction. This report should include an explanation of reasons for its failure to act in accordance with the legal provisions (AML/CFT Law, Art. 42(4)).

**Criterion 20.2** - There is an obligation to report all conducted or attempted suspicious transactions regardless of the amount of the transaction (AML/CFT Law, Art. 42(1)).

#### *Weighting and Conclusion*

BiH has legislation in place for prompt reporting of suspicious transactions, including attempted ones, however the definition of TF lacks the deeds prescribed under c.5.1<sup>bis</sup> of the FATF methodology and the deficiency under c.5.1 applies. **R.20 is rated LC.**

#### *Recommendation 21 – Tipping-off and confidentiality*

In the 4th round MER, BiH was not reassessed on former R.14 due to MONEYVAL's 4th Round Rules of Procedure. The LC rating from the 3rd round MER was maintained. The assessment identified technical deficiencies related to protection from civil and criminal liability for directors and officers of covered FIs.

**Criterion 21.1** - The obligation to protect the secrecy of banking, business, official, lawyer, notary or other professional secrets when submitting information, data and documentation to the FIU shall not apply to the employees of covered FIs, including CEOs, members of the management, supervisory and other governing body as well as other persons (AML/CFT Law, Art. 90(1)).

The Law is wide enough to cover the protection for cases when the listed persons did not know what the underlying criminal activity was and is regardless of whether the criminal activity actually occurred or not.

**Criterion 21.2** - Covered FIs and their employees, including CEOs, members of management, supervisory or other governing bodies, as well as persons who have had access to the data shall not disclose to the customer, unauthorised persons in the obliged entity or third parties of the disclosure of information, data and documents to the FIU (AML/CFT Law, Art. 88(1a)).

At group level, obliged entities may exchange information, data and analyses of transactions or activities that appear unusual, reports of suspicious transactions, information and data providing



basis for reporting suspicious transactions and information on whether the transaction has already been reported to the competent authority as suspicious (AML/CFT Law, Art. 52(5)). See c.18.2(b)).

### *Weighting and Conclusion*

There are no deficiencies. **R.21 is rated C.**

### ***Recommendation 22 – DNFBPs: Customer due diligence***

In the 4th round MER of 2015, BiH was rated PC on former R.12. The following technical deficiencies were noted: (i) poor implementation of BO requirements – former R.5; (ii) poor implementation of on-going due diligence – former R.5; (iii) no clear requirement to be satisfied that the third party be regulated and supervised – former R.9; (iv) no direct requirement for competent authorities to take into account information available on countries adequately applying the FATF Recommendations when determining where third parties could be based – former R.9; (v) absence of an explicit obligation to keep records of business correspondence – former R.10; and (vi) absence of an explicit obligation to keep records regardless of whether the account or business relationship is on-going or had been terminated – former R.10.

In addition to DNFBPs covered by the FATF Recommendations, several additional activities are subject to the AML/CFT Law, which are listed under Chapter 1 (section 1.4.4).

**Criterion 22.1** – Covered DNFBPs are required to apply the same CDD requirements described under R.10 for covered FIs. Accordingly, the same shortcomings apply. CDD applies in the following situations:

- a) For organisers of games of chance (AML/CFT Law, Art. 5(1)(n)) - when customers engage in transactions of BAM 2 000 (approximately EUR 1 000 equivalent) or more during a game (regardless of whether single or linked transactions) (AML/CFT Law, Art. 19(4)). In addition, clients must be identified, and their identity verified: (i) upon entry to the organiser’s physical premises regardless of the value of chips purchased (AML/CFT Law, Art. 19(3)); and (ii) when registering on an online betting platform, regardless of the stake (AML/CFT Law, Art. 19(2)).

Operators of online games of chance are required to check and verify a player’s registration at every payment and pay-out (Games of Chance Law - FBiH, Art. 115; and Games of Chance Law – RS, Art. 92(3)).

- b) Real estate agencies (AML/CFT Law, Art. 5(2)(c)) – when involved in transactions concerning the buying and selling of real estate (though it is not specified that the requirements set out in R.10 are applicable to both the purchaser and vendor of the property) and any other transactions.
- c) Traders in precious metals and stones (AML/CFT Law, Art. 5(2)(a)) – when they engage in any cash transaction with a customer equal to or above BAM 20 000 (approximately EUR 10 000).
- d) Lawyers and notaries - when conducting activities listed under c.22.1(d) (AML/CFT Law, Art. 5(1)(o)(4)).

Accountants - when registered to provide book-keeping and accounting services (but not when conducting these services without being registered).

Tax advisers and others - when providing material assistance, support or advice on tax matters.

- e) Trust and company service providers (not lawyers or accountants) “governed by foreign law” – when conducting activities described in the general glossary to the FATF Methodology (AML/CFT, Art. 5(1)(s) and Art. 4(ss)), except that the following are not covered: (i) the provision of nominee services to a company whose securities are listed on a regulated market to which data disclosure

requirements apply in accordance with BiH legislation or international standards; and (ii) legal arrangements other than trusts (AML/CFT Law, Art. 4(ss)).

**Criterion 22.2** - Requirements in the AML/CFT Law for covered FIs described under R.11 are equally applicable to covered DNFBPs. Shortcomings described under R.11 (scope of definition of FI) do not apply to DNFBPs.

**Criterion 22.3** - Requirements in the AML/CFT Law for covered FIs described under R.12 are equally applicable to covered DNFBPs. Shortcomings described under R.12 also apply to DNFBPs, except one related to the scope of definition of FI.

**Criterion 22.4** - Requirements in the AML/CFT Law for covered FIs described under c.15.1 and c.15.2 are equally applicable to covered DNFBPs. Shortcomings described under c.15.1 also apply to DNFBPs.

**Criterion 22.5** - Requirements and shortcomings in the AML/CFT Law for covered FIs described under R.17 are equally applicable to covered DNFBPs.

#### *Weighting and Conclusion*

There are shortcomings in the scope of application of CDD measures to: (i) accountants; and (ii) TCSPs. The latter is a major shortcoming, but, overall, not considered to be important given the size and importance of the sector. Additionally, shortcomings identified in relation to FIs under R.10, R.12, c.15.1, and R.17 are also relevant for DNFBPs, except those relating to scope of the definition of FI. **R.22 is rated LC.**

#### *Recommendation 23 – DNFBPs: Other measures*

In the 4th round MER of 2015, BiH was rated PC on former R.16. The following technical deficiencies were noted: (i) no requirement for an authorised person with more than four employees to be appointed at management level; (ii) no enforceable requirement to pay special attention to business relationships and transactions with persons from countries which do not, or insufficiently, apply the FATF Recommendations – former R.21; (iii) no mechanism in place to apply counter-measures to countries that do not, or insufficiently, apply the FATF Recommendations – former R.21; and (iv) no requirement to examine, as far as possible, the background and purpose of transactions with no apparent economic or visible lawful purpose, or to make available written findings to assist competent authorities and auditors – former R.21.

There are shortcomings in the scope of application of CDD measures to DNFBPs in relation to accountants and TCSPs. See R.22.

**Criterion 23.1** – Requirements and shortcomings in the AML/CFT Law for covered FIs described under R.20 are equally applicable to covered DNFBPs, except that, in line with the Standards, lawyers are exempt from reporting when representing their client in court, administrative or mediation proceedings or ascertaining the legal position for clients (AML/CFT Law, Art. 45).

**Criterion 23.2** – Requirements and shortcomings in the AML/CFT Law for covered FIs described under R.18 are equally applicable to covered DNFBPs, except: (i) except those related to scope of the definition of FI; and (ii) there is no requirement for an internal audit of implementation of AML/CFT measures where there are four or fewer employees (AML/CFT Law, Art. 55(5)). This threshold takes account of the size of the business.

**Criterion 23.3** - Requirements and shortcomings in the AML/CFT Law for covered FIs described under R.19 are equally applicable to covered DNFBPs, except those related to scope of definition of FI.

**Criterion 23.4** - Requirements in the AML/CFT Law for covered FIs described under R.21 are equally applicable to covered DNFBPs.

### *Weighting and Conclusion*

Shortcomings identified in relation to FIs under R.20, R.18, and R.19 are also relevant for DNFBPs. There are also shortcomings in the scope of application of CDD measures to DNFBPs in relation to accountants and nominee activities provided by TCSPs. These shortcomings are considered minor. **R.23 is rated LC.**

### *Recommendation 24 – Transparency and beneficial ownership of legal persons*

In the 4th round MER of 2015, BiH was rated PC on former R.33 because the mechanism in place to ensure adequate transparency of BO was not sufficiently comprehensive. Additionally, there were concerns around the extent, accuracy and accessibility of information included in the Court Registries.

The operation, management and termination of companies is regulated at entity and district level by the following laws: (i) Company Law - FBiH; (ii) Company Law – RS; and (iii) Enterprises Law – BD. In FBiH and RS, the company law of each provides for the following types of legal person: (i) limited liability companies; (ii) joint stock companies; (iii) general partnerships; and (iv) limited partnerships (Companies Law - FBiH, Art. 3(1); and Companies Law - RS, Art. 2(2)). In BD, the following types of legal person are provided for: (i) limited liability company; (ii) company with unlimited liability; (iii) joint stock company; and (iv) limited partnership (Enterprises Law – BD, Art. 3(1)). These forms of legal person are collectively referred to as companies.

The procedure for registration of companies in BiH is regulated both at state-level and entity/district level by the following laws: (i) Registration of Business Entities Framework Law - BiH; (ii) Registration of Business Entities Law - FBiH; (iii) Registration of Business Entities Law - RS; and (iv) Registration of Business Entities Law - BD.

The entities and district were required to harmonise all regulations emanating from the Registration of Business Entities Framework Law – BiH within 30 days from the day of implementation of that law (July 2004) (Registration of Business Entities Framework Law – BiH, Art. 22(3)). In BiH, this means that each entity largely has similar provisions in their own business entities laws, stemming from the state-level law. The key difference is that RS has changed its law to incorporate the registration of BO information. Where other deviations occur, this has been highlighted in the text below.

These laws on registration of business entities apply to: (i) a business company or enterprise established with the purpose of performing economic activity; (ii) a cooperative or a cooperative association; and (iii) other legal persons that perform economic activity with the purpose of creating profit (Registration of Business Entities Framework Law – BiH, Art. 3).

The operation, management and termination of associations and foundations is regulated at both state and entity level by the following laws: (i) Associations and Foundations Law – BiH; (ii) Association and Foundations Law – FBiH; (iii) Associations and Foundations Law – RS; and (iv) Associations and Foundations Law - BD. Associations and foundations are registered by: (i) the Federal Ministry in FBiH and by competent courts at cantonal level (Law of Associations and Foundations – FBiH, Art.5 and Art. 26); (ii) the district court in RS (Associations and Foundations Law - RS, Art. 25); and (iii) the Basic Court in BD (Associations and Foundations Law – BD, Art. 33(2)). They can also register at state-level with the Ministry of Justice - BiH (Associations and Foundations Law – BiH, Art. 8).

The procedure for associations and foundations to register with relevant competent authorities is set out in the same state and entity level laws, as noted above. Associations and foundations have a choice for registering at state or entity-level. They cannot register at both levels.

**Criterion 24.1** – (a) The different types, forms and basic features of companies are stipulated in the company laws of all three territories (Company Law - FBiH, Art. 76, Art. 94, Art. 105, and Art. 302; Company Law - RS, Art. 48, Art. 85, Art. 99, and Art. 179; Company Law – BD, Art. 62 to Art. 116, Art. 119 to Art. 132, Art. 142 to Art. 338, and Art. 347 to Art. 388), and cover matters such as liability, management and termination.

Basic features of associations and foundations are stipulated in the laws on associations and foundations (at state level and entity-level), including matters such as creation.

(b) The process for creating, obtaining and recording basic information on companies is set out in the framework law and entity/district law on the registration of business entities (Registration of Business Entities Framework Law – BiH, Art. 10, Art. 15, Art. 16, Art. 17, Art. 18, and Art. 19). This includes procedures for application and the required documents to support creation, which cover basic information.

The state-level and entity laws on associations and foundations set out the process and required documents for registering associations and foundations, which cover basic information. (Associations and Foundations Law – BiH, Art. 10, 11, 22, 23; Associations and Foundations Law – FBiH, Art.13,14, 21, 22, Associations and Foundations Law – RS, Art. 11, 12, 18, 19; Associations and Foundations Law – BD, Art. 16, 17, 24 25).

In RS, BO information is collected during the process of registering a business entity and is stored in the competent district commercial court's records. All business entities are required to submit appropriate information for the identification of this BO to the competent authority upon registration (Registration of Business Entities Law - RS, Art. 32). There is no similar process for obtaining BO information in FBiH or BD, (but see c.24.6 which outlines ways of obtaining BO information).

Information on types and creation of companies is also publicly available online through state and entity registers and portals of public institutions, e.g.: (i) in FBiH, on the website of the Municipal Court of Sarajevo and other federation and municipal websites (forms to register a company or report changes to filed information); (ii) in RS - on websites of the APIF, Chamber of Commerce, and Portal for Entrepreneurs; and (iii) in BD - on the website of the Basic Court - BD. In FBiH, information can alternatively be obtained at the court.

Mechanisms are not in place for obtaining and recording BO information for associations or foundations.

In early 2017, the Ministry of Justice – BiH established a publicly accessible list of associations and foundations: [www.zborniregistri.gov.ba](https://zborniregistri.gov.ba)<https://zborniregistri.gov.ba>. However, this is not fully populated and is still being developed.

**Criterion 24.2** – BiH has assessed risks associated with legal persons in the NRA, the NRA Addendum, and recent stand-alone assessment. The authorities also presented analyses that they have conducted on the risks associated with investing in real estate through legal persons owned by Middle Eastern, African and Asian nationals. However, analysis presented in these documents is too high-level to conclude that ML/TF risks associated with the types of legal persons created in BiH have been sufficiently assessed. Assessments miss the following in particular: (i) characteristics of companies vulnerable to misuse; (ii) vulnerabilities related to controls in place to mitigate risk; and (iii) challenges related to the availability and quality of basic and BO information from a range of registers and obliged entities.

**Criterion 24.3** - All business entities (including companies - as defined) are obliged to register with the relevant entity/district-level competent registration court, prior to commencement of intended economic activity (Registration of Business Entities Framework Law – BiH, Art. 4(1)(a)). Therefore,

information must be held in one of three entity/district-level databases (hereafter referred to as competent court registries).

The following must be entered into the competent court registries: (i) name; (ii) legal form and status; (iii) address of the registered office; and (iv) names of authorised representatives (list of directors) (Registration of Business Entities Framework Law – BiH, Art. 10). This information is publicly available (Registration of Business Entities Framework Law – BiH, Art. 4(1)(h)). On registration, each business entity is given a registration number – a RNS - which serves as proof of incorporation (Registration of Business Entities Framework Law – BiH, Art. 10 and Art. 22). In RS, information is also held on the scope of the authority an authorised persons holds (regulating powers), but not in FBiH or BD.

At the time of registration, associations and foundations must submit the following: (i) the founding act, covering name, status and address; (ii) the statute of the association or foundation, which sets out basic regulating powers; and (iii) a list of members of the managing body and persons authorised to represent the association or foundation (equivalent to directors) (Associations and Foundations Law - BiH, Art. 31; Associations and Foundations Law - FBiH, Art. 28; Associations and Foundations Law – RS, Art. 26; and Associations and Foundations Law - BD, Art. 33). Entry into the register records proof of incorporation. Registers are open to the public at state and entity level (Associations and Foundations Law – BiH, Art. 28(4); Association and Foundations Law – FBiH, Art. 27; and Associations and Foundations Law - RS, Art. 33. A similar provision could not be found under BD’s laws.

#### **Criterion 24.4**

##### *Information set out under c.24.3*

There is no explicit requirement for business entities (including all types of companies – as defined) themselves to maintain information specified under c.24.3. Instead, business entities are required to provide this information to competent court registries (Registration of Business Entities Law - FBiH, Art. 67(2); Registration of Business Entities Law – RS, Art. 46; and Registration of Business Entities Law – BD, Art. 33), therefore provisions exist that would indirectly require companies to collect this information.

Similar requirements are set out laws on associations and foundations in FBiH and RS (Associations and Foundations law – FBiH, Art. 33; Associations and Foundations Law - RS, Art. 31). No such provisions could be found at state-level or BD level.

##### *Register of shareholders or members*

Limited liability companies are required to keep a register of membership interests (Company Law - FBiH, Art. 318(1) and (2); and Company Law - RS, Art. 114(1) and (2)). In the FBiH, the register includes: (i) name of shareholder; (ii) type and amount of membership interest and the paid amount; and (iii) special rights and responsibilities arising from the membership. The latter does not clearly address voting rights, and it is not specified in the law whether all this information must be kept by the company at their main address, and in the country. In the RS, the register includes: (i) name of shareholder; (ii) the amount of all contracted and paid-in contributions of each member; and (iii) the number of votes or the percentage of voting power of each interest. The register must be kept at the company’s main office (Company Law - RS, Art. 114(1) and (2)). No information was provided on similar requirements are set out in the BD’s Company Law. However, similar to above, information on shareholders is required to be held competent authorities’ registers, and thus held in the country and maintained via the requirements discussed above.

Information on shareholders of joint stock companies is held in Securities Registers in FBiH and RS (Company Law – FBiH, Art. 188(2); and Company Law - RS, Art. 201(3), (5) and (8)). Joint-stock



companies established in BD are registered in the Securities Register of FBiH or RS, depending on where the shares are to be traded. The authorities have not provided information on the types of information held on shares in the entities. In BD, it is specified that the register must list shareholders and the percentage of shares held, including the nature of those associated with voting right (Rulebook on registration and transfer of securities - BD, Art. 18).

For partnerships, competent court registries must hold names of all owners (initial and subsequent holders) alongside the percentage of participation in the capital of the business entity (in money, rights, and assets) (Registration of Business Entities Framework Law – BiH, Art. 10(a) to (n)).

#### **Criterion 24.5 -**

##### *Basic information set out under c.24.3*

All business entities (including all types of companies – as defined) are required to update the competent court registries with any changes in basic information defined under c.24.3 (Registration of Business Entities Law - FBiH, Art. 67(2); Registration of Business Entities Law – RS, Art. 46; and Registration of Business Entities Law - BD, Art. 33). Business entities must register changes within 30 days (Registration of Business Entities Law – FBiH, Art. 67; Registration of Business Entities Law - RS, Art. 72; and Registration of Business Entities Law - BD, Art. 144).

Associations and foundations are required to notify changes in basic information within 30 days too: (i) at state level to the Ministry of Justice - BiH (Associations and Foundations Law – BiH, Art. 43); (ii) in FBiH - to the Federal Ministry or cantonal authority (Associations and Foundations Law - FBiH, Art. 33); and (iii) in RS - to the district court (Associations and Foundations Law – RS, Art. 31). In BD changes in data are reportable to the Basic Court however no timelines are specified (Associations and Foundations Law - BD, Art. 33(5)).

There are no powers available to competent authorities that allow them to request the records of legal persons to ensure that obligations to register changes are complied with.

##### *Information on shareholders set out under c.24.4*

In FBiH and RS, limited liability companies are required to ‘promptly’ update their registers of membership interests and apply for changes to data (including on names of shareholders) held in the competent court registries (Company Law - FBiH, Art. 319(2); and Company Law - RS, Art. (114)(3)). In BD, limited liability companies are required to update the court of changes in the list of members (but not other information) within eight days (Company Law – BD, Art. 346(2)).

Changes of ownership of joint stock companies must be entered in Securities Registers – FBiH and RS within seven days of the change (Company Law - FBiH, Art. 188(2); Securities Law – FBiH, Art. 21; Company Law - RS, Art. 201(3), (5) and (8)); and Securities Law – RS, Art. 239(2)). For public joint stock companies, the update must take place within two days.

Powers are not available to competent authorities to request the records of legal persons to ensure that obligations to register changes are complied with. However, with respect to limited liability companies in FBiH and RS, any action of a third person acting in good faith based on reliance on accuracy of entries in the register of membership interests shall be valid (Company Law - FBiH, Art. 318(1) and (2); and Company Law - RS, Art. 318(2)(d)). The effect of this is that – with respect to third parties – whatever is recorded in a register is accurate and up to date (though it is possible that false information be entered into the register and that there are delays in reporting changes). No similar provisions are in place in BD.

No provisions are in place for interests in partnerships.

In FBiH, relevant courts, administrative authorities and other institutions are required to inform without delay the competent court registry of any findings obtained while exercising their competences which challenge the completeness and accuracy of data and documents registered (Company Law - FBiH, Art. 63). There are no similar provisions in place in RS or BD.

**Criterion 24.6** – In RS, BO information is collected during the process of registering business entities (including all types of companies – as defined), and that information is stored in the competent district commercial court (Registration of Business Entities Law - RS, Art. 32). However, this law defines a BO as founder who has more than 20% of shares or more, and so this is not in line with the definition in the Standard. Similar provisions do not exist in FBiH or BD or for associations and foundations throughout the country. Information is only collected on companies being registered after 2019.

Instead, BiH relies upon covered FIs, including banks, and covered DNFBPs, including notaries and lawyers, to obtain BO information that can be determined in a timely manner by a competent authority. See c.10.5, c.10.10 and c.22.1. As a result of statutory provisions, at least a bank and a notary must by law hold BO information (though in the case of the latter this may not be up to date). The effect of this should be to ensure that information can be determined in a timely manner.

All legal persons (defined as legal persons whose establishment is registered with a relevant authority or founded under law – and so includes companies (as defined), associations and foundations) are required to open an account with a bank in BiH (National Payment Transactions Law – RS, Art. 8(1), National Payment Transactions Law – FBiH, Art.8 (1), National Payment Transaction Law – BD, Art.36). In addition, joint stock companies must pay initial share capital into a bank account (and provide a bank certificate as proof to the competent court registry) (Registration of Business Entities Law - FBiH, Art. 23(6)); Registration of Business Entities Law – RS – Art. 32(đ); and Registration of Business Entities Law - BD, Art. 21(1)(g)). Before closing a main account in the name of a legal person, banks are obliged to ensure that another account has been opened with another domestic bank. This applies to FBiH and RS.

Business entities (including all types of companies – as defined) cannot be established in the entities/district without the use of a notary. At the time of formation and when amendments are needed to the founding act, a notary is required to certify the articles of association (Registration of Business Entities Law - FBiH, Art. 13(8); and Companies Law - RS, Art. 7(3) and (4)).

In addition, business entities (including all types of companies – as defined) in the FBiH may seek the assistance of lawyers or notaries to file their application for registration (Registration of Business Entities Law - FBiH, Art. 48(1)), and some are required to appoint auditors (several references in the company law for both FBiH and RS) – which are subject to the AML/CFT Law.

**Criterion 24.7** - Covered FIs and covered DNFBPs are required to conduct on-going due diligence on business relationships and occasional transactions with legal persons, including the identification of BOs (as outlined under c.10.7 and c.22.1). They must ensure that documents, data and information collected under the CDD process are relevant and kept up to date, by inspecting existing records, particularly for higher risk categories of customers. The period between reviews of such documents, data and information for lower or standard risk relationships may mean that information held is not accurate or up to date.

To the extent that BO information is held by registries in RS, the same provisions as those described under 24.5 apply. This information is limited to holders of a significant ownership interest, and not BOs exercising control by other means. Powers are not available to competent authorities to request the records of legal persons to ensure that obligations to register changes are complied with. Limited use is made of the register, in practice.



**Criterion 24.8** - No specific measures are in place to ensure that legal persons cooperate with competent authorities to the fullest extent possible in determining who is the BO.

**Criterion 24.9** - As outlined in c.11.2 and c.22.2, covered FIs and DNFBPs are required to maintain information, data and documentation on customers obtained in accordance with the AML/CFT Law for at least 10 years after a business relationship is terminated or a transaction completed.

Information has not been provided on record-keeping requirements for information held by legal persons or authorities.

**Criterion 24.10** - CDD information may be accessed by FI supervisors (see c.27.3), including for banks, and by the FIU (see c.29.3). However, no information has been provided on powers in sectoral laws used to monitor compliance by DNFBPs (other than casinos) with the AML/CFT Law (c.28.4(a)). Law enforcement have most of the necessary powers to access all basic and BO information held in BiH, including from legal persons themselves (see c.31.1). Also, as outlined in c.11.4 and c.22.2, covered FIs and DNFBPs are required to forward CDD information to competent authorities on request without delay or within eight days.

Basic information for legal persons may also be accessed electronically through public registers (Registration of Business Entities Framework Law – BiH, Art. 4(2); and Associations and Foundations Law - BiH, Art. 28). In RS, information on foundations is also available on request from the registry of associations and foundations, in person or via postal services (Associations and Foundations Law – RS, Art. 33).

**Criterion 24.11** – There is no possibility of issuing bearer shares as securities must always be registered (Securities Market Law -RS, Art 3(2); Securities Market Law – FBiH, Art.6; and, Law on Securities – BD, Art. 6).

In addition, joint stock companies are not permitted to issue bearer shares since it is stipulated that one of the compulsory elements of a security which should be contained in the Securities Register is data about the owner/purchaser of the security (Securities Market Law – FBiH, Art. 8; and Securities Market Law – RS, Art. 5).

**Criterion 24.12** - The concept of nominee shareholders is recognised in BiH by virtue of the provision defining TCSP activities (AML/CFT Law, Art. 4(ss) and Art. 5(1)(s)).

No mechanism is in use to prevent the misuse of nominee shares.

The concept of a nominee director is not recognised in BiH. In the FBiH, one or more executive directors run a company (Company Law – FBiH). In RS, a company may have a single director or a management board as a collective management body, as determined by the company's memorandum of association (Company Law - RS). In BD, the management of a company may have one or more directors (Company Law – BD). However, there are no express provisions prohibiting one of those directors from acting as nominee for another party.

**Criterion 24.13** – A fine may be applied to business entities in RS (including all types of company – as defined) for failing to provide accurate information to the competent court registry or failing to update that information on a timely basis: (i) legal person itself – between BAM 3 000 and BAM 10 000 (approximately EUR 1 500 to EUR 5 000); and (ii) responsible person in the legal person - between BAM 200 and BAM 1 500 (approximately EUR 100 to EUR 750) (Company Law - RS, Art. 441 (3)(nj) and (4)). In BD, a fine can be imposed on a company from BAM 500 to BAM 5000 (approximately EUR 250 to EUR 2 500 for failing to submit data required for the competent court registers (Company Law – BD, Art. 434). FBiH has a more general provision whereby a responsible person in a company can be fined from BAM 50 – BAM 20 000 (approximately EUR 25 to EUR 10 000) for failing to comply with the requirements of the law (Company Law – FBiH, Art. 367 and Art. 368).

Inter alia, companies (as defined) can also be struck off registers and dissolved in RS and FBiH if the founding act does not contain information about the business name of the company, the value and type of role of each founder or the amount of the basic capital (Company Law – RS, Art. 11, Company Law – FBiH, Art.62). Information has not been provided on a similar provision for BD.

The following fines apply to associations and foundations for failing to provide accurate information to the court on registration: (i) in RS and FBiH – between BAM 300 and BAM 3000 (approximately EUR 150 to EUR 1 500); and (ii) in BD – between BAM 500 to BAM 3 000 (approximately EUR 250 to EUR 1 500). A fine may also be applied on an association or foundation which fails to notify the court of a change to data (Associations and Foundations Law – BiH, Art. 53; Associations and Foundations Law – RS, Art. 47, Associations and Foundations Law – FBiH, Art. 51, Associations and Foundations Law – BD, Art. 51).

A fine between BAM 10 000 and BAM 50 000 (approximately EUR 5 000 and EUR 25 000) may be applied by a joint stock company for failing to submit accurate shareholder information to the Securities Register - BD (Law on Securities, Art. 77). No information has been provided for FBiH and RS. A fine can be imposed on a joint stock company if it fails to inform the registry of a change (Law of Securities – FBiH, Art. 262(2); and Securities Markets Law – RS, Art. 296(113)): (i) in FBiH – from BAM 15 000 to BAM 200 000 (approximately EUR 7 500 to EUR 100 000); and (ii) in RS - from BAM 10 000 to BAM 50 000 (approximately EUR 5 000 to EUR 25 000). No information has been provided for BD.

A fine may be imposed on a company where it fails to keep its register of membership interests and a share register (Company Law – FBiH, Art. 367(hh); and Company Law - RS – Art. 41(i)). In RS the range is BAM 3 000 to BAM 10 000 (approximately EUR 1 500 to EUR 5 000). No information has been provided for FBiH or BD.

Sanctions for failure by covered FIs and DNFBPs to apply CDD requirements are set out at c.27.4, c.28.4(c) and R.35.

Overall, while there are a multitude of sanctions available in BiH, it cannot be concluded that a sufficient range of dissuasive sanctions for proportionate application exists in BiH. This is primarily because in FBiH there are not provisions that enable sanctions to be imposed on companies (rather than representing individuals) for meeting all of their registration obligations and updating appropriate authorities on changes to information held on them.

**Criterion 24.14** – (a) Foreign competent authorities may rapidly access basic information in the entities and district, including on shareholders, that is held by the competent court registries without proving that they have a legal interest.

(b) and (c) LEAs may use their investigative powers to rapidly obtain BO on behalf of foreign counterparts. Shortcomings identified under R.37 (rated LC) and R.40 (rated PC) also apply here.

**Criterion 24.15** - Competent authorities do not monitor the quality of assistance received from counterparts abroad with respect to responses to requests for basic and BO information.

#### *Weighting and Conclusion*

Basic information is collected, and requirements exist to ensure that changes are reported. However, there are no powers for competent authorities to check that legal persons are meeting their obligations to register these changes. BO information in BiH is being collected is obtained via obliged entities and mechanisms are in place to ensure that it is kept accurate to some extent. While these limitations in isolation would be considered significant shortcomings, coupled with lack of an adequate risk understanding, lack of provisions relating to record keeping requirements (c.24.9), no measures related to bearer share warrants, no mechanisms to prevent the misuse of nominee shares or directors and deficiencies identified under 24.14 and 24.15, the AT considers that moderate

shortcomings remain. Most importantly, this is compound by the fact that not all information has been provided for BiH, which has been given significant weight given that most legal persons are in this territory and the related risks. **Therefore, R.24 is rated PC.**

### ***Recommendation 25 – Transparency and beneficial ownership of legal arrangements***

In the 4th round MER of 2015, BiH was not rated on former R.34 because the concepts of trusts and other similar legal arrangements were not known under the laws of BiH.

R.25 now includes requirements for all countries, whether they recognise trust law or not. The FATF Recommendations recognise that, whilst many countries do not have trust law and may not recognise trusts, residents of those countries (legal persons and natural persons) are able to administer trusts established under foreign legislation.

**Criterion 25.1** - BiH's legal framework does not recognise express trusts or similar legal arrangements. Accordingly (a) and (b) do not apply.

(c) Lawyers, accountants and TCSPs who act as professional trustees of trusts are subject to CDD requirements in the AML/CFT Law, which include maintaining CDD information for at least ten years after their involvement with the trust ceases (see R.11 and c.22.2). These requirements do not apply to persons holding an equivalent role for other types of legal arrangement.

**Criterion 25.2** – Lawyers, accountants and TCSPs who act as professional trustees are also subject to CDD requirements in the AML/CFT Law, which include ensuring that documents, data or information collected is kept up to date and relevant (see c.10.7(b) and c.22.1). These requirements do not apply to persons holding an equivalent role for other types of legal arrangement.

**Criterion 25.3** - Trustees and equivalent are not required to disclose their status to FIs and DNFBPs.

**Criterion 25.4** – Trustees are not prevented by law or enforceable mean from providing: (i) competent authorities; or (ii) FIs and DNFBPs, with information relating to a trust on request.

**Criterion 25.5** - As explained under c.31.1, prosecutors can obtain most records held by legal persons performing financial operations and natural persons - based on a court order. Such documents are available once there is a suspicion of commission of proceeds generating crime, including ML and associated predicate offences, but not TF. In addition, prosecutors can seize and obtain evidence.

**Criterion 25.6** - Information is not held by registries or otherwise by domestic authorities. Accordingly, (a) and (b) do not apply. LEAs may use their investigative powers to obtain information on behalf of foreign counterparts. Shortcomings identified under R.37 (rated LC) and R.40 (rated PC) (particularly c.40.5 and c.40.8) also apply here. See c.24.14. In practice, the ability to access BO information for trusts and similar legal arrangements solely through law enforcement channels may limit or delay access to foreign counterparts.

**Criterion 25.7** - R.35 sets out the sanctions that may be applied to lawyers, accountants and TCSPs that act as professional trustees for failing to meet obligations set out in the AML/CFT Law. The shortcomings identified under R.35 are not relevant to this criterion.

**Criterion 25.8** - Failure to provide data to prosecutors may be sanctioned under the CC. As explained under c.28.4(a), no information has been provided on powers in sectoral laws used to monitor compliance by DNFBPs (other than casinos) with the AML/CFT Law.

### ***Weighting and Conclusion***

Two criteria are not met (c.25.3 and c.25.4)), and one partly met (c.25.6). However: (i) the shortcoming identified under c.25.3 is mitigated to some extent by the requirement placed on obliged persons (in

BiH) to identify the BO of a customer and take reasonable measures to verify identity (c.10.5); (ii) whilst it may not be possible to share information with obliged entities under c.25.4, this affects only a very limited number of trust relationships; and (iii) in practice, any restrictions on confidentiality would not likely interfere with the service of orders by prosecutors. **Therefore, R.25 is rated LC.**

### ***Recommendation 26 – Regulation and supervision of financial institutions***

In the 4<sup>th</sup> round MER, BiH was rated PC on former R.23 due to: (i) legal uncertainty about supervisory functions in relation to the brokerage activities of banks; (ii) failure to include criminal associates in the scope of measures aimed at preventing criminals from holding a controlling interest or management function; (iii) absence of measures to prevent criminals from holding interests in, or managing, leasing providers; (iv) absence of clear requirements for clean criminal records in relation to the directors and management board of banks registered in the RS; (v) measures to prohibit persons with a criminal record from being shareholders or board members of professional intermediaries (securities) not extending to all criminal offences; and (vi) absence of licencing or registration requirements for non-core principle FIs.

FIs with a registered office in one entity (and the district) can operate through a branch in the other entity (and the district). Except for currency exchange offices, the home entity supervisor is responsible for supervision of the FI throughout BiH, irrespective of where branches are located. In the case of currency exchange offices, branch supervision is conducted in the entity in which the branch operates.

**Criterion 26.1** - The following supervisors have responsibility for regulating and supervising FI's compliance with AML/CFT requirements: (i) banks, leasing providers, MCOs and electronic money institutions - Banking Agency – FBiH and Banking Agency – RS<sup>89</sup> (AML/CFT Law, Art. 93(1)(a)); (ii) currency exchange offices - Banking Agency - FBiH, Banking Agency – RS, Financial Police Foreign Exchange Department – FBiH, Tax Administration - RS, and Finance Directorate – BD each within their respective competencies (AML/CFT Law, Art. 93(1)(b)); (iii) insurance companies and insurance intermediaries licensed to deal with life insurance – Insurance Supervision Agency – FBiH and Insurance Supervision Agency – RS (AML/CFT Law, Art. 93(1)(c)<sup>90</sup>); (iv) stock-brokers, investment fund management companies, custodian banks and pension companies - Securities Commission – FBiH, Securities Commission – RS, Securities Commission – BD, and Insurance Supervision Agency – RS (AML/CFT Law, Art. 93(1)(d) to (g)); (v) factoring companies – Banking Agency – FBiH, Securities Commission – RS and Finance Directorate - BD (AML/CFT Law, Art. 93(1)(h)); (vi) companies engaged in money or value transfer services, issuing and managing other means of payment, issuing guarantees, investing, administering, or managing funds, leasing safety deposit boxes, forfeiting, and giving loans, lending, offering and brokering in the negotiation of loans – Administration for Inspection Affairs – FBiH, Administration for Inspection Affairs – RS and Finance Directorate – BD (AML/CFT Law, Art. 93(1)(n)); and (vii) postal operators performing payment transactions<sup>91</sup> - Banking Agency – FBiH,

---

<sup>89</sup> Banks, leasing providers, MCOs and electronic money institutions in BD are licenced and supervised by the Banking Agency - FBiH or Banking Agency - RS (Banking Law – BD, Art. 2 and Art. 9).

<sup>90</sup> Insurance companies in BD are licensed and supervised by the Insurance Agency - FBiH or Insurance Agency – RS (Insurance Law - BD, Art. 4(2) and Art. 6(1)).

<sup>91</sup> Inter alia, postal operators may: (i) receive payment orders from natural persons; and (ii) make payments to natural persons for the account of business entities and natural persons who have accounts with postal operators may also conduct currency exchange – which is supervised in the same way as other authorised currency exchange offices.

Administration for Inspection Affairs – RS and Government Inspectorate - BD (AML/CFT Law, Art. 93(1)(o)).

In practice, supervision of stockbrokers, investment fund management companies, custodian banks and investing, administering, or managing funds, is covered under the licensing regime described under c.26.2.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

**Criterion 26.2** – A bank commits a misdemeanour where it carries out activities not covered by an operating licence (Banking Law – FBiH, Art. 74 and Art. 240(1)(h); and Banking Law – RS, Art. 284).

The Securities Commission – FBiH issues licences to the following: (i) brokerage operations; (ii) dealer operations; (iii) market support operations – market making; (iv) portfolio management; (v) securities agent operations; (vi) issuance sponsor operations; (vii) investment advisory services; (viii) securities custody operations; and (ix) depository operations (Securities Markets Law – FBiH, Art. 67 to Art. 69, Art. 89, Art. 90, Art. 102 and Art. 104). The Securities Commission – FBiH also authorises investment fund management companies (Investment Funds Law – FBiH, Art. 28 and Art. 29). In addition, funds must be registered with the Securities Commission – FBiH (Investment Funds Law – FBiH, Art. 6).

The Securities Commission – RS authorises the following stock exchange intermediaries: (i) broker-dealer companies; and (ii) banks dealing with securities (Securities Market Law – RS, Art. 64(1)). Stock exchange intermediaries are licensed for the following activities with securities: (i) brokerage operations; (ii) dealer operations; (iii) portfolio management; (iv) market making; (v) securities issuance; (vi) underwriting; (vii) investment advisory activities; and (viii) custody activities (Securities Market Law – RS, Art. 62). Custody activities include custody activities performed by a custody bank (Securities Market Law, Art. 128) and depository activities (Investment Funds Law, Art. 53). The Securities Commission – RS also authorises investment fund management companies (Investment Funds Law - RS, Art. 16 and Art. 29) and factoring companies (Factoring Law - RS, Art. 54). Funds are registered with the Securities Commission – RS (Investment Funds Law, Art. 5 to Art. 9; and Regulation on Content and Manner of Keeping the Registry of Investment Funds, Art. 4.)

The Securities Commission – BD issues licences to authorised participants for performing activities with securities (Securities Market Law - BD, Art. 29, Art. 31a and Art. 37). The scope of regulated activities is in line with the two entities<sup>92</sup>. Additionally, no person may establish an investment fund, nor manage such an investment fund unless it has obtained a licence from the Securities Commission – BD (Investment Funds Law – BD, Art. 16).

Insurance companies must obtain a licence from the Insurance Supervision Agency - FBiH or Insurance Supervision Agency – RS (Insurance Law – FBiH, Art. 5, Art. 12, Art. 17 and Art. 20; and Insurance Law – RS, Art. 3, Art. 26 to Art. 28, Art. 34, Art. 45 and Art. 46). An insurance intermediary must hold a permit issued by the Insurance Supervision Agency - FBiH or Insurance Supervision Agency – RS (Insurance Intermediaries Law - FBiH, Art. 7 and Art. 9; and Insurance Intermediaries Law - RS, Art. 7, Art. 8, and Art. 16 to Art. 18).

Authorisation of non-bank currency exchange offices is performed by the Ministry of Finance – FBiH and Ministry of Finance - RS (Foreign Exchange Operations Law - FBiH, Art. 38, Art. 39, and Art. 40;

---

<sup>92</sup> There are no obliged entities performing activities with securities. All activities are carried out by licensed professional intermediaries from FBiH or RS.



Foreign Exchange Operations Law - RS, Art. 33, Art. 33a, and Art. 33b; and Foreign Exchange Operations Law - BD, Art. 38, Art. 39, and Art. 40).

Leasing and microcredit operations can only be performed under a licence obtained from banking supervisors (Leasing Law – FBiH, Art. 12; Leasing Law – RS, Art. 10, Art. 12(4) and (5) and Art. 17(2); MCO Law – FBiH, Art. 7; and MCO Law - RS, Art. 5 to Art. 7 and Art. 10).

Licences are issued to factoring companies (Factoring Law – FBiH, Art. 25); and Factoring Law – RS, Art. 4(7), Art. 21, and Art. 23 to Art. 25). Factoring is not regulated in BD.

Postal operators are authorised to offer payment services<sup>93</sup> (Internal Payment System Law - FBiH, Art. 3(1) and Internal Payment System Law – RS, Art. 4 and Art. 6).

The following activities are not directly licenced or registered in BiH: (i) money or value transfer services; (ii) issuing and managing means of payment; (iii) issuing guarantees; (iv) investing, administering, managing property of third persons; (v) leasing safe deposit boxes; and (vi) giving loans, lending, offering and brokering in the negotiation of loans. This is because these activities can only be conducted by banks.

No explicit prohibition is placed on the authorisation of shell banks.

### **Criterion 26.3 –**

#### *Banking*

Acquisition of a qualifying holding in a bank in the FBiH (direct or indirect holding of 10% or more of capital or voting rights, or any other ownership that enables the exercise of significant influence of management) is subject to ex-ante approval by the Banking Agency - FBiH (Banking Law - FBiH, Art. 2(i) and Art. 29(1) and (2); and Decision on Banking Approvals - FBiH, Art. 8). Inter alia, an application may be refused where the acquirer: (i) has been sentenced for a criminal offence by virtue of a final and binding judgment to an unconditional prison sentence (but not a fine); (ii) is subject to proceedings rendering them unsuitable; or (iii) does not have a good reputation (which is sufficiently broad to take into account other offences and links to criminals) (Banking Law – FBiH, Art. 34(1) and (3)). Consent to own a qualifying holding may be revoked when the person no longer meets the conditions set in law (Banking Law – FBiH, Art. 38).

Acquisition of a qualifying holding in a bank in the RS (direct or indirect holding of 10% or more of capital or voting rights, or any other ownership that enables the exercise of significant influence on management) is subject to ex-ante approval by the Banking Agency - RS (Banking Law – RS, Art. 2(10) and Art. 41). Inter alia, an application may be refused where: (i) the acquirer has been convicted and has an unconditional prison sentence (but not a fine); (ii) the acquirer is subject to proceedings for economic or financial crime offences which render such person ineligible; and (iii) there are justified reasons for suspecting that the acquisition is linked to ML/TF or may increase ML/TF risk (which is sufficiently broad to take into account other offences and links to criminals) (Banking Law – RS, Art. 44(2) and (6)). Consent to hold a qualifying holding may be revoked when the holder no longer meets the conditions set in law (Banking Law – RS, Art. 50(3)).

Appointment of the head of management of a bank (FBiH) or members of the bank's management board (RS) is subject to ex-ante approval by the respective banking supervisor (Banking Law – FBiH, Art. 51 and Art. 52, Art. 64 and Art. 65; Banking Law – RS, Art. 61 and Art. 70(3); and Decision on Bank Board Approvals - RS, Art. 6 and Art. 7). In addition, banks are required to provide supervisors with the results of internal assessments of key function holders within 30 days of the planned appointment

---

<sup>93</sup> Including receiving of payment orders from natural persons and making payments to natural persons.

(Decision on the internal governance systems in banks – F BiH, Art. 76, Art. 77(1) and Art. 79(6); and Decision on management systems in banks – RS, Art. 76(5) and (6)). The supervisor can block appointments and order the dismissal of key function holders (Banking Law - F BiH, Art. 79(1)(b)).

In the F BiH, a person may not head management where: (i) they have been convicted of a criminal offence; (ii) they are the subject of criminal proceedings for offences related to finance, capital markets, ML or TF; or (iii) do not have a good reputation (which is sufficiently broad to take into account other ongoing proceedings and links to criminals) (Banking Law - F BiH, Art. 48(8) and Art. 64(3); and Decision on Bank Board Approvals - F BiH, Art. 6(14)(c), Art. 7 and Art. 8). Consent may be revoked where a person no longer meets the conditions set (Banking Law – F BiH, Art. 53 and Art. 69; and Decision on Bank Board Approvals, Art. 9 and Art. 10).

In the RS, a person may not be nominated where they: (i) hold a conviction for a criminal offence with an unconditional prison sentence (but not fine); (ii) hold any conviction for an economic or financial crime; (iii) are subject to proceedings for economic or financial offences, which renders them ineligible to hold that office; or (iv) do not have a good reputation (which is sufficiently broad to take into account other offences, ongoing proceedings and links to criminals) (Banking Law – RS, Art. 59(2)(2)(1) and Art. 69(2)(1)). Consent may be revoked when a person no longer meets the conditions set (Banking Law – RS, Art. 62(1) and Art. 74(2)).

### *Securities*

Acquisition of a qualifying share (capital share or voting rights exceeding 10%) or appointment of a director (but not management more generally) in a professional intermediary<sup>94</sup> in the F BiH is subject to ex-ante approval by the Securities Commission – F BiH. Inter alia, the Commission must not approve the acquisition or appointment if the applicant: (i) has been convicted of any criminal offence, except those related to traffic safety; and (ii) does not have a sound reputation (which is sufficiently broad to take into account ongoing proceedings and links to criminals) (Securities Market Law - F BiH, Art. 3a, Art. 76a, Art. 76c, and Art. 91(1)). The Securities Commission - F BiH can subsequently revoke the consent given for acquisition of a qualifying share (Securities Market Law - F BiH, Art. 76a) and withdraw its consent to the appointment of a director (Securities Market Law - F BiH, Art. 91 and Art. 254) where it determines that conditions have arisen that are not in accordance with conditions for licensing. Securities custodian and depositary operations (excluded from the definition of professional intermediary) can be conducted only by banks and are subject to the same rules that are explained above.

Acquisition of a qualifying share (capital share or voting rights exceeding 10%) in a professional intermediary or custodian bank in the RS is subject to ex-ante approval by the Securities Commission – RS (Securities Market Law - RS, Art. 66(3), Art. 70(1) and Art. 132). The Commission cannot approve an acquisition where the applicant has been convicted of specified offences (Securities Market Law – RS, Art. 67(2), Art. 70(1) and Art. 132). This is not in line with c.26.3. Ongoing proceedings against custodian banks (but not other stock exchange intermediaries) may be considered (Regulation on Performance of Custody Activities, Art. 8(1)(d)). Where adverse information on suitability and reliability subsequently becomes available on a qualifying shareholder, the right to vote can be revoked and disposal of the qualifying share ordered (Rulebook on granting consent to the acquisition of a qualified participation in the capital of a broker-dealer company - RS, Art. 13 and Art. 14). Appointment of the director and management of a professional intermediary or custodial activities of

---

<sup>94</sup> Defined as: (i) brokerage operations; (ii) dealer operations; (iii) market support operations - market making; (iv) portfolio management; (v) securities agent operations; (vi) issuance sponsor operations; and (vii) investment advisory services (Securities Market Law - F BiH, Art. 67(1)).



a bank are subject to ex-ante approval by the Securities Commission – RS in line with conditions prescribed by the Commission, including absence of a criminal conviction (Securities Market Law - RS, Art. 109, Art. 110, Art. 70(1) and Art. 132; and Regulation on the Conditions and Procedure for Issuing a licence to a Stock Exchange Intermediary for carrying out Operations with Securities, Art. 6). The Commission may revoke consents and ordering the initiation of a procedure for the appointment of a replacement where adverse information subsequently becomes available (Securities Market Law, Art. 87).

Prior approval is required for acquiring shares in the management company of an investment fund and for appointing members of the management board (Investment Funds Law – FBiH Art. 26b and Art. 139(3); and Investment Funds Law – RS, Art. 22a and Art. 109(7)). A person may not become a shareholder of the management company, executive director, or member of its management board if: (i) convicted for a specified offence drawn from a narrow range of criminal offences (Investment Funds Law – FBiH, Art. 26(c) and (e); and Investment Funds Law - RS, Art. 26 (v) and (d)); or (ii) deemed unsuitable (which is sufficiently broad to take into account other offences, ongoing proceedings and links to criminals) (Permit to Acquire Qualifying Share in an Investment Fund Management Company – FBiH, Art. 5 to Art. 11; and Regulation on Issuing a Permit to Acquire Qualifying Share in an Investment Fund Management Company – RS, Art. 5 to Art. 11)). The Commission has the right to withdraw authorisation if the management company no longer meets the conditions for granting authorisation (Investment Funds Law – FBiH, Art. 44; and Investment Funds Law – RS, Art. 228d(1)(b)).

Acquisition of a qualifying share (capital share or voting rights exceeding 10%) in a securities firm in the BD is subject to ex-ante approval by the Securities Commission – BD (Securities Market Law – BD, Art. 36b(2)). The Commission may not approve an application where the applicant has committed a specified offence drawn from a narrow range of offences (Securities Market Law – BD, Art. 2, Art. 3 and Art. 36b). This is not in line with c.26.3. The supervisor is unable to take ongoing proceedings for these offences into account. The authorities have not explained what controls are in place in BD for: (i) persons holding management functions; and (ii) dealing with shareholders and management that do not meet conditions for granting authorisation.

Inter alia, a person may not be a shareholder of an investment fund management company in the BD where they have been punished for a specified offence drawn from a narrow range of offences or are the subject of an investigation (Investment Funds Law – BD, Art. 26). This is not in line with c.26.3. A person may not be a member of management where they do not have a good reputation (which is sufficiently broad to take into account all offences and links to criminals) (Investment Funds Law – BD, Art. 27). Acquisitions and appointments are subject to ex ante approval (Investment Funds Law – BD, Art. 22b and Art. 27e). The Commission has the right to withdraw authorisation if a person no longer meets the conditions for granting authorisation (Investment Funds Law – BD, Art. 22b and Art. 27e).

No provisions have been identified to prevent associates of criminals from holding interests or management functions in: (i) stock exchange intermediaries in the RS (though custody banks are licenced also by the banking supervisor); and (ii) professional intermediaries in BD.

### *Insurance*

Acquisition in the FBiH and RS of a qualifying stake in an insurance company (direct or indirect holding of 10% or more of capital or voting rights, or any other ownership that enables the exercise of significant influence on management) must be approved ex ante by the respective insurance supervisor (Insurance Law – FBiH, Art.27 and Art. 28; Insurance Law – RS, Art. 61 and Art. 61a; Rulebook on the Conditions for Issuing Approval for the Acquisition of a Qualified Share in a

Reinsurance Company - FBiH, Art. 4(2); and Rulebook on the Procedure for the Acquisition of a Qualifying Stake in an Insurance Company – RS, Art. 4(2)). An application may be refused where: (i) an applicant does not have a high reputation or morals (which is sufficiently broad to cover all offences, ongoing proceedings and links to criminals) (Insurance Law – FBiH, Art. 28(5); and Insurance Law – RS, Art. 60); or (ii) there are justified reasons for suspecting that the acquisition is linked to ML/TF (also sufficiently broad to take into account offences, ongoing proceedings and links to criminals) (Insurance Law – FBiH, Art. 28(5)(f) and Art. 30(1)(e); Rulebook on the Procedure for Acquiring a Qualified Share in an Insurance Company – FBiH, Art. 4(2)(e) and (g), and Art. 4(3)(f) and (j); Insurance Law – RS, Art. 60 and 61a; and Rulebook on the procedure for acquiring a qualified share in an insurance company - RS, Art. 4(1)(9) and Art. 5(1)(5)). Consent to hold a qualifying stake may be suspended (FBiH) or revoked (RS) when the holder no longer meets the criteria set in law (Insurance Law - FBiH, Art. 33; and Insurance Law – RS, Art. 61(c)).

Insurance supervisors must give ex ante approval to the appointment of persons in significant positions (including management) (Insurance Law – FBiH, Art. 37(1) and Art. 42(2); Rulebook on the Content of Documentation on Meeting Requirements for a Board Member - FBiH, Art. 2 and Art. 3; Insurance Law - RS, Art. 60; and Rulebook on Persons in Significant Positions in Insurance Business - RS, Art. 2 and Art. 3). A person may not be approved for appointment to a significant position if they: (i) do not have a high reputation or morals (which is sufficiently broad to cover all offences, ongoing proceedings and links to criminals) (Insurance Law – FBiH, Art. 37; and Insurance Law – RS, Art. 60); or (ii) have been convicted on an offence drawn from a narrow range of offences (Insurance Law - FBiH, Art. 36; Rulebook on the Content of Documentation on Meeting Requirements for a Board Member - FBiH, Art. 2. and Art. 3; and Rulebook on Persons in Significant Positions in Insurance Business - RS, Art. 3(3) and Art. 4). The supervisor must order the insurance company to remove a person in the event of conviction for a criminal offence incompatible with the duty placed on the board (Insurance Law – FBiH, Art. 39(1)(a) and Art. 42(3); and Insurance Law - RS, Art. 60(9)(4)).

To be granted a licence to act as a broker or agent in insurance in the FBiH, a natural person must be registered (Insurance Intermediaries Law, Art. 7 and Art. 9). A condition of registration as a broker is that the applicant has passed a professional exam, which can be taken only by a person who, among other things, does not have a criminal conviction and who is not subject to criminal proceedings (Rulebook on Taking a Professional Exam for Insurance Brokerage, Art. 2. and Art. 3). Registration of brokers and agents in insurance lasts for a period of two years and the supervisor will not renew a registration if it is determined that a person is no longer eligible to act. Information has not been provided on the extent to which action can be taken against a broker where there is a change in circumstances during the period that they are licenced. No information has been provided on checks applied when licensing agents.

To be granted a licence to act as a broker or agent in insurance in the RS, a natural person cannot have been convicted of crimes against the economy or payment operations (Insurance Intermediaries Law – RS, Art. 5(1)(4) and Art. 16(1)(5)). This narrow range of offences is not in line with c.26.3. There is no explicit provision for ongoing proceedings for these offences to be taken into account, but the supervisor is required to revoke a licence when it determines that the natural person has subsequently been convicted for ML/TF or is found guilty of serious violations of the AML/CFT Law (Insurance Intermediaries Law - RS, Art. 39(2)).

Measures are not in place to prevent criminals holding significant or controlling interests or holding management functions in insurance brokers that are legal persons.

No provisions have been identified to prevent associates of criminals from holding interests or management functions in insurance intermediaries.

## *Other*

A request for authorisation of a currency exchange office must be accompanied by a declaration that the founder and director have not: (i) in F BiH – been convicted of “corporate offences” and are not subject to criminal proceedings (Foreign Exchange Operations Law – F BiH, Art. 38 and Art. 39; and Decision on Currency Exchange Operations - F BiH, point XI); (ii) in RS – been convicted of a range of criminal offences against the economy, property, life and body, public order and peace, and legal transactions (Foreign Currency Exchange Law – RS, Art. 33a); and (iii) in BD - been convicted of “corporate offences” and are not subject to criminal proceedings (Foreign Exchange Operations Law – BD, Art. 38 and Art. 39; and Decision on Currency Exchange Operations – BD). It is not clear whether these provisions are in line with c.26.3. There is no explicit provision for ongoing proceedings for these offences to be taken into account in the RS. In the event of changes to founders and directors, a request must be submitted ex-post to the respective Ministry of Finance for approval thereof (Decision on Currency Exchange Operations - F BiH, point XI(4) and point XVI; and Decision on Currency Exchange Operations - RS, point XII). Respective ministries can subsequently revoke a consent where conditions have arisen that are not in accordance with the conditions for licensing (Foreign Exchange Operations Law - F BiH, Art. 40; and Foreign Currency Exchange Law - RS, Article 33b (2) and (3)); Decision on Currency Exchange Operations - RS, point XII); and Foreign Exchange Operations Law - BD, Art. 40).

Prior consent is required from the Banking Agency - F BiH to acquire a “significant” stake (10% or more) in the capital of a leasing provider (Leasing Law - F BiH, Art. 9(1), Art. 10 and Art. 30; and Decision on Leasing Approvals - F BiH, Art. 2(6)). However, this provision does not provide a legal basis to consider whether criminals or their associates may acquire a significant interest. Prior approval is also required to appoint a person to the management function of a leasing provider, where, inter alia, the supervisor must be satisfied that the candidate has: (i) not been convicted of an offence or a crime which constitutes a “grave and sustained violation of regulations related to the activities of the Banking Agency or another competent authority on the financial market”; and (ii) a good reputation (which is sufficiently broad to take into account other offences, ongoing proceedings and links to criminals) (Leasing Law - F BiH, Art. 30(1)(g) and (h) and Art. 30a(2)(8); and Decision on Leasing Approvals – F BiH, Art. 31a). The Banking Agency - F BiH may revoke the approval issued to a member of management where they subsequently fail to meet the grounds of which approval had been granted (Leasing Law – F BiH, Article 30c(1)(e)). Similar measures are not in place in the RS to prevent criminals from holding an interest or management function in a leasing provider (Chapter III Leasing operations; Leasing Law – RS; and Decision on Leasing Approvals – RS).

Consent is required from the Banking Agency – F BiH to acquire a significant stake (10%) in an MCO. An application for consent must provide proof that the candidate has not been convicted of: (i) a misdemeanour; or (ii) criminal offence that represents a gross and permanent violation of financial regulations (Decision on MCO Approvals – F BiH, Art. 12(e)). This is not in line with c.26.3. There is no explicit provision for ongoing proceedings for these offences or links with criminals to be taken into account. Prior approval is also required to appoint members of the managing board and other management. A candidate must disclose whether they have been convicted of: (i) a misdemeanour; or (ii) a criminal offence that represents a gross and permanent violation of financial regulations (Decision on MCO Approvals - F BiH, Art. 13(3)(e) and Art. 14(3)(e)). This is not in line with c.26.3. The supervisor is unable to take ongoing proceedings for offences or links with criminals into account. The supervisor may revoke its approval of such an acquisition or appointment if it subsequently comes into possession of information that was not known during the initial licencing process (Decision on the Supervision of the MCO and the Procedures of the Agency - F BiH, Art.14(4)).

In the RS, founders of MCOs, members of the board and the director of the MCO must submit proof prior to acquisition or appointment that: (i) they have no convictions; and (ii) no criminal proceedings

are being conducted against them (Decision on MCO Approvals - RS, Art. 3(1)(4) and Art. 3(2)(4)). It has not been demonstrated that legal provisions are in place to deal with subsequent changes in ownership or when adverse information becomes available after acquisition or appointment or links to criminals.

Acquisition of a qualifying holding in a factoring company (direct or indirect holding of 10% or more of capital or voting rights, or any other ownership that enables the exercise of significant influence on management) must be approved ex ante by the Banking Agency - FBiH (Factoring Law – FBiH, Art. 30 and Art. 32). It is not clear what factors must be considered by the supervisor. Consent to hold a qualifying holding may be revoked when the holder no longer meets conditions set in law (Factoring Law – FBiH, Art. 37(3)). Only a person who obtains prior approval from the supervisor can perform the function of director or member of the management board (Factoring Law – FBiH, Art. 52). A director or member of the management board can be a person who, inter alia, meets the following requirements: (i) has not been the subject of a conviction for a criminal act against unspecified values protected by international law, fraud, property, the economy, justice, forgery, malfeasance, for disclosure of classified information, for ML and TF, as well as against humanity and human dignity; and (ii) has a good reputation (which is sufficiently broad to take into account other offences, ongoing proceedings and links to criminals) (Factoring Law – FBiH, Art. 51(c) to (e)). Approval for performing the function of director or member of the management board may be revoked when conditions set in law are no longer met (Factoring Law – RS, Art. 54(1)(e) and (f)). Factoring is not regulated in the BD,

Acquisition of a qualifying holding in a factoring company (direct or indirect holding of 10% or more of the capital or voting rights, or any other ownership that enables the exercise of significant influence on management) must be approved ex ante by the Securities Commission - RS (Factoring Law – RS, Art. 2(6) and Art. 30). Inter alia, an application may be refused: (i) based on the reputation of the intended acquirer (which is sufficiently broad to take into account offences, ongoing proceedings and links to criminals); or (ii) where there are justified reasons for suspecting that the acquisition is linked to ML/TF (also sufficiently broad to take into account offences, ongoing proceedings and links to criminals) (Factoring Law, RS, Art. 30(2)(3)). Consent to hold a qualifying holding may be revoked when the holder no longer meets conditions set in law (Factoring Law – RS, Art. 34(1)). Only a person who obtains approval by the Commission can perform the function of the director or member of the management board (Factoring Law – RS, Art. 38(6), Art. 41(6) and Art. 42(1)). A director or member of the management board can be a person who, inter alia, meets the following requirements: (i) has not been sentenced to an offence drawn from a narrow range of offences; or (ii) has worthy personal characteristics (which could take into account other offences and links to criminals) (Factoring Law – RS, Art. 39). The Commission must revoke approval for performing the function of director or member of the management board if the director or member does not fulfil requirements prescribed under law (Factoring Law - RS, Art. 44(1)(2), (6) and (8)).

The two postal post operators in FBiH are state-owned. In RS, the postal operator is 80% state-owned and the remainder of shares held by small shareholders.

The following activities are not directly licenced or registered in BiH: (i) money or value transfer services; (ii) issuing and managing means of payment; (iii) issuing guarantees; (iv) investing, administering, managing property of third persons; (v) leasing safe deposit boxes; and (vi) giving loans, lending, offering and brokering in the negotiation of loans. This is because these activities can only be conducted by banks.

**Criterion 26.4** – (a) A technical note published by the IMF in May 2015 identifies several shortcomings in implementation of the core principles of the Basel Committee on Banking Supervision. The authorities have not explained how these shortcomings were subsequently addressed but have undertaken work to demonstrate that the core principles are supported by a statutory framework that

has been revised since the initial assessment (in line with the Basel Core Principles). Securities supervisors are members of IOSCO and multi-lateral memorandum of understanding (MMoU). The Securities Commission – RS is also a signatory to IOSCO’s enhanced MMoU (EMMoU). Securities supervisors have explained that it was necessary to demonstrate implementation of standards to become a member of IOSCO and to become signatories to MMoU, but only the supervisors in RS has shared a self-assessment demonstrating compliance with relevant core principles. Insurance supervisors are members of the IAIS and the Insurance Supervisor – RS has provided a self-assessment (2014) demonstrating that all but four of the relevant core principles are observed or largely observed. The World Bank is currently assessing compliance with IAIS principles in both entities.

In addition, the authorities continue to harmonise regulatory and supervisory requirements with those in place in the EU, though it has not been demonstrated that these areas align with core principles which are relevant for AML/CFT purposes.

(b) Supervisors are required to regularly supervise compliance with AML/CFT requirements applying a risk-based approach (AML/CFT Law, Art. 8(3) and Art. 97(1) and (3)). Manuals are used in the banking, securities (including factoring in the RS) and insurance sectors and for inspecting leasing providers and MCOs. Manuals used have regard to ML/TF risks and cover supervision planning, the supervisory process, and post-inspection activities.

Otherwise, the authorities have not provided documentary evidence to show that regulation, supervision or monitoring systems in place at the following agencies have regard to ML/TF risks in the sector: (i) currency exchange - Financial Police – FBiH, Tax Administration– RS<sup>95</sup> and Finance Directorate – BD; (ii) factoring – Banking Agency – FBiH<sup>96</sup> and Finance Directorate – BD; and (iii) MVTs activities conducted by postal operators - Banking Agency – FBiH, Administration for Inspection Affairs – RS and Government Inspectorate – BD.

**Criterion 26.5** – Supervisors must base the frequency and intensity of supervision on: (i) the results of national risk assessments; (ii) their assessment of the FI or group risk profile; and on (iii) the FI or group characteristics, including the degree of discretion allowed to them under the risk-based approach (AML/CFT Law, Art. 97(4)). These elements are in line with c.26.5, except that there is no clear reference to the need to consider the diversity and number of peer institutions nor need to assess adequacy of internal controls, policies and procedures. As explained below, methodologies applied by supervisors are not always consistent with statutory requirements.

### *Banking*

As part its risk-based approach to supervision, the Banking Agency – FBiH has developed a manual for the risk-based supervision of banks which supports an assessment of the risk profile of each institution taking account of: (i) potential ML/TF threats; and (ii) measures taken to protect against misuse (Banking Supervision Manual – FBiH, Section 5.5). There is no express reference to ML/TF risks present in the country (though this may be inferred). This risk assessment determines the frequency and intensity of on-site supervision, along with the following factors: (i) degree of irregularities and/or illegalities detected by earlier supervisory efforts (which test application of policies, controls and procedures); (ii) the size and importance of the bank within the FBiH banking system; and (iii) type, scope, and complexity of operations performed by the bank (Banking Supervision Manual - FBiH, Section 3.2.1). Notwithstanding the obligation to do so (AML/CFT Law,

---

<sup>95</sup> In practice, the supervisor checks that internal acts are in place and that identification information is recorded in exchange transactions logs.

<sup>96</sup> There are no factoring companies in the FBiH.



Art. 97(4)), this approach does not expressly take account of the degree of discretion allowed under the risk-based approach. These requirements apply in addition to requirements that apply to supervisors for prudential and conduct of business supervision (Banking Law – FBiH, Art. 139 and Art. 142).

Similarly, the Banking Agency – RS has adopted a manual for assessing AML/CFT compliance by banks (Banking Supervision Manual – RS) which requires the following to be considered when determining the frequency and intensity of inspections: (i) each bank’s estimated risk profile; (ii) the level of irregularities and/or unlawful actions found by the bank’s indirect control (which test application of policies, controls and procedures); (iii) the size and importance of the bank in the context of the overall banking system; and (iv) the type, scope and complexity of the operations performed by the bank. The assessment of the risk profile of each individual bank under (i) is based on an assessment of potential ML/TF threats and assessment of the measures taken to protect against misuse, taking account of the NRA. Notwithstanding the obligation to do so (AML/CFT Law, Art. 97(4)), inspection planning does not expressly take account of the degree of discretion allowed under the risk-based approach. These requirements apply in addition to requirements that apply to supervisors for prudential and conduct of business supervision (Banking Law – RS, Art. 184 and 186).

### *Securities*

On-site supervision by the Securities Commission – FBiH is carried out: (i) on the basis of a report filed by a customer (linked to conduct of business concerns); (ii) upon learning of a possible violation of laws and regulations of the Commission (information from the media, etc.); or (iii) where off-site supervision indicates a likely violation of laws and regulations of the Commission (Securities Supervision Rules - FBiH). The frequency and intensity of supervision may not be adequately linked to ML/TF risk and does not clearly take account of requirements in the AML/CFT Law. Information has not been provided on off-site supervision. Accordingly, the authorities have not demonstrated that the frequency and intensity of supervision is determined based on factors listed under c.26.5.

The Securities Commission - RS adopts an annual plan of inspections, which uses a risk-based approach. When determining the schedule of regular controls, priorities are determined based on an analysis that includes: (i) the size, significance and other characteristics of securities firms/group; (ii) types of operations; (iii) total turnover in the observed period (for one or two years); (iv) number of transactions related to securities; (v) number of customers; (vi) number of non-resident customers; (vii) number of customers who are natural persons and legal persons; and (viii) ML/TF risk (Securities Supervision Rules – RS). On-site supervision is also triggered by reports of unsound or illegal activities and where off-site supervision indicates failure to apply the AML/CFT Law. The frequency and intensity of supervision may be skewed by factors such as turnover and number of transactions, which may not be relevant to ML/TF risk. Accordingly, the authorities have not demonstrated that the frequency and intensity of supervision is in line with c.26.5.

### *Insurance*

The Insurance Supervision Agency - FBiH has adopted an AML/CFT supervision methodology (Insurance Supervision Methodology) and prepares an annual plan of controls which considers: (i) risk data e.g., number of non-residents, number of PEPs, characteristics of policies, number of STRs; (ii) implementation of ordered measures from previous inspections (which test application of policies, controls and procedures); and (iii) internal audit activities. On-site supervision is also triggered by reports of unsound or illegal activities and failure to apply the AML/CFT Law. Notwithstanding the obligation to do so (AML/CFT Law, Art. 97(4)), the authorities have not demonstrated that the frequency and intensity of supervision conducted in line with the supervision methodology is determined by factors set out under c.26.5(b) and (c).

The Insurance Supervision Agency – RS has also developed a methodology for assessing risk and ranking insurance companies which serves as the basis for preparing the on-site supervision plan (Insurance Supervision Methodology - RS). The frequency of on-site inspections takes account of: (i) compliance levels, including adequacy of policies and procedures; and (ii) ML/TF threats, including product structure, total number of PEPs and sales channels. Both prudential and AML/CFT risks are considered in the methodology, including results of the NRA. On-site supervision is also triggered by failure to apply the AML/CFT Law. Notwithstanding the obligation to do so (AML/CFT Law, Art. 97(4)), the authorities have not demonstrated that the frequency and intensity of supervision conducted in line with the supervision methodology is determined by factors set out under c.26.5(c).

#### *Other*

Supervisors of leasing providers and MCOs follow supervision manuals: (i) Leasing Supervision Manual - FBiH; (ii) Leasing Supervision Manual – RS<sup>97</sup>; (iii) MCO Supervision Manual - FBiH; and (iv) MCO Supervision Manual – RS. Manuals are consistent with those used for banking supervision – except that there is express provision for the results of the NRA to be considered. Accordingly, the frequency and intensity of supervision of leasing providers and MCOs in the FBiH is determined by factors set out under c.26.5(a) to (c).

The authorities have not provided information on methodologies applied to comply with the AML/CFT Law (Art. 97(4)) for: (i) securities in the BD (noting that no securities firms are registered in the BD); (ii) currency exchange; (iii) factoring<sup>98</sup>; or (iv) MVTs activities conducted by postal operators.

**Criterion 26.6** – Supervisors must periodically review their assessment of the risk profile of FIs or groups and in the event of a change in management or operations (AML/CFT Law, Art. 97(7)).

#### *Weighting and Conclusion*

Most elements needed to regulate and supervise for AML/CFT purposes are in place in the important banking sector. However, in other sectors, there are gaps in market entry requirements (c.26.3) and the authorities have not fully demonstrated that regulation and supervision of the banking, securities and insurance sectors are in line with the core principles (c.26.4(a)). Also, there is no clear reference to the need to consider the diversity and number of peer institutions or to assess adequacy of internal controls, policies and procedures when determining the frequency and intensity of supervision (c.26.5).

These shortcomings are not considered to be minor and so **R.26 is rated PC**.

#### **Recommendation 27 – Powers of supervisors**

In the 4<sup>th</sup> round MER, BiH was rated PC on former R.29 due to: (i) a lack of adequate supervisory powers in the insurance market to monitor and ensure compliance with AML/CFT requirements, to take enforcement measures and sanction both institutions and their directors/senior management for AML/CFT breaches; and (ii) there being no direct AML/CFT supervisory powers for the Securities Commission - FBiH.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply.

---

<sup>97</sup> There have been no leasing providers registered in the RS since 2017.

<sup>98</sup> There are no factoring companies in the FBiH.



**Criterion 27.1** - Supervisors are required to exercise control over the work of FIs in relation to the implementation of AML/CFT laws pursuant to provisions of the AML/CFT Law and sectoral laws (AML/CFT Law, Art. 93). Powers to supervise are set out in sectoral laws.

Banking supervisors are entitled to examine the accounts and other documentation of operations of banks (including foreign exchange), leasing providers, MCOs, factoring companies (FBiH only), including for AML/CFT purposes (Banking Agency Law - FBiH, Art. 5(1)(i) and Art. 6(1) and (2); Banking Agency Law – RS, Art. 5(1)(g), Art. 6(1) and (2)).

Securities supervisors can conduct on-site inspections of the securities market and factoring companies (RS only), including for AML/CFT purposes (Securities Market Law - FBiH, Art. 251(5); Securities Market Regulation - FBiH, Art. 4, Art. 5 and Art. 10; Securities Market Law – RS, Art. 260(1)(d), Art. 260(2) and Art. 263; Investment Funds Law - RS, Art. 224(2) and (3); Factoring Law – RS, Art. 21, Art. 47 and Art. 53); and Securities Market Law - BD, Art. 65(1)(17) and Art. 227(1)). Powers are not available to supervise investment funds for AML/CFT purposes in the FBiH.

Insurance supervisors have been conferred with powers to inspect business records and documents of insurance companies and to use experts to conduct inspection of records and documents, including for AML/CFT purposes (Insurance Law - FBiH, Art. 128(2), Art. 148(1) and Art. 217(d)); and Insurance Law – RS, Art. 6 and Art. 7). The Insurance Supervision Agency – RS is also able to request information that is relevant for the assessment of compliance with AML/CFT requirements. Supervisors can examine financial and other statements, business documents and other data of insurance intermediaries (Insurance Intermediaries Law – FBiH, Art. 12; Insurance Intermediaries Law - RS, Art. 35; Rulebook on Supervision – FBiH, Art. 6; and Rulebook on Supervision – RS, Art. 8).

In addition to the Banking Agency – FBiH, the Financial Police Foreign Exchange Department - FBiH has access to all necessary documentation and information on currency exchange operations (Foreign Exchange Operations Law - FBiH, Art. 48 and Art. 51; and Law on Financial Police, Art. 7(1)(15)). In addition to the Banking Agency – RS, the Tax Administration – RS has powers to inspect currency exchange operations and request documentation and data (Foreign Exchange Operations Law – RS, Art. 46 and Art. 50). In the BD, the Finance Directorate - BD has powers to supervise currency exchanges (Foreign Currency Exchange Law - BD Art. 50). However, it has not been demonstrated that such powers in the RS and BD extend to oversight of compliance with AML/CFT requirements<sup>99</sup>.

In the case of banks, leasing providers, MCOs and currency exchange offices (FBiH), failure to cooperate with the supervisor may be punished (Banking Law - FBiH, Art. 240(1)(m); Banking Law - RS, Art. 284(1)(47); Leasing Law – FBiH, Art. 75(2); Leasing Law – RS, Art. 69(1)(m); MCO Law – FBiH, Art. 48(11); MCO Law – RS, Art. 20(1); Law on Securities Market - RS, Art. 265 and 266; Insurance Law – FBiH, Art. 217(d); Law on the Organisation of Administrative Bodies – FBiH, Art. 125 and Art. 149(1)(8) and (9); and Law on Foreign Exchange Operations – RS, Art. 59). Information has not been provided on sanctions that may be applied in the securities (FBiH and BD), insurance (RS), and currency exchange sectors (BD) for failing to cooperate with the supervisor.

Administrations for Inspection Affairs use general powers available under laws on inspections<sup>100</sup>. No information has been provided on these powers or on other laws providing powers to supervise or

---

<sup>99</sup> Operations of currency exchange services also fall indirectly under the supervisory authority of the Banking Agency - FBiH and Banking Agency - RS because banks are required to monitor the operations of exchange offices with whom they have signed contracts.

<sup>100</sup> Relevant for post offices, transfer of money, forfeiting, safekeeping, issuing, managing and performing operations with means of payment, issuing financial guarantees, and giving loans.

monitor other FIs with the AML/CFT Law (Government Inspectorate – BD and Finance Directorate – BD). In practice, these activities are provided only by covered FIs that are supervised by the Banking Agencies.

**Criterion 27.2** – Supervisors are required to conduct on-site inspections (AML/CFT Law, Article 81(1)). Powers to supervise are set out in sectoral laws.

Banking supervisors may conduct on-site inspections and off-site inspections (Banking Law – FBiH, Art. 144 and Art. 145; and Banking Law – RS, Art. 183, Art. 189 and Art. 190).

The Securities Commission – FBiH can conduct on-site and off-site inspections for the securities market, including fund management companies and investment funds (Securities Supervision Rulebook, Art. 8 to Art. 11). The Securities Commission – RS is authorised to conduct on-site and off-site supervision of the securities market (Securities Market Law - RS, Art. 263; and Securities Supervision Regulation, Art. 7). The Securities Commission - RS is also authorised to carry out inspections of fund management companies and investment funds through regular or extraordinary inspections (Investment Funds Law - RS, Art. 227) and factoring companies (Factoring Law - RS, Art. 54) The Securities Commission – BD can conduct on-site supervision (Securities Market Law - BD, Article 65(1)(17)).

Insurance supervisors have been conferred with powers to carry out off-site and on-site supervision of insurance companies (Insurance Law - FBiH, Art. 140(3) and (4); and Insurance Law – RS, Art. 7). This is the case also for insurance mediation (Insurance Intermediaries Law – FBiH, Art. 11 to Art. 13; and Insurance Intermediaries Law - RS, Art. 35).

The Financial Police Foreign Exchange Department – FBiH, the Tax Administration – RS and the Finance Directorate - BD have powers to inspect currency exchange offices (Law on Financial Police – FBiH, Art. 9; Foreign Exchange Operations Law – RS, Art. 50; and Foreign Currency Exchange Law - BD Art. 50). As noted under c.27.1, it is not clear that such powers extend to oversight of compliance with AML/CFT requirements in RS or BD.

In the case of supervision of leasing providers and MCOs, banking supervisors have powers to conduct both off-site and on-site inspections (Leasing Law - FBiH, Art. 67; Leasing Law – RS, Art. 62; Decision on the supervision of MCO and procedures – FBiH, Chapter II; and Law on MCOs – RS, Art. 3).

Sanctions that may be applied to FIs for failing to cooperate with the supervisor are explained under c.27.1.

Administrations for Inspection Affairs use general powers available under laws on inspections. No information has been provided on these powers or on other laws providing powers to supervise or monitor other FIs with the AML/CFT Law (Government Inspectorate – BD and Finance Directorate – BD).

**Criterion 27.3** – Banks are required to make all business books and documentation available to supervisors and to allow direct communication with their staff for the purposes of acquiring necessary clarifications (Banking Law – FBiH, Art. 145; and Banking Law – RS, Art. 190(4) and (6)).

The securities market is required to make premises and employees available as requested, make available and deliver documentation and documents as requested, and provide statements and declarations (Law on Securities Commission - FBiH, Art. 10 and Art. 11; and Securities Market Law - RS, Art. 261 and Art. 263(3)). Similar provisions are in place for investment fund management companies and investment funds (Law on Securities Commission - FBiH, Art. 10 and Art. 11; and Investment Fund Act – RS, Art. 224(8)) and factoring companies (Factoring Law, Art. 54(7)). No information has been provided for BD.

Insurance companies are required to provide: (i) access to all business ledgers, files and other records at the request of the insurance supervisor; and (ii) reports and information on any affairs relevant for the conduct of supervision (Insurance Law – FBiH, Art. 147 and Art. 149; and Insurance Law – RS, Art. 14). Supervisors may also request information from: (i) in the FBiH - members of management and employees (Law on Insurance - FBiH, Art. 148); and (ii) in the RS - current or previous directors, controllers, certified actuaries or auditors to provide explanations for documents provided (Law on Insurance – RS, Art. 14) and available workers (Rulebook on Supervision – RS, Art. 8). Insurance intermediaries are required to provide access to business premises, and to present and deliver requested documents and materials (Insurance Intermediaries Law - FBiH, Art. 54; and Insurance Intermediaries Law - RS, Art. 35).

The Financial Police Foreign Exchange Department - FBiH, the Banking Agency – RS, and the Tax Administration – RS have powers to request documentation and data (Foreign Exchange Operations Law – FBiH, Art. 51; and Foreign Exchange Operations Law – RS, Art. 50). As noted under c.27.1, it is not clear that such powers and requirements extend to oversight of compliance with AML/CFT requirements (RS and BD).

Sanctions that may be applied to FIs for failing to cooperate with the supervisor are explained under c.27.1.

Administrations for Inspection Affairs use general powers available under laws on inspections. No information has been provided on these powers or on other laws providing powers to supervise or monitor other FIs with the AML/CFT Law (Government Inspectorate – BD and Finance Directorate – BD).

**Criterion 27.4** – Fines for violations are imposed under the Misdemeanours Law – FBiH (Art. 54 to Art. 56 and Art. 62) and Misdemeanours Law – RS<sup>101</sup> (Art. 147 to Art. 149). Under these laws, supervisors may impose the minimum penalty prescribed by law. Higher fines can be imposed only by a competent court, based on a request from a supervisor.

#### *AML/CFT Law*

A fine of between BAM 5 000 (approximately EUR 2 500) and BAM 50 000 (approximately EUR 25 000) may be applied by supervisors to covered FIs (except in the case of FIs that are natural persons - BAM 2 000 (approximately EUR 1 000)) (AML/CFT Law, Art. 100). In addition, a fine of between BAM 1 000 (approximately EUR 500) and BAM 5 000 (approximately EUR 2 500) may be applied to directors (responsible persons) (AML/CFT Law, Art. 100). Multiple fines can be applied to the same FI or director at the same time, e.g., where an on-site examination identifies several failures to apply CDD measures. There is no additional level of fines to deal with systemic failures in systems and controls. In addition, supervisors may revoke, restrict or suspend a licence or authorisation granted to a FI falling within the competence of that supervisor (AML/CFT Law, Art. 97(6)). Supervisors are also obliged to publish a notice on their official website on the final decision to apply a sanction, immediately after the decision has been notified (AML/CFT Law, Art. 98).

#### *Sectoral laws*

Whilst fines may be applied under sectoral laws, in most cases these cover failure to comply with prudential and conduct of business requirements established under those laws. However, they can be used also to sanction failure by FIs and DNFBPs to follow supervisory orders (such as to remediate

---

<sup>101</sup> Also referred to as the Infractions Law or Minor Offences Law.

shortcomings identified in supervisory examinations). The level of the fine available to the supervisor is with the range set out under the AML/CFT Law<sup>102</sup>.

Additional sanctions may also be applied under some of the sectoral laws described under c.27.1 to c.27.3 – explained below.

Sanctions may be applied by supervisors to banks that fail to comply with the AML/CFT Law (Banking Law – FBiH, Art. 150(2), Art. 151, and Art. 156; and Banking Law - RS, Art. 196(1) and Art. 202). Inter alia, the following sanctions may be applied: (i) reprimand to a management member (FBiH only); (ii) restriction on the rights of shareholders with qualified shares (RS only); (iii) early intervention measures - ordering the dismissal of members of the management body (or senior management more generally) and ordering a change of business strategy; and (iv) revocation of an operating licence, or initiation of statutory liquidation procedure.

Securities supervisors can order the implementation of some or all of the following sanctions: (i) private and public reprimands; (ii) prohibition of performance of individual activities; (iii) revocation of approval for appointment of director, members of management and of the supervisory body, and issuance of orders for appointment of new persons (broker-dealer companies and banks dealing with securities); and (iv) suspension or revocation of the licence to perform activities with securities (Securities Market Law – FBiH, Art. 97 and Art. 106; Securities Market Law - RS, Art. 87, Art. 98, and Art. 267; and Securities Market Law – BD, Art. 65a). Similar sanctions are available for investment funds in the entities (Investment Funds Law – FBiH, Art. 234 to Art. 236); and Investment Funds Law – RS, Art. 228, Art. 228a, Art. 228d, Art. 228v, and Art. 228g). No information has been provided for BD. It is not explicitly stated that these sanctions may be applied for failure to comply with AML/CFT requirements.

Insurance supervisors may revoke a licence in the case of a serious violation of the provisions of the AML/CFT Law by insurance companies (Insurance Law – FBiH, Art. 21(4); Insurance Law - RS, Art. 54a; Insurance Intermediaries Law - FBiH, Art. 14; and Insurance Intermediaries Law - RS, Art. 32). In addition, the Insurance Supervision Agency – RS may inter alia: (i) prohibit the payment of dividends; and (ii) dismiss persons in a significant position (Insurance Law – RS, Art. 54, Art. 60 and Art. 62). It is not explicitly stated that these sanctions may be applied for failure to comply with AML/CFT requirements.

The Banking Agency – FBiH may revoke a licence of a leasing company, MCO and factoring company, though it is not explicitly stated in legislation that it may do so where there is failure to comply with AML/CFT requirements<sup>103</sup> (Leasing Law – FBiH, Art. 70; Decision on the Supervision of the MCO and the Agency's Procedures, Chapter III, Art. 10(1) and (2); and Factoring Law – FBiH, Art. 87). Similar powers are available to the Banking Agency – RS in respect of leasing companies and MCOs (but not also factoring companies) (Leasing Law – RS, Art. 66; and MCO Law - RS, Art. 21 and Art. 23). In addition, under the same provisions, supervisors may, inter alia, restrict the business of an MCO.

Additional sanctions are not available for currency exchange operators or postal operators under sectoral laws where they fail to apply AML/CFT requirements.

---

<sup>102</sup> A fine of BAM 10 000 (approximately EUR 5 000) is available if insurance intermediaries do not act in accordance with AML/CFT requirements (Insurance Intermediaries Law - FBiH, Article 13a and Art. 16(m)).

<sup>103</sup> The authorities provided a case (2013) where the supervisor had withdrawn the licence of a leasing company to operate based on its failure to comply with various orders of the supervisor. This included an order to provide information about AML/CFT risk management. An appeal against action taken by the supervisor (2019) was subsequently rejected.

### *Weighting and Conclusion*

Most supervisors have necessary powers to supervise in line with R.27, including in the important banking sector (which covers all FIs activities except securities and insurance). Accordingly, shortcomings in other sectors are minor.

Notwithstanding that the level of fines that may be imposed by the supervisor under the AML/CFT Law (distinct from a competent court) - up to BAM 50 000 (approximately EUR 25 000) for legal persons – is low, multiple fines may be applied on different grounds which can lead to significantly higher fines. Taken alongside the additional sanctions available to most supervisors under sectoral laws, including in the important banking sector (which covers all FIs activities except securities and insurance), it is considered that a sufficient range of sanctions can be applied proportionately by supervisors to greater or lesser breaches of requirements.

**R.27 is rated LC.**

### *Recommendation 28 – Regulation and supervision of DNFBPs*

In the 4<sup>th</sup> round MER, BiH was rated NC on former R.24 due to: (i) the absence of adequate powers for the authorities to perform functions, including powers to monitor and sanction; (ii) absence of measures in F BiH and BD to prevent criminals or their associates from holding or being the BO of a significant or controlling interest, holding a management function in, or being an operator of a casino; (iii) absence of clear requirements for casinos registered in RS to ensure that all BOs with significant and controlling interest are not criminals or their associates; and (iv) uncertainty whether the term “authorised persons” covered persons holding a management function in a casino.

There are shortcomings in the scope of application of CDD measures to DNFBPs in relation to accountants and TCSPs. See R.22.

**Criterion 28.1** - (a) All terrestrial and online organisers of games of chance (except for the BiH Lottery and RS Lottery), which includes casino games<sup>104</sup>, must be approved by the respective ministry of finance in the entities (Games of Chance Law – F BiH, Art. 3(3), Art. 9, Art. 67(1) and Art. 116(4)(7); and Games of Chance Law – RS, Art. 7(2), Art. 11(1)(6), Art. 19 and Art. 116). In the case of the RS, a procedural decision of the RS Government is also required (Games of Chance Law – RS (Art. 7(2) and Art. 85). In the BD, games of chance must be approved by the Tax Administration – BD (Games of Chance Law – BD, Art. 20 and Art. 84).

(b) An application to be licenced to organise games of chance can be accepted only from a legal person and must be accompanied by proof that: (i) members; and (ii) directors have not been charged for any criminal deed except those related to traffic offences (Games of Chance Law – F BiH, Art. 68(18) and 116(3)(7); and Games of Chance Law – RS, Art. 15(1)). Supervisors are also able to take ongoing proceedings for these offences into account (Games of Chance Law – F BiH, Art. 68(1)(18); and Games of Chance Law – RS, Art. 51(10)). In the case of any change in ownership in F BiH (but not also RS), prior approval is required, which is subject to the provision of evidence that members have not been sentenced for any criminal deed except those regarding traffic offences<sup>105</sup> (Games of Chance Law –

---

<sup>104</sup> Casino games are games of chance played against a casino or against other players at gaming tables with balls, dice or cards, in a dedicated building with an area of at least 500m<sup>2</sup>. By nature of this definition, there are no online casinos, however, games of chance may be offered online (Games of Chance Law – F BiH, Art. 3 and Art. 59; and Games of Chance Law – RS, Art. 3 and 59).

<sup>105</sup> Whilst there is no prescribed prior approval in the RS, a licence may be revoked if it is determined that one of the conditions necessary for obtaining the licence has ceased or is missing (Games of Chance Law, Art. 21(3)). Based on this, in



FBiH, Art. 11(2) and (3)). The licence-holder is also obliged within seven days to inform the Ministry about any changes of information or circumstances related to: (i) directors and senior management of the licence-holder; and (ii) the identity of members (Games of Chance Law – FBiH, Art. 69; and Games of Chance Law – RS, Art. 54) and a licence may be revoked where conditions necessary for obtaining the licence have ceased or are missing. No provisions are in place to deal with associates of criminals.

In the BD, members, directors and senior management (and associates of members and directors/management) cannot have been convicted of any crimes subject to a jail sentence of three months or longer, except for traffic related offences (Games of Chance Law – BD, Art. 21).

(c) The Administration for Inspection Affairs – FBiH, Administration for Games of Chance – RS, and Tax Administration of the Finance Directorate – BD are responsible for supervising compliance of casinos with AML/CFT requirements (AML/CFT Law, Art. 93(1)(j)). Whilst sectoral laws do not give explicit powers to supervisors to monitor compliance for AML/CFT purposes (Games of Chance Law – FBiH, Art. 123; Games of Chance Law – RS, Art. 106; and Games of Chance Law – BD, Art.109), operators are required under gambling legislation to apply AML/CFT requirements (in addition to the direct requirement to comply with the AML/CFT Law) and so supervision of sectoral laws necessarily extends to AML/CFT requirements.

**Criterion 28.2** – The following are responsible for monitoring and ensuring compliance of DNFBPs with AML/CFT requirements: (i) public notaries – Notary Chamber – FBiH, Ministry of Justice – RS and Judicial Commission – BD; (ii) lawyers – Bar Associations, FBiH and RS; (iii) accountants – Ministries of Finance – FBiH and RS and Finance Directorate – BD; (iv) accounting and tax services – Administrations for Inspection Affairs – FBiH and RS and Finance Directorate – BD; (v) real estate agents – Administrations for Inspection Affairs – FBiH and RS and Finance Directorate – BD; (vi) trade in precious metals and stones – Administrations for Inspection Affairs – FBiH and RS and Finance Directorate – BD; and (vii) TCSPs – Administrations for Inspection Affairs – FBiH and RS and Finance Directorate – BD (AML/CFT Law, Art. 93(1)).

**Criterion 28.3** – Supervisory bodies are required to regularly supervise compliance with AML/CFT requirements (AML/CFT Law, Art. 97(1)). The authorities have not provided documentary evidence to show that systems are in place for monitoring compliance with AML/CFT requirements.

**Criterion 28.4** – (a) Supervisors are required to exercise control over the work of DNFBPs in relation to the implementation of AML/CFT laws pursuant to provisions of the AML/CFT Law and other sectoral laws (AML/CFT Law, Art. 93). No powers are set out in the AML/CFT Law (just a responsibility to supervise).

No information has been provided on powers in sectoral laws used to monitor compliance by DNFBPs (other than casinos) with the AML/CFT Law<sup>106</sup>.

(b) Information has been presented on measures taken to prevent criminal ownership and management by: (i) lawyers (RS); (ii) notaries (FBiH and RS); and (iii) bookkeepers and accountants (FBiH). Information has not been provided on measures taken to prevent criminal ownership and

---

the case of a change in ownership structure, all organisers must provide evidence that new members have not been convicted of criminal offences to retain their licence, except for traffic-related criminal offences.

<sup>106</sup> Information has been provided on supervision under the Accounting and Audit Law – FBiH. However, this is linked to auditors and the supervision of the quality of audit work. Both are outside the scope of this report.

management/accreditation of criminals for: (i) real estate agents; (ii) DPMS; (iii) lawyers (FBiH); (iv) accountants (RS); and TCSPs.

A person cannot be a lawyer in the RS if they have been convicted of a: (i) criminal offence that would make them untrustworthy to practice law; (ii) criminal offence against the RS; (iii) criminal offence against official duty; (iv) criminal offence committed out of self-interest; or (iv) criminal offence committed out of dishonourable motives, which makes them morally unfit to practice law (Law on Advocacy – RS, Art. 6(1)(7) and Art. 6(2)). It is not clear whether this wide range of offences is sufficiently broad to comply with c.26.3.

Only natural persons may offer notarial services. A person may not act as a notary if, inter alia: (i) they have been sentenced to prison for committing a criminal offence; and (ii) they are unfit to perform the duties of a notary (RS only) (Law on Notaries – FBiH, Art. 26; and Law on Notaries – RS, Art. 7).

Applications to register to provide book-keeping services by sole practitioners (entrepreneurs) must be accompanied by: (i) confirmation by a competent authority that the person has not been convicted under a criminal code; and (ii) confirmation by a competent court that no pertinent criminal proceedings are pending – linked to the economy, business operations, security of payment operations system, terrorism or judiciary (Rulebook on the structure and method of maintaining a register of eligible persons and a register of legal entities and entrepreneurs providing bookkeeping and accounting services - FBiH, Art. 3(5)). The supervisor is unable to take ongoing proceedings for these offences into account. Similar provisions are not in place for legal persons providing book-keeping and accounting services. Any subsequent change of information or circumstances must be notified with eight days (Rulebook on the structure and method of maintaining a register of eligible persons and a register of legal entities and entrepreneurs providing bookkeeping and accounting services - FBiH, Art. 3(2), (4) and (7), Art. 7(4) and Art. 8(4)).

(c) Fines and other sanctions for violations of the AML/CFT Law by DNFBPs and responsible persons are set out in the AML/CFT Law (AML/CFT Law, Art. 100). They are the same as those that apply to FIs – see c.27.4. Fines are imposed under Art. 54 to Art. 56 of the Misdemeanours Law - FBiH or Art. 147 to Art. 149 of the Misdemeanours Law – RS<sup>107</sup>. Additional sanctions are not available under sectoral laws where DNFBPs fail to apply AML/CFT requirements, and so it has not been demonstrated that a sufficient range of sanctions can be applied proportionately by supervisors to greater or lesser breaches of requirements.

Laws regulating the legal sector do recognise other laws allowing Bar Associations to apply fines (*lex specialis*). Accordingly, Bar Associations are permitted only to apply disciplinary measures to members.

**Criterion 28.5** – (a) and (b) – Supervisors must base the frequency and intensity of supervision on: (i) the results of national risk assessments; (ii) their assessment of the DNFBP or group risk profile; and on (iii) the DNFBP or group characteristics, including the degree of discretion allowed to them under the risk-based approach (AML/CFT Law, Art. 97(4)). These elements are in line with c.28.5, but there is no clear reference to the need to consider the diversity and number of peer institutions nor need to assess adequacy of internal controls, policies and procedures.

In line with this requirement, the Administration for Games of Chance - RS has developed a supervision manual and checklist to be used by inspectors. It has not been explained whether this manual and checklist comply with this criterion. Information has not been provided for other DNFBP supervisors on the extent to which supervision methodologies take account of risk.

---

<sup>107</sup> Also referred to as the Infractions Law or Minor Offences Law.



### *Weighting and Conclusion*

There are important shortcomings in the regulation and supervision of DNFBPs, which includes sectors identified as high risk in the NRA Addendum (real estate sector and notaries). In particular: (i) no provisions are in place to deal with associates of criminals (c.28.1(b)); (ii) information has not been provided on powers to supervise for compliance with the AML/CFT Law (c.28.4(a)); (iii) information has not been provided on measures taken to prevent criminal ownership and management/accreditation in all sectors (c.28.4(b)); (iv) it has not been demonstrated that a sufficient range of sanctions can be applied proportionately to deal with greater or lesser breaches of AML/CFT requirements (c.28.4(c)); and (v) not all elements of risk-based supervision are in place (c.28.5). These are major shortcomings. **R.28 is rated NC.**

### *Recommendation 29 - Financial intelligence units*

In the 2015 MER, BiH was rated PC with former R. 26. The only technical deficiency was the lack of publicly released periodic reports including trends and typologies by the FIU.

**Criterion 29.1** - The FIU of BiH is of a law enforcement type. It was established under SIPA as its organisational unit and is the central unit recognised for receiving, collecting, recording and analysing data, information and documentation on ML, associated predicate offences and TF. The FIU's duties and responsibilities are regulated by the AML/CFT Law, the SIPA Law and other laws.

The FIU performs tasks related to prevention, investigation and detection of ML and TF (AML/CFT Law, Art. 62). It investigates and discloses results of its analyses to competent prosecutor's offices, authorities investigating ML, TF or other competent authorities.

#### **Criterion 29.2** -

(a) Obligated persons deliver data to the FIU in the case of suspicious transactions and suspicious funds, irrespective of whether there is a transaction, and any suspicious customer or person (AML/CFT Law, Art. 42(1)).

The definition of suspicious transaction covers situations in which the obliged person knows, suspects or has justified reasons to suspect that the transaction involves proceeds of crime or is connected with TF (AML/CFT Law, Art. 4(b)).

(b) Obligated persons must report to the FIU any payment in cash by a customer in an amount exceeding BAM 30 000 (approximately EUR 15 000) and connected cash transactions in which the overall value is equal to or exceeds BAM 30 000 (AML/CFT Law, Art. 43(1) (a) and (b)). Furthermore, public notaries, lawyers and law firms are required to inform the FIU about each concluded real estate sales contract and loan agreement amounting to or exceeding BAM 30 000 and for each document drawn up to transfer the right to manage and dispose of property (AML/CFT Law, Art. 44). In addition, the FIU, receives information from the ITA - BiH on declared and non-declared cross-border transportation of BNIs above the threshold and those BNIs below the threshold where there is suspicion of ML or FT (AML/CFT Law, Art. 82). In addition, the FIU receives reports on transactions equal to or exceeding BAM 30 000 with natural and legal persons located/registered in the countries listed under Art. 86 (1) (a) and (b).

#### **Criterion 29.3** -

(a) The FID may request the obliged entity to submit the information referred to in Articles 59, 60 and 61 of AML/CFT Law, the information on ownership and transactions, as well as other necessary

information, data and documentation for the purposes of performing its tasks in the area of ML, predicate crimes and TF, as well as in cases of a suspicion that a provision of this Law has been breached. (AML/CFT Law, Art. 64 (2)). The obliged entity shall, without delay and no later than eight business days from the date of receipt of the request, submit to the FID the information, data and documentation. In urgent cases, the FIU may request information, data and documentation orally and may inspect documentation in the premises of an obliged person. When there are grounds to suspect ML or TF, the FIU may order the obliged person in writing to continually monitor the financial operations of a customer and to report to the FIU on transactions or affairs that these persons perform or intend to perform (AML/CFT Law, Art. 68).

The FIU has access to a wide range of financial, administrative and law enforcement information. This includes direct and indirect access to number of databases and information from government agencies and private bodies (for a list of databases see IO6). The FIU may request authorities and institutions of BiH, the FBiH, RS and the BD and other bodies with public authorisations to provide information, data and documentation needed to discharge its duties (AML/CFT Law, Art. 69(1)). The FIU obtains information in a timely manner since the authorities and institutions are required to submit to the FIU the requested data, information and documentation in an urgent manner (AML/CFT Law, Art. 69(2)). In urgent cases and where the documentation involved is extensive or due to other justified reasons, the FID may examine the documentation or collect the data on the premises of obliged persons (AML/CFT Law, Art. 64).

**Criterion 29.4 –**

- (a) FID shall use the data, information and documentation received and collected in accordance with AML/CFT Law to conduct an operational analysis which focuses on individual cases and specific targets, particular activities or transactions, or appropriately selected information, depending on the type and scope of the report received and the expected use of the information after dissemination, in order to establish links with ML, associated predicate crimes and TF (AML/CFT Law, Art. 63 (a)).

The FIU is obliged to conduct a preliminary analysis (operational analysis) upon receiving information from any source, after which: (i) intelligence or investigative work within the FIU will be continued; (ii) the information will be forwarded to another competent authority; or (iii) further proceedings will be suspended due to elimination of suspicion (Instruction on SIPA Intelligence and Investigative Operations, Art. 27).

- (b) As part of its analytical function, the FID shall use the data, information and documentation received and collected in accordance with AML/CFT Law to conduct strategic analyses aimed at determining typologies, forms, trends and patterns regarding ML and TF (AML/CFT Law, Art. 63 (b)). The FIU has timely, direct or indirect access to financial and administrative data necessary for the successful performance of its tasks in accordance with the provisions of AML/CFT Law, which are available to authorities at all levels of government in BiH and other bodies exercising public authority (AML/CFT Law, Art. 69).

**Criterion 29.5 –** The FIU can disseminate spontaneously and upon request specific information to competent authorities. When the FIU establishes there are grounds to suspect that a criminal offence of ML or TF has been committed, it ex officio submits a report to the competent prosecutor's office (AML/CFT Law, Art. 70(1)). The FIU shall upon their reasoned request expeditiously submit to the competent authorities in BiH the available data, information and documentation that may be of importance in making decisions falling within their competence regarding the investigation of criminal offences of ML, associated predicate crimes or TF. (AML/CFT Law, Art. 71 (1)). The FIU forwards its information to competent authorities in BiH using a courier service. Classified

information can be transferred outside the user's premises only in conformity with the protection measures and under the procedures, which guarantee that information will be accessed only by the persons holding clearances for appropriate classification levels (Law on the Protection of Classified Information of BiH, Art. 70).

**Criterion 29.6 –**

- (a) The FIU, competent authorities and obliged persons must comply with the provisions of the Protection of Classified Information Law – BiH and Protection of Personal Data Law – BiH (AML/CFT Law, Art. 88(6)).

The FIU, obliged persons, government authorities, legal persons with public authority and other subjects and their employees may use the data, information and documentation collected only for the purpose of prevention and detection of the criminal offences of ML, related predicate offences and TF, as well as in other cases stipulated by the AML/CFT Law (AML/CFT Law, Art. 91).

The Rulebook on the Protection of Classified Information in the SIPA (hereinafter referred to as "Rulebook on Classified Information"), outlines the procedure and process for handling classified information, issuance and renewal of security clearances for accessing classified information, ensuring the security of processing classified information, organisational, physical, and technical measures for safeguarding classified information, record-keeping, internal oversight, and training in the field of protecting classified information within SIPA.

- (b) According to the Protection of Classified Information Law – BiH and corresponding SIPA internal rules, all post-holders in the FIU are subject to vetting and clearance as regards access to confidential information. Any employee who works for the SIPA or any person who applies for a job where classified data is processed or has access to secret data in the course of performing tasks, must undergo appropriate security screening in order to obtain a security clearance in accordance with the Protection of Classified Information Law - BiH (Rulebook on Classified Information, Art. 45).

The Director of the SIPA has issued a Decision on the list of post-holders requiring issuance of a classified data access permit in accordance with the procedure for obtaining access permits to classified information of BiH at the levels of TOP SECRET, SECRET, and CONFIDENTIAL. Employees of the Agency have access to RESTRICTED classified information as part of their job duties, if they have previously signed a statement of familiarisation with the regulations governing the handling of classified data.

- (c) The FIU headquarters are physically well secured and the area where the FIU is located can only be accessed by authorised personnel with electronic passes.

The FIU has a separate anti-money laundering system (AMLS). Data and information held by the FIU are stored in several FIU servers located in the SIPA's server room, which can be accessed by SIPA's IT specialists only. The AMLS is not connected to any other server in that room and only the FIU IT administrator is granted access. When working on a case, all FIU officers use personal computers that are connected to the AMLS and do not have access to the Internet. All FIU officers have special computers connected to the Internet for searching open sources and for e-mail communication.

**Criterion 29.7 –**

- (a) The FIU autonomously and operationally independently performs the tasks set forth under the AML/CFT Law. In particular, the FID freely discharges its functions, including independent decision-making with respect to receiving, collecting, recording, analysing and forwarding the results of its analyses, investigations and specific information, data and documentation to the

competent authorities in BiH and competent authorities of other countries and international organisations in charge of preventing ML and TF. Also, the FIU performs its tasks without undue political influence or influence of the private sector or interference therefrom. (AML/CFT Law, Art. 62(3)).

- (b) The FIU can cooperate independently with domestic (AML/CFT Law, Art. 69 and 70) and foreign authorities (AML/CFT Law, Art. 75 and 76). The FIU carries out international co-operation in the field of prevention and investigation of ML and TF (SIPA Law, Art. 13 (b)).
- (c) As stated under c.29.1 the FIU is located within the SIPA. The FIU's core functions are distinct from the rest of the departments of the SIPA.
- (d) The FIU does not have a separate budget, but at the time of the annual budgeting process it specifies its needs, which are endorsed by the SIPA. According to AML/CFT Law, the FID shall, within the SIPA, be provided with appropriate staffing capacities and IT and technical equipment for performing its tasks.

The operational independence of the FIU is stipulated in the AML/CFT Law (Art.62 (3)) and SIPA Law (Art. 2) indirectly. The latter covers the operational independence of SIPA.

**Criterion 29.8** - The FIU has been a member of the Egmont Group since 2005.

#### *Weighting and Conclusion*

There are no shortcomings under R.29. **R.29 is rated C.**

#### **Recommendation 30 – Responsibilities of law enforcement and investigative authorities**

In the 4th round MER, BiH was not reassessed on former R.27 due to MONEYVAL's 4<sup>th</sup> Round Rules of Procedure. The LC rating from the 3rd round MER was maintained. Deficiencies identified in the 3<sup>rd</sup> round of ME were related to the effectiveness issues.

**Criterion 30.1** - The main LEAs competent to identify ML cases are SIPA (being in charge of identification of ML cases which fall within the jurisdiction of BiH prosecutors), the police services of the different entities (FBiH, RS and BD), criminal investigation department of the FIU, and ITA – BiH and tax authorities of FBiH and RS in relation to ML emanating from tax offences (CPC of BiH, Art. 20 (19g)) ; CPC of FBiH, Art 21(g). ; CPC of RS, Art. 20 (1 (z)); CPC of BD, Art.20 (g)).

Once sufficient evidence has been obtained by LEAs, the prosecutor (of BiH, FBiH, RS or BD) depending on the territorial competence will formally launch criminal investigation (CPC of BiH, Art. 35 ((2(a)); CPC of FBiH, Art 45 (2 (b)); CPC of RS, Art. 43 (2(a)); CPC of BD, Art.35 (2(b))).

**Criterion 30.2** – The parallel financial investigations, at the level of BiH, are conducted by prosecutors, alongside criminal investigations. Once the ML or TF are identified during parallel financial investigations, the prosecutor is vested to investigate those crimes and in case of need to refer the case to the competent prosecutor, such possibility is prescribed by the general principles of criminal procedure.

Prosecutors at the level of FBiH, RS, and BD are entitled to launch financial investigations to identify the actual source, value and the structure of property acquired by criminal offence (LCPCO of FBiH, Art. 8 (1); LCPC of RS, Art. 9; LCIAA of BD, Art.8). According to the general principle of prosecutorial investigation, if the financial investigation indicates suspicion of ML or TF offence, the case is referred to competent prosecutor for further criminal investigation.

**Criterion 30.3** – At all levels, prosecutors are entrusted with the power to expeditiously identify, trace and initiate seizing orders of property subject to confiscation. These actions can be undertaken also

by all competent LEAs based on the instructions received by the prosecutors. Based on the court order and, upon motion of the prosecutor, instrumentalities and property subject to confiscation can be seized (CPC of BiH, Art. 65 and Art. 73; CPC of FBiH, Art. 79(2) and Art. 87; CC of RS, Art. 129 (2) and Art. 138; CC of BD, Art. 65 (2) and Art.73).

**Criterion 30.4** – The relevant provisions of R.30 are applicable to tax and custom authorities, which can exercise all powers prescribed by the CPCs when pursuing parallel financial investigations or predicate offences. All four CPCs contain definition of authorised person who can undertake investigative measures and tax and custom officials fall within the scope of definition.

**Criterion 30.5** – Anticorruption investigative authorities in BiH are the same as the one competent to investigate other crimes.

#### *Weighting and Conclusion*

There are no deficiencies. **R.30 is rated C.**

#### *Recommendation 31 - Powers of law enforcement and investigative authorities*

In the 4th round MER, former R.28 was not reassessed due to MONEYVAL's 4th Round Rules of Procedure. The LC rating from the 3rd round was maintained where lack of effectiveness was identified as an issue.

#### **Criterion 31.1 -**

##### **a) Concerning the production of records held by FIs, DNFBPs and other natural or legal persons:**

Prosecutors can obtain records (concerning any legal or natural person) held by banks and other legal persons performing financial operations as well as any information held by a natural person based on a court order. Such documents are available once there is a suspicion of commission of proceeds generating crime, including ML and associated predicate offences (CPC of BiH, Art. 72; CPC of BD, Art. 72; CPC of FBiH, Art. 86; CPC of RS, Art. 136). In case of urgent and specific circumstances, bank and other records can be obtained based on a prosecutor's order, but later judicial approval is needed. The language of this provision does not cover instances of obtaining financial records related to TF offences since it is not considered to be proceeds generating offence. However, the interpretation of the provision by the judiciary is that it includes TF offence also, which has been confirmed in practice.

**b) The search of persons and premises:** Search of premises and persons is conducted based on judicial order, upon the request of a prosecutor (CPC of BiH, Art. 51 and 52; CPC of FBiH, Art. 65 and 66; CPC of RS, Art. 115 and 116; CPC of BD, Art. 51 and 52).

**c) Witness statements** can be taken in all four jurisdictions (CPC of BiH, Art. 81; CPC of FBiH, Art. 95; CPC of RD, Art. 277; CPC of BD, Art. 81).

**d) Seizing and obtaining evidence:** Prosecutors and police have power to obtain and seize evidence (CPC of BiH, Art. 63; CPC of FBiH, Art. 87; CPC of RS, Art.129; CPC of BD, Art. 65)

**Criterion 31.2** – In BiH, the authorities have the power to use a wide range of investigative techniques such as surveillance and recording of telecommunications, access to the computer system, surveillance and recording of premises, people, vehicles and related objects, use of undercover agents, simulated purchase and controlled delivery (CPC of BiH, Art. 116; CPC of FBiH, Art. 130; CPC of RS, Art. 234; CPC of BD, Art. 116). Those measures can be ordered for a number of predicate offences (including all designated categories of predicate offences) as well as for ML and TF.

**Criterion 31.3** – (a) There is legislative mechanism in place enabling identification whether natural or legal persons hold or control accounts in a timely manner (CPC of BiH, Art. 72; CPC of BD, Art. 72; CPC of FBiH, Art. 86; CPC of RS, Art. 136). In addition, in RS and FBiH there is register of bank accounts for



legal and natural persons, and in BD only for legal persons. The Ministry of Interior - RS has a direct access to the register of bank accounts in RS, but it is not clear who, in FBiH and BD, has access to those registers and under which circumstances.

(b) The legislation in BiH (at all levels) does not require a prior notice to the owner about the identification of assets by the competent authorities.

**Criterion 31.4** - The authorities indicated that all LEAs when investigating ML, associated predicate offence and TF can request information from the FIU (AML/CFT Law, Art. 62).

#### *Weighting and Conclusion*

In BiH most investigative powers and techniques are available to the competent authorities when investigating ML, associated predicate offence and TF. However, one deficiency has been identified in relation to the language of the provision covering collecting banking information for the TF offence. Nevertheless, the authorities' interpretation and practice confirm that banking information is obtained even in relation to TF offence. Therefore, the AT is of the view that this should be classified only as a minor deficiency (c.31.1(a)). **R.31 is rated LC.**

#### **Recommendation 32 - Cash Couriers**

In the 4th round MER of 2015, BiH was rated PC on former SR.IX because: (i) not all BNIs were covered by the declaration obligation; (ii) the declaration obligation did not seem to apply to shipment of currency through containerised cargo; (iii) Customs authorities did not have powers to implement former SR.III; (iv) there was insufficient mechanisms to ensure coordination of competent authorities at policy level; and (v) statistics were not maintained on cases when a suspicion of ML/TF was identified, but assets involved below the threshold for declaration.

**Criterion 32.1** - In BiH there is general provision set out in the AML/CFT Law (Art. 81(1)) imposing obligation for a carrier to declare cash and BNI in accordance with the Entity and BD legislation. The legislation further provides the definition of accompanied and unaccompanied cash (AML/CFT Law, Art.4) and empowers the ITA - BiH to do controls of both accompanied and unaccompanied cash (AML/CFT Law, Art. 81). The legislation in FBiH, RS and BD obliges resident and non-resident when crossing the state border to declare cash and BNI (Law on Foreign Exchange Operations of FBiH, Art.45; Law on Foreign Exchange Operations of RS, Art.45; Law on Foreign Exchange Operations of BD, Art.45) and these provisions relates to natural and legal persons. Therefore, the physical transportation of cash through container cargo or the shipment of cash through mail is also covered.

**Criterion 32.2** - BiH has implemented written declaration system. Regarding foreign currencies, the obligation of a written declaration is applied in all cases. The threshold for national currency is set periodically by the government and is currently EUR 10 000 (approximately BAM 20 000), an amount that is considered adequate and proportionate.

**Criterion 32.3** - Not applicable since BiH applies a declaration system.

**Criterion 32.4** - The ITA - BiH, the Border Police of BiH and the entity and BD competent authorities are designated competent authorities who can oversee, and control transfer of cash and BNA carried by the natural person. When performing control those authorities are empowered to examine natural persons and their luggage, take statements and temporary detain cash (AML/CFT Law, Art.81-83).

**Criterion 32.5** - Natural and legal persons who fail to declare or falsely declare cash and BNIs shall be sanctioned in the misdemeanour procedure according to different legislation applicable in entities and BD. In RS, fines for legal persons range from BAM 5 000 to BAM 20 000 (approximately EUR 2 500 to 10 000) and for natural persons BAM 2 500 to BAM 10 000 (approximately EUR 1 125 to 5 000) (Law

on Foreign Exchange Operation of RS, Art. 41). In BD, fines for BAM 10 000 to BAM 15 000 (approximately EUR 5 000 to 7 500) can be imposed for banks, resident legal person and non-resident legal person while the fine for natural person is BAM 1 500 (approximately EUR 750) (Law on Foreign Exchange Operations of the BD, Art. 45). Once the falsely or undeclared cash and BNI are detected at the level of FBiH, the fines for legal persons range from BAM 10 000 to BAM 15 000 (approximately EUR 5 000 to 7 500), and for natural fines are determined in the amount of BAM 1 500 (approximately EUR 750). (Law on Foreign Exchange Operations of FBiH, Art.42, and 62). Those fines differ from the border the breach is detected and overall, they cannot be considered as dissuasive and proportionate.

**Criterion 32.6** – Information obtained through the declarations of cash and BNIs is transmitted to the SIPA (FID) in three days, and in case of false declaration or non-declaration in 24 hours (AML/CFT Law, Art. 82 (4 and 5)).

**Criterion 32.7** – There is general legal provision stipulating that ITA – BiH and border police shall cooperate and exchange data and information with the FIU and other competent authorities in order to implement effective measures for the supervision and control of cash transfers (AML/CFT Law, Art. 81). In addition, the number of memorandums and agreements have been signed which facilitate cooperation between competent authorities.

**Criterion 32.8** – The competent authorities are able to temporary seize cash transported across the state border in case of non-declaration as well as suspicion of ML and or TF. Such possibility nevertheless does not exist in instances where there is suspicion for a predicate offence (AML/CFT Law, Art. 83 (1 (a-c))).

**Criterion 32.9** - The ITA - BiH can cooperate with other countries based international agreements or the reciprocity (Law on ITA, Art. 9). The authorities have also informed that a number of international agreements were concluded with foreign counterparts. There is nothing in their declaration/disclosure system which would prevent the country to allow international cooperation.

**Criterion 32.10** - There are strict measures in place to safeguard information derived from the deceleration process and ensuring its correct (AML/CFT Law, Art. 91) and the information should be kept for 8 years (AML/CFT Law, Art. 92 (3))

**Criterion 32.11** – Persons transporting cash related to ML/TF or predicate offences are subject to criminal sanctions (see R.3 and 5).

#### *Weighting and Conclusion*

BiH has some measures in place regarding cash declaration. However, some minor deficiencies are identified such as (i) sanctions for undeclared and falsely declared cash are not dissuasive and proportionate (c.32.5); and (ii) no legal possibility to stop or restrain cash and BNI for predicate offences (c.32.8). **R.32 is rated LC.**

#### **Recommendation 33 – Statistics**

In the 4th round MER, BiH was rated PC with former R.32. Two main gaps in statistics were reported: (i) supervisory and LEAs - exchange of information with foreign counterparts and non-counterparts; and (ii) international cooperation in relation to TF.

**Criterion 33.1** - (a) BiH maintains statistics on receipt and dissemination of STRs (AML/CFT Law, Art. 80(a)). However, exploitable data, such as the underlying crime, involvement of domestic or foreign proceeds, cash, or other assets, involvement of other jurisdictions, etc. is not maintained.

(b) BiH authorities have provided data on ML/TF investigations, prosecutions and convictions, however the provided statistics was contradicting and not accurate.



(c) BiH has provided non-comprehensive data on seizure orders and confiscations. The FIU keeps records of issued orders and the amount of the monetary transaction (AML/CFT Law, Art. 80). Requirements are placed on the Seized Property Management Agency – F BiH and Agency for Management and Confiscated Property - RS, to keep data on assets managed (Forfeiture of Proceeds of Criminal Offences -Law F BiH, Art. 31(1)); and Confiscation of Proceeds of Crime Law - RS, Art. 8(3)); however, no data has been provided.

Overall, there is no useful statistical data available to assess provisional measures to secure assets susceptible to confiscation.

(d) The authorities have provided limited information on MLA requests where data on timeframe required to execute such requests, reasons for refusal, information on countries BiH cooperated per crime type were missing. As far as the FIU is concerned, it maintains basic records of data forwarded abroad.

Limited data has been provided regarding supervisory and police cooperation exclusively for ML/TF. However, no data has been provided with respect to predicate crimes and participation in multilateral police cooperation networks.

#### *Weighting and Conclusion*

BiH does not maintain sufficient data to assess the effectiveness of the AML/CFT system in BiH. **R.33 is rated PC.**

#### *Recommendation 34 – Guidance and feedback*

In the 4th round MER of 2015, BiH was rated PC on former R.25 due to lack of guidance from supervisory authorities and other shortcomings in the effectiveness regime.

#### **Criterion 34.1 -**

##### *Guidelines*

A Rulebook on Implementation of the AML/CFT Law has been issued (2015 – updated in 2023), which covers: (i) circumstances in which EDD measures must be applied (Art. 4); (ii) circumstances when simplified measures may be applied (Art. 5); (iii) a list of countries that can be considered to apply internationally accepted AML/CFT standards (Art. 6 and Annex); (iv) indicators of higher and lower risk (Art. 8 to Art. 11); (v) suspicious transaction indicators for different sectors (Art. 12 to Art. 26); (vi) information, data and documents required for identification of customers and transactions; (vii) information, data and documents to be provided to the FIU; (viii) linked transactions; and (ix) exemptions from the obligation to report large and related cash transactions to the FIU. Like the AML/CFT Law, the Rulebook applies to all covered obliged entities. The legal basis for making the rulebook and who has issued it have not been explained.

Supervisory authorities may, within their respective competences, either independently or in cooperation with other competent authorities, issue recommendations or guidelines for the implementation of the AML/CFT Law and legislation adopted pursuant to it (AML/CFT Law, Art. 101(2)). Specifically, the FIU and/or competent supervisory authorities may produce rulebooks, decisions or guidelines to assist covered FIs and covered DNFBPs with: (i) conducting a business risk assessment (AML/CFT Law, Art. 10(5)); (ii) identification of PEPs (AML/CFT Law, Art. 34(1)); and (iii) creating a list of indicators for identifying suspicious transactions (AML/CFT Law, Art. 57(1)). None have been published in practice.

Sectoral legislation enables the Banking Agency - FBiH to pass general acts regulating the operations of banking sector entities in accordance with special regulations regulating their operations (Law on Banking Agency – FBiH, Art. 19(1)(c)).

Special sectoral laws also enable supervisors to issue guidance on the application of the AML/CFT Law (Banking Agency Law - FBiH, Art. 4, Art. 9 and Art. 25; Banking Law – FBiH, Art. 47; Banking Agency Law - RS, Art. 4(1)(i), Art. 10(2)(b) and Art. 25; Banking Law – RS, Art. 101; Securities Commission Law – FBiH, Art. 13; Securities Market Law – RS, Art. 260; Insurance Intermediaries Law – BiH, Art. 6; Insurance Law – FBiH, Art. 103 and Art. 130; Insurance Intermediaries Law - FBiH, Art. 13(a); Insurance Intermediaries Law – RS, Art. 18(1)(13); Insurance Law – RS, Art. 6(3)(4)); Leasing Law – FBiH, Art. 34; Leasing Law – RS, Art. 58a(2); and MCO Law – RS, Art. 18a).

In line with the above, the Banking Agency – FBiH has issued: (i) a Decision on the Management of the Risk of ML and TF Activities (15 February 2024); (ii) Guidelines for the analysis and assessment of the risk of ML and TF activities (February 2024); and (iii) guidelines for identification of the BO (February 2024). These all apply to banks, leasing providers and MCOs. The Banking Agency - RS has issued: (i) for banks – Decision on Banks – RS (2012); (ii) for leasing providers - Decision on Leasing Providers – RS (2012); and (iii) for MCOs - Decision on MCOs - RS (2012)<sup>108</sup>.

In line with the above, securities supervisors have issued: (i) Guidelines for Securities – FBiH (2015); and (ii) Guidelines for Obligated Entities under the Jurisdiction of the RS Commission – RS (2015) (updated 2016). Insurance supervisors have issued Guidelines for Insurance - FBiH (2017) and Guidelines for Insurance – RS (2015) (updated 2017). The content of supervisory guidelines published by securities and insurance supervisors includes: (i) customer risk assessments; (ii) indicators for suspicious transactions; (iii) procedures for determining a politically and publicly exposed person; (iv) new technological achievements; (v) identification and monitoring of the customer; (vi) implementation of AML/CFT measures; (vii) monitoring customers' business activities; (viii) submission of data to FIU; (ix) professional education and training; (x) establishment of internal controls and audit; (xi) appointment of an authorised person; and (xii) protection and storage of data.

Decisions and supervisory guidelines issued under sectoral laws are expressed as setting mandatory requirements. This is because AML/CFT policies, procedures and controls must take such decisions and guidelines into account (AML/CFT Law, Art. 56(1)). Where an FI or DNFBP does not implement policies, procedures and controls in accordance with these decisions and guidelines, it commits an offence (AML/CFT Law, Art. 100(3)(k)).

Amongst DNFBPs, only the Federation of Accountants, Auditors and Financial Workers – FBiH and Bar Association – FBiH have published additional requirements or guidance (Guidelines on the implementation of AML/CFT and Rulebook on risk assessment for the prevention of ML and TF respectively).

Banking Agency officials attend meetings organised by banking associations, discussing current topics, threats to the banking sector, risks to which banks are exposed, and new trends and typologies, including recognition of suspicious transactions and customer activities. Similar meetings are held in RS with the Association of Insurance Companies – RS. No information has been provided for other supervisors.

---

<sup>108</sup> These Decisions were repealed on 7 March 2023 and replaced by a Decision on the Management of the Risk of ML and TF Activities - RS that applies to banks, leasing providers and MCOs. On 20 March 2024 guidelines were published for the analysis and assessment of the risk of ML and TF activities and identification of the BO applying to banks, leasing providers and MCOs in RS.

Banking supervisors also issue requests for action (circular letters). Five requests for action were issued by the Banking Agency - FBiH in the period under review linked to: (i) threats presented by COVID-19 (2019); (ii) technological developments (2019); (iii) independence of the authorised person (2020); (iv) withdrawal of cash using foreign bank cards (2021); and (v) reporting to the FIU (2021). Three requests for action were issued by the Banking Agency – RS covering: (i) technological developments (2019); (ii) threats presented by COVID-19 (2020); and (iii) reporting to the FIU (2021).

#### *Feedback*

If it does not prejudice ongoing proceedings, the FIU is required to provide feedback to obliged entities: (i) on the outcome of suspicious reports raised by the latter – where closed or completed; and (ii) through statistical information pertaining to the same – annually (AML/CFT Law, Art. 73(2)). In cooperation with supervisors, the FIU is also required to share insights on current techniques, methods, and trends in ML/TF with obliged entities (AML/CFT Law, Art. 73(4)).

Prudential supervisors also meet with obliged entities at the end of an on-site inspection to present findings, provide guidelines for the elimination of established irregularities, and make recommendations for improving existing ML/TF risk management systems.

#### *Weighting and Conclusion*

Guidance has been published by all the main supervisors, and a comprehensive rulebook sets out measures for detecting and reporting suspicious transactions. However, sectoral guidance does not cover some important DNFBPs, and this has been given a high weighting since it includes two sectors identified as presenting a high risk (public notaries and real estate). Feedback, both direct and thematic, is provided by the FIU to all covered FIs. **R.34 is rated PC.**

#### ***Recommendation 35 – Sanctions***

In the 4th round MER, BiH was rated PC on former R.17 due to: (i) the sanctioning regime under the AML/CFT Law not covering all possible breaches; and (ii) no clear possibility for sanctioning directors and senior management.

Misdemeanours procedures are instituted and conducted in accordance with applicable legislation governing misdemeanours procedures<sup>109</sup>. The authorities have not identified any offences covered by the AML/CFT Law that may also be sanctioned using criminal codes.

The introduction to R.10 identifies activities to which the AML/CFT Law does not apply. As described under R.22, there are shortcomings in the scope of application of CDD measures to DNFBPs in relation to accountants and TCSPs.

#### ***Criterion 35.1 -***

##### *AML/CFT Law*

Depending on the breach identified, a fine from BAM 5 000 (approximately EUR 2 500) to BAM 200 000 (approximately EUR 100 000) may be applied to FIs and DNFBPs for failing to comply with requirements set in the AML/CFT Law, except for tipping off<sup>110</sup>. In the case of failure to report, the minimum fine that may be applied is BAM 50 000 (approximately EUR 25 000). As explained under c.27.4, misdemeanour proceedings must be conducted before the competent court to impose a

---

<sup>109</sup> Also referred to as infractions or minor offences.

<sup>110</sup> In the case of a FI or DNFBP that is a self-employed natural person, a fine from BAM 1 000 (approximately EUR 500) to BAM 20 000 (approximately EUR 10 000) may be applied (AML/CFT Law, Art. 100).

monetary fine higher than the minimum. Multiple fines may be applied to the same FI or DNFBP at the same time on different grounds, so failure to comply with AML/CFT requirements could attract a level of fines substantially higher than the maximum for a single offence. There is no additional level of fines to deal with systemic failures in systems and controls.

Fines may also be applied under sectoral laws. In most cases these cover failure to comply with prudential and conduct of business requirements established under those laws but can be used also to sanction failure by FIs and DNFBPs to follow supervisory orders (such as to remediate shortcomings identified in supervisory examinations). In any event, the maximum fine that can be applied for a particular misdemeanour to, e.g., a bank, is BAM 200 000 (approximately EUR 100 000) – in line with the maximum penalty under the AML/CFT Law.

As explained under c.27.4, additional sanctions may also be applied by banking, securities and insurance supervisors under sectoral laws, including licence revocation. Additional sanctions are not available under sectoral laws where DNFBPs fail to apply AML/CFT requirements, and so it has not been demonstrated for that sector that a sufficient range of sanctions can be applied proportionately by supervisors to greater or lesser breaches of requirements, including for notaries (see c.28.4(c)).

#### *Targeted financial sanctions*

No direct fines may be applied to FIs and DNFBPs for failing to comply with requirements set in legislation applying international restrictive measures. Instead, sanctions may be applied by banking, securities and insurance supervisors under sectoral laws where non-compliance is linked to failure to establish comprehensive and efficient risk management systems. These sanctions would include revocation of a licence. Sanctions are not available for DNFBPs.

Accordingly, a sufficient range of sanctions cannot be applied proportionately to greater or lesser breaches of requirements related to TF.

#### *NPOs*

Information has not been provided on sanctions that may be applied to NPOs for failure to comply with requirements set under R.8.

**Criterion 35.2** – The following fine may be applied to directors (responsible persons) of FIs and DNFBPs for failing to comply with requirements set in the AML/CFT Law: from BAM 1 000 (approximately EUR 500) to BAM 20 000 (approximately EUR 10 000) (AML/CFT Law, Art. 100(3)). Multiple fines may be applied to the same person at the same time on different grounds, so failure to comply with AML/CFT requirements could attract a level of fines substantially higher than the maximum for a single offence.

The following fine may be applied to directors (responsible persons) of FIs and DNFBPs for failing to comply with requirements set in legislation applying international restrictive measures: from BAM 500 (approximately EUR 250) to BAM 15 000 (approximately EUR 7 500).

As identified under c.27.4, sectoral legislation also provides for ordering the dismissal of members of the governing body or senior management for banks, securities firms, and insurance.

Overall, it has been demonstrated that a sufficient range of sanctions can be applied proportionately to deal with greater or lesser breaches of requirements.

#### *Weighting and Conclusion*

The AML/CFT Law does not include a sanction for tipping-off and the range of sanctions available to supervisors and competent courts to deal with failure to comply with the AML/CFT Law in respect of DNFBPs, including notaries (high importance), cannot be considered proportionate (c.35.1). In

addition, it has not been demonstrated that a sufficient range of sanctions can be applied proportionately to greater or lesser breaches of NPO requirements (c.35.1). These are considered to be moderate shortcomings. **R.35 is rated PC.**

### ***Recommendation 36 – International instruments***

In the 4th round MER, BiH was rated LC on former R.35 and PC on former SR.I. Most of the provisions stipulated in the relevant conventions had been implemented by BiH and were broadly in line with the requirements of the conventions. However, there were some concerns regarding possible shortcomings which might affect the full implementation of the conventions, due to existing deficiencies related to criminalisation of ML/TF offences.

**Criterion 36.1** - BiH has been a party to the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) since 1993 by succession, as it was originally ratified by SFR Yugoslavia in 1990.

BiH ratified the 2000 UN Convention against Transnational Organised Crime (Palermo Convention) and its first two Protocols in 2002 and acceded to its additional protocols supplementing the Convention: (i) Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition in 2008; (ii) Protocol against the Smuggling of Migrants by Land, Sea and Air in 2002; and (iii) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2002.

The 1999 UN International Convention for the Suppression of Financing of Terrorism was ratified by BiH and became effective in 2003. BiH is party to all nine conventions listed in the Annex.

The UN Convention against Corruption (Merida) was ratified in BiH in 2006.

BiH ratified the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime (ETS 141) in 2004, and the 2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of Proceeds of Crime and the Convention on Financing of Terrorism (CETS 198) in 2008.

**Criterion 36.2** – In relation to criminalisation requirements of relevant Conventions, deficiencies under R.3 and R. 5 (except for c.5.2bis) are applicable. In addition, the entities and BD have criminalised the offence set out under Art. 24 of the Merida Convention while at state level the offence has not been criminalised.

Concerning confiscation related obligations, deficiencies under R.4 apply. Also, it is still unclear whether BiH competent authorities have enough legal power to execute a confiscation order on the basis of a foreign request (Art. 13 of the Palermo Convention, Art. 5(4) of the Vienna Convention and Art. 54(1(a)) and Art. 55 (1) of the Merida Convention). The language of the MLA law seems to provide the possibility to execute only foreign sentences of custodial character. Consequently, there is a lack of a specific procedure for executing judgements on confiscation and decisions on provisional measures.

Furthermore, there is no central mechanism or authority for the administration of frozen, seized or confiscated property at state level, as prescribed by Art. 31 of the Merida Convention. However, there are mechanisms for asset management at entity/district levels (see also c.38.3).

BiH has not incorporated measures for direct recovery of property (Merida Convention, Art. 53), as well as BiH has not implemented the optional mechanism to allow confiscation of property without a criminal conviction at state level in cases where the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases (Merida Convention, Art. 54(1(c)) (see also c.38.2).

Regarding international cooperation related obligations (in particular, Art. 7(2) of the Vienna Convention; Art. 14(1), 16(10), 18(2, 3, 21), 27(1(b)), 46(24) of the Palermo Convention; Art. 44(11), 46(2, 3, 21), 48(1(b)), 57(1) of the Merida Convention), deficiencies under c.37.1-37.3, c.38.1(a-d) and c.38.3(b) apply.

In addition, BiH has not provided information on commercial carriers (Vienna Convention, Art. 15), illicit traffic by sea (Vienna Convention, Art. 17), the use of mail (Vienna Convention, Art. 19), or measures taken under Art. 31 of the Palermo Convention in relation to ethics and tender procedures.

#### *Weighting and Conclusion*

BiH is a party to all international instruments as required under c.36.1. The compliance with R.36 is impeded by the deficiencies under R.3, 4, 5, c.37.1-37.3, c. 38.1(a-d) and c.38.3(b). In the meantime, concealment is not criminalised at state level, and measures of direct recovery of property are not implemented. No information has been provided on Articles 15, 17 and 19 of the Vienna Convention, and on measures under Art. 31 of the Palermo Convention in relation to ethics and tender procedures.

**R.36 is rated PC.**

#### *Recommendation 37 - Mutual legal assistance*

In the 4th round MER, BiH was rated LC on former R.36 and LC on former SR.V. In particular, there was a lack of clear procedures to ensure the timeliness of the execution of requests and concerns about the power to execute MLA requests related to confiscation when there was no international convention in place.

**Criterion 37.1** - The BiH legislative framework for the provision of MLA applies equally to cases involving ML and TF. The procedure for providing MLA on foreign requests is regulated by the MLA Law - BiH, issued at state level and which entered into force on 15 July 2009.

The range of MLA in criminal matters that the authorities of BiH can provide includes: (i) extradition of suspects, accused and sentenced persons; (ii) transfer of criminal proceedings; (iii) recognition and enforcement of foreign judicial decisions; and (iv) general types of legal assistance (MLA Law - BiH, Art. 8 and Art. 13).

866. BiH has set a clear legal mechanism for providing rapid response to foreign requests based on the Law on Legal Aid and Official Cooperation in criminal matters between F BiH, RS and BD<sup>111</sup>, which stipulates the exercise of legal aid and official cooperation in criminal matters between the competent judicial and LEAs on state, entity and BD level. Namely, foreign MLA requests can be forwarded to the competent judicial authority at entity/district level, for the provision of assistance when entity/district level authorities are involved, based on this legal mechanism for direct communication with competent judicial authorities, thus avoiding conflicts of jurisdiction.

**Criterion 37.2** - The Central Authority for sending and receiving MLA requests is the Ministry of Justice - BiH. In urgent matters and detention cases, the MLA request can be exchanged directly with the competent judicial authority, including through electronic communication or by some other means of telecommunication providing delivery receipt - in accordance with the MLA Law - BiH and Second Additional Protocol to the European Convention on Mutual Legal Assistance. When the foreign requests fall under the jurisdiction of the court or prosecutor's office at state level, the Ministry of Justice - BiH forwards such requests directly to the state judicial authority (Court of BiH or the

---

<sup>111</sup> Official Gazette of BiH, No. 24/01.



Prosecutor's Office - BiH). The same applies to a request that falls under the jurisdiction of the competent judicial authority at entity and district level.

The Central Authority under the Warsaw Convention (CETS 198) is the Ministry of Security - BiH. Having different central authorities can cause confusion to foreign jurisdictions in respect of identifying the relevant authority to which the request for MLA should be addressed. BiH authorities have not submitted any internal guidelines and procedures regarding the established mechanisms for timely prioritisation, coordination and monitoring of the execution of MLA requests. Furthermore, there is no adequate case management system in place throughout all competent authorities at national level. However, the MLA Law – BiH (Art. 5 and Art. 7) defines the obligation for the Ministry of Justice - BiH to act without delay upon domestic and foreign MLA requests.

**Criterion 37.3** - The MLA Law – BiH (Art. 9 and Art. 10) provides grounds for refusing foreign MLA requests which do not pose any unreasonable or unduly restrictive conditions regarding the provision of MLA. However, the Ministry of Justice - BiH has the authority to weigh the reasonableness of the request to provide information on natural or legal persons, which may negatively affect the country's ability to provide MLA (MLA Law - BiH, Art. 28(1)).

**Criterion 37.4** – The BiH legal framework does not foresee the grounds for refusing a foreign MLA request mentioned in c.37.4(a) and (b).

**Criterion 37.5** - The items or documents exchanged via MLA must be kept confidential, both in BiH and another country (MLA Law - BiH, Art. 28(3)).

**Criterion 37.6** - The MLA Law – BiH does not prescribe the dual criminality for enforcing foreign MLA requests.

**Criterion 37.7** – Not applicable.

**Criterion 37.8** - As mentioned under c.37.1 a wide range of powers and investigative techniques are available to BiH competent authorities when acting upon a foreign MLA request. In principle, this extends to all powers and investigative techniques required under R.31 that are available for domestic proceedings and can in parallel be enforced based on the foreign MLA request (provided that the foreign request complies with the conditions set by the MLA Law - BiH and relevant international treaties).

However, the deficiency under c.31.1(a) limits the ability to provide international cooperation.

#### *Weighting and Conclusion*

BiH has established a solid legal framework to provide a wide range of MLA, through the Ministry of Justice - BiH. The dual criminality is not a precondition for executing MLA requests. BiH legislation does not refuse legal assistance based on the ground that the offence is considered to involve fiscal matters. BiH authorities maintain the confidentiality of MLA requests that they receive, and the information contained therein. However, there is a lack of a mechanism (clear processes for the timely prioritisation and execution of MLA requests) which guarantees systematic and rapid response. Furthermore, BiH does not maintain a case management system. The deficiency under c.31.1(a) is a potential limiting factor in providing MLA. **R.37 is rated LC.**

#### ***Recommendation 38 – Mutual legal assistance: freezing and confiscation***

In the 4th round MER, BiH was not reassessed on R.38 due to MONEYVAL's 4th Round Rules of Procedure. The LC rating from the 3rd round MER was maintained where it had been found that: (i) the confiscation regime may have a negative impact on the ability of rendering MLA; and (ii) no information had been provided on arrangements for coordinating of seizure and confiscation actions.

**Criterion 38.1** - The provision of MLA in relation to identification, freezing, seizure and confiscation of assets is regulated by the MLA Law - BiH, issued at state level. In addition, entity and district CCs, CPCs and laws on seizure and confiscation of proceeds from crime are applicable for cooperation under c.38.1. The legislative framework applies to all criminal offences, equally to cases involving ML and TF. As noted under c.36.2 the language of the MLA law seems to provide the possibility to execute only foreign sentences of custodial character. Consequently, there is a lack of a specific procedure for executing judgements related to confiscation or provisional measures. Instead, cooperation related to confiscation is prescribed as part of general aspects of MLA without any further regulation. This may have a negative impact on the ability of competent authorities to confiscate property in response to requests of foreign countries, as the relevant provisions can have ambiguous interpretation. Moreover, the deficiency on the lack of timely prioritisation, coordination and monitoring mechanism identified under c.37.2 applies to the ability of BiH to take expeditious actions in relation to identification, freezing, seizure and confiscation of assets.

The application of provisional measures based on a foreign request are possible under the MLA Law (Art. 19 and Art. 20). There is no length limitation for provisional measures (freezing and seizure) imposed under the enforcement of foreign requests and is decided by the competent court on case-by-case basis, by analogous application of the provisions of the CPCs related to the enforcement of national freezing and seizure orders<sup>112</sup>.

However, articles or property gain may be permanently kept in BiH, if the injured party is domiciled in BiH and the items or property gain need to be returned to that person (MLA Law - BiH, Art. 20 (4(a)). There are no objective criteria set for defining the need for articles or property to be returned to the injured person. As an objective criterion could be the final court verdict, this limits the possibility to act where procedures are undergoing.

- (a) Though actions can be taken towards laundered property (MLA Law - BiH, Art. 20(2)), there is no definition of “property” at state level. In addition, use of the term is not harmonised in criminal legislation of the entities and district.
- (b) Proceeds from crime can be the subject of freezing, seizure and confiscation based on a foreign request (MLA Law - BiH, Art. 20(2)). However, the definition of “proceeds of crime” at entity/district level is not harmonised with the state level.
- (c) Instrumentalities can be subject to freezing, seizure and confiscation based on a foreign request (MLA Law - BiH, Art. 20(2)). However, the MLA Law – BiH does not regulate issues related to the “corresponding value” of instrumentalities.
- (d) “Instrumentalities” used for committing crime are covered (MLA Law - BiH, Art. 20). However, the “instrumentalities intended for use in committing crime” are not covered by BiH legislation.
- (e) “Property of corresponding value” can be the subject of freezing, seizure and confiscation based on a foreign request (MLA Law - BiH, Art. 20).

**Criterion 38.2** - BiH legislation does not explicitly foresee co-operation in relation to foreign requests on non-conviction-based confiscation, but BiH can provide assistance through executing foreign judicial verdicts related to non-conviction based confiscation. However, provisional measures related to asset freezing and seizure cannot be taken, without a court decision in a criminal proceeding.

---

<sup>112</sup> For example, Art. 72 (5) of the CPC of BiH determines that the seized funds are kept in a special account until the end of the procedure, i.e., until the conditions for return are met and these conditions can be treated as termination of the MLA procedure when acting upon foreign requests. Similar provisions are stipulated in entity/district CPCs.

Therefore, BiH is not able to respond to foreign requests on provisional measures as part of non-conviction-based confiscation.

**Criterion 38.3** – (a) BiH can conclude arrangements with foreign countries (MLA Law - BiH, Art. 1).

BiH competent authorities<sup>113</sup> have been members of CARIN network since 2013. However, BiH still does not have arrangement concluded with Eurojust. According to the information received by BiH authorities, the process of the conclusion of the Agreement/Contract with Eurojust is in the final phase. BiH on the state level did not conclude arrangements, neither cooperation on the state level has been established with foreign ARO offices related to seizure and confiscation of assets. BiH has still not designated ARO office that acts as the single point of contact on the state level, in charge of international cooperation with foreign ARO offices. At the moment, ARO office is established and operational only on RS level. This negatively affects expeditious action in response to requests by foreign countries seeking assistance to identify, trace, evaluate investigate, freeze, seize and confiscate criminal property and property of corresponding value.

(b) Asset management is regulated at entity/district level. In FBiH the law is applied in relation to assets gained through criminal offences which may result in at least three years imprisonment (Forfeiture of Proceeds of Criminal Offences Law- FBiH, Art. 3). A similar threshold is in place in BD (Confiscation of Unlawfully Acquired Property Law – BD, Art. 4). In RS, the scope for managing seized and confiscated property is much wider and includes property acquired through a list of serious criminal offences and all the criminal offences which resulted in proceeds equal to or more than EUR 25 000 (Confiscation of Proceeds of Crime Law – RS, Art. 8).

BiH legislation has not established an Asset Management Office on the state level for the management and disposal of frozen, seized or confiscated property, instrumentalities, or property of corresponding value. However, there is a mechanism to provide co-operation related to the requests on managing and, when necessary, disposing of property frozen, seized or confiscated. In particular, the Court of BiH may consider and decide on the necessary actions contained in these kinds of requests. The decision of the Court of BiH will be mandatory for application at entity level, where Asset Management Offices are established and operative, as well as at district level, where Expert Service of the Judicial Commission and the Office of Public Property are responsible for seized and confiscated property correspondingly. However, the thresholds for asset value or gravity of crime set forth at the entity/district level legislation for managing assets are limiting factors.

**Criterion 38.4** – Though BiH has not concluded asset sharing agreements with other jurisdictions when confiscation is directly or indirectly a result of coordinated law enforcement actions, there are no legal obstacles to negotiate and conclude such agreements according to the Law on Conclusion and Enforcement of International Agreements.

#### *Weighting and Conclusion*

BiH's legislative framework in relation to MLA for identification, freezing, seizure and confiscation has restrictive character, as (i) there is a lack of timely prioritisation and coordination mechanism; (ii) the legislative provisions concerning confiscation are of ambiguous nature and can negatively impact the international cooperation for confiscation; (iii) articles or property can be retained in BiH if they need to be returned to an injured; (iv) corresponding value of instrumentalities and instrumentalities intended for use in committing crime are not subject to confiscation; (v) provisional measures as part

---

<sup>113</sup> Contact points for CARIN in BiH are Department for Financial Investigations and Fight against Money Laundering in Ministry of Interior - RS; Court of BiH; and National Central Bureau of Interpol - Sarajevo.

of non-conviction based confiscation cannot be applied, (vi) the application of the mechanism for management, disposal of frozen, seized or confiscated property is limited. **R.38 is rated PC.**

### **Recommendation 39 - Extradition**

In the 4th round MER, BiH was not reassessed on R.39 due to MONEYVAL's 4th Round Rules of Procedure. The LC rating from the 3rd round MER was maintained where a shortcoming with effectiveness had been noted.

**Criterion 39.1** - BiH has established a legal framework for the execution of extradition requests about ML/TF (MLA Law - BiH, Art. 32, Art. 33 and Art. 34). BiH is also a party to the European Convention on Extradition from 1957 (ETS 24) and its Additional Protocols (ETS 86 and ETS 98).

The request for extradition is submitted to the Ministry of Justice - BiH through diplomatic channels. In urgent cases, the request for extradition can be submitted through Interpol channels (MLA Law - BiH, Art. 4(3) and (4)). When foreseen in an international treaty the request can directly be addressed to the Ministry of Justice - BiH. In the absence of an international treaty, extradition requests may be executed based on reciprocity. The Ministry of Justice - BiH must promptly forward extradition requests to the BiH Prosecutor's Office (MLA Law - BiH, Art. 36).

(a) BiH enforces an "all crimes" approach in relation to extradition requests (MLA Law - BiH, Art. 33).

(b) There is no fully automated unique central case management system on state level in BiH for processing MLA requests for extradition. Furthermore, there are no processes for timely execution of extradition requests including prioritisation.

(c) BiH does not place unreasonable or unduly restrictive conditions on the execution of extradition requests.

**Criterion 39.2** - (a) BiH does not extradite its own nationals (MLA Law - BiH, Art. 34(1)), unless permitted under ratified bilateral and multilateral agreements. BiH has concluded bilateral agreements on extradition with the Republic of Croatia, Republic of Serbia, and Montenegro, which provide for the extradition of its own citizens for organised crime, corruption and ML offences, as well as other serious crimes. BiH has concluded bilateral agreements with a number of other countries. However, these agreements do not envisage extradition of own nationals.

(b) The MLA Law - BiH (Art. 86 to Art. 88) sets clear procedures for taking over criminal prosecution based on a Letter Rogatory of a foreign country, when the extradition of its own citizens is refused. Once the criminal prosecution has been taken over, the criminal proceedings must be conducted under the criminal legislation of BiH. However, the legislation does not stipulate time limits for submitting the case to the competent authorities for the purpose of prosecution of the offences set forth in the request.

**Criterion 39.3** - BiH's legal framework prescribes dual criminality as a precondition for granting extradition and does not impose the terminology or category of the criminal offence as one of the preconditions (MLA Law - BiH, Art. 33 to Art. 34). However, the deficiencies under R.3 and R.5 are applicable.

**Criterion 39.4** - A simplified extradition procedure exists in BiH (MLA Law - BiH, Art. 52). Extradition of persons based only on warrants of arrests or judgments (without extradition requests), is possible only with the prior consent of the person to be extradited. In all other cases, extradition requests with necessary documentation should be submitted.

Direct transmission of requests for provisional arrests between competent authorities is possible through Interpol channels or based on bilateral agreements (see under c39.2).

## *Weighting and Conclusion*

BiH has established a solid legal framework for execution of extradition requests on ML/TF, however it lacks a fully automated central case management system for their processing. Extradition is also possible in simplified circumstances. In the meantime, BiH has a legal framework to take over the case when it refuses extradition of own nationals, though no time limits are foreseen for dealing with such requests. Dual criminality requirements are not restrictive, however deficiencies under R.3 and R.5 are applicable. **R.39 is rated LC.**

## ***Recommendation 40 – Other forms of international cooperation***

In the 4<sup>th</sup> round MER, BiH was rated LC with R.40. Only effectiveness issues were recorded as shortcomings.

### ***Criterion 40.1 -***

#### *International Police and LEA Cooperation*

BiH has established mechanism for the international police cooperation. However, multi layered organisational structure of the LEAs on state/entity/district level, with potential overlapping and duplicating the efforts, significantly reduces the potential for rapid cooperation.

The SIOPC serves as the central organisational unit of the Directorate for Coordination of Police Bodies – BiH for international operational police cooperation (Directorate for Coordination of Police Bodies Law - BiH; and Rulebook on the Internal Organisation and Systematisation of the Directorate for Coordination of Police Bodies - BiH, Art. 9(1) and (2)). It is the National Central Bureau of Interpol, serving as the single point of contact for cooperation within the Interpol. The SIOPC also acts as the focal point for police and customs cooperation of the competent authorities in BiH with SELEC, a point of contact for foreign police liaison officers.

For the cooperation with Europol, the NJCP has been established on the state level (Agreement on Operational and Strategic Cooperation between BiH and the European Police Office - Europol, Art. 6, ratified in 2017, and Instructions on Procedures for the Implementation of the Agreement on operational and strategic cooperation between BiH and Europol, Art. 10<sup>114</sup>). NJCP is a state body, headed by the coordinator and 16 police officers, seconded from all police agencies in BiH, fully operational as of mid-2023. Cooperation with Europol is done via SIENA (a secure communication platform for data exchange).

At the moment, BiH has seconded liaison officers only to Europol, while there are no police liaison officers seconded to Interpol and SELEC.

BiH has established platform for international cooperation through CARIN. International cooperation through ARO network is yet to be established (see under c38.3).

Based on the Law for the State Agency for Investigations and Protection (Article 23) SIPA is authorised to establish and maintain international cooperation with foreign law enforcement bodies and other appropriate foreign bodies, including the participation to the joint investigation teams. The Authorities advised that international cooperation through Interpol and Europol is regulated by the Interpol Rulebook on Data Protection and the Rulebook on the Work and Operational cooperation of

---

<sup>114</sup> Both the Agreement on Operational and Strategic Cooperation between BiH and the European Police Office - Europol and Instructions on Procedures for the Implementation of the Agreement on operational and strategic cooperation between BiH and Europol have not been provided to the AT.

the National/Joint Contact Point for BiH for cooperation with Europol. However, the mentioned was not provided.

#### *FIU International Cooperation*

BiH has established legal framework for the FIU international cooperation (AML/CFT Law, Art. 66). Furthermore, the FIU has the power to share information with foreign LEAs (AML/CFT Law, Art. 67). For timely execution of requests see c.40.2(d)

#### *ITA international cooperation*

The ITA – BiH cooperates with foreign competent authorities based on international treaties or agreements, or in the absence thereof based on reciprocity or justified interest. The requested information should be provided at the latest within 90 days period. BiH can also cooperate for tax evasion crimes within the framework of the Global Forum on Transparency and Exchange of Information for Tax Purposes (OECD).

#### *Supervisory Bodies International Cooperation*

All the supervisory authorities may cooperate and exchange information under certain conditions prescribed by law (AML/CFT Law, Art. 96).

#### **Criterion 40.2**

**(a)** Please see c.40.1.

**(b)** There is no common and unified system in place, nor developed efficient standard operating procedures for the use of the most efficient means of international police cooperation. Please see the analyses under c.40.1 about international police cooperation. The SIPA uses the channels of Interpol and Europol as indicated in c.40.1.

The FIU uses the ESW for secure communication purposes with foreign FIUs.

The Banking Agencies – F BiH and RS use mail or electronic mail. The Securities Commissions – F BiH and RS uses the means of cooperation stemming from IOSCO MMoU/EMMoU. Insurance supervisors – F BiH and RS are members to the MMoU of IAIS and use the means available thereunder. No information has been provided regarding other financial and DNFBP supervisors.

**(c)** Interpol regulations are applied to the national competent authorities for the cooperation through Interpol. The cooperation through Europol is regulated by the Rulebook on the work and operational cooperation of the NJCP – BiH for cooperation with the Europol, which has not been provided to the AT. There is no SOP for effective cooperation between SIOPC and NJCP and the prevention of overlapping. However, based on the Law on Legal Aid and Official Cooperation in Criminal Matters between the F BiH, RS and BD,<sup>115</sup> there is a mechanism to transmit the requests received through international cooperation among competent national authorities.

The FIU performs international cooperation through the ESW communication channel.

The ITA - BiH uses the secure channels of Interpol and Europol located in the intelligence section.

The cooperation of Securities Commissions – F BiH and RS and Insurance Supervision Agencies – F BiH and RS takes place under the mechanisms specified by the IOSCO MMoU and IAIS MMoU correspondingly. The rest of the supervisory bodies use mail or other mechanisms specified in the relevant agreements.

---

<sup>115</sup> Official Gazette of BiH, No. 24/01.



**(d)** The SIOPC and JNCP use Interpol and Europol standards on the level of urgency marking for timely execution of requests. However, procedures for timely execution within national competent authorities of foreign requests received through SELEC and Liaison Officers Network have not been provided.

The FIU does not have an established mechanism for priority classification and timely execution of international requests, though its actions are taken in a chronological order or, on its own assessment on case-by-case basis, taking into account the importance and urgency markings.

The ITA – BiH is obliged to cooperate in a timely manner.

Securities Commissions – FBiH and RS and Insurance Supervision Agencies – FBiH and RS are guided by the IOSCO MMoU and IAIS MMoU provisions on prioritisation and execution of requests respectively. No information has been provided with respect to other competent authorities.

**(e)** International operational police cooperation within SIOPC and NJCP is carried out in compliance with the Protection of Personal Data Law and the Protection of Secret Data Law as well as relevant by-laws:

- a. Rulebook on the work and operational cooperation of the national/joint contact point for BiH for cooperation with Europol,
- b. Instruction on the operational conduct of the officers of the Directorate for Coordination of Police Bodies – BiH when familiarising with, handling, distributing, archiving and protecting secret data,
- c. Procedure related to dealing with classified cases, requests of police liaison officers and Embassies for the delivery of information,
- d. Rulebook on the implementation of the Protection of Personal Data Law in the SIPA,
- e. Rulebook on the protection of secret data in the SIPA, and
- f. MoU on Confidentiality and Data Security between BiH and Europol.

All BiH authorities at state/entity/district level must retain the marks used in that particular state, international or regional organisation or assign different classification mark provided that a relevant level of secrecy and manner of keeping the secrecy of data must be appropriately ensured (Law on Protection of Classified Information, Art. 28).

The FIU, the competent authorities and liable persons from the obliged entities shall comply with the provisions of the Law on Protection of Classified Information – BiH and the Law on Protection of Personal Data – BiH (AML/CFT Law, Art. 74(3)). That applies also to the classified data and information provided by foreign competent authorities.

All the supervisors are obliged to maintain the confidentiality protection requirements in relation to the exchanged information, which should at least be equivalent thereto under Art. 88 of the AML/CFT Law (AML/CFT Law, Art. 96(1)).

#### **Criterion 40.3 -**

Though the legislation does not set a precondition to conclude agreements or arrangements, the Council of Ministers - BiH has signed international bilateral agreements on police cooperation with Türkiye, Hungary, Greece, Italy, France, Russian Federation, Iran, Austria, Slovakia, Egypt, Slovenia, Switzerland, Romania, Montenegro, Bulgaria, North Macedonia, Croatia, Albania, Serbia, Qatar, Jordan, Spain, Sweden, Moldova, Czechia, Germany, Norway, Belgium, Ukraine, directly or through a liaison officer.

BiH has concluded agreements with Switzerland and Great Britain in respect of customs cooperation.

The Banking Agency - RS and Banking Agency - FBiH, have concluded a number of bilateral and multilateral agreements with the purpose of enhancing international cooperation within their legal authority (Banking Agency Law - FBiH, Art. 42; and Banking Agency Law - RS, Art. 32). For the purpose of enhancing international cooperation, the Securities Commission - FBiH and the Securities Commission - RS have become a signatory to the IOSCO MMoU/EMMoU which provides mutual assistance and exchange information with 129 IOSCO members (IOSCO MMoU signatories) and 15 (IOSCO EMMoU signatories). The Securities Commission – BD cooperates based on Declaration on cooperation of Capital Market Regulators in the area of Southeast Europe. The Insurance Supervision Agency – BiH concludes cooperation agreements for data exchange with the competent authorities of other countries on behalf of entity supervisors (Law on Insurance Agency - BiH, Art. 9(6); Insurance Supervision Agency Law – FBiH, Art. 9(6); and Law on Insurance Companies – RS, Art. 18 (4)). Also, as members of the IAIS, insurance supervisors can cooperate with its 159 members. No information has been provided by other competent authorities. In the meantime, no information has been provided in respect of the agreement signing procedure.

**Criterion 40.4 -**

The Directorate for Coordination of Police Bodies – BiH has no obstacle to the timely provision to the requested authority information on use and usefulness of the received information. However, this is not stipulated in any law or bylaw.

The FIU is not legally bound to provide to the requested authority information on use and usefulness of the received information in a timely manner.

The Securities Commissions of RS and FBiH have not provided statutory provision on their obligation to provide feedback on the use and usefulness of the information obtained, however they are members to IOSCO MMoU/EMMoU, consequently these jurisdictions should comply with the relevant requirement thereof. No information has been provided by other competent authorities.

**Criterion 40.5 –**

- (a) BiH legislation does not exempt any criminal offence (including fiscal criminal offences), neither stipulates any other criminal offences (e.g., fiscal matters) for which the international cooperation is different (restricted, forbidden).
- (b) The secrecy or confidentiality requirements on FIs or DNFBPs are not imposed as the basis for refusing or restricting international cooperation (MLA Law - BiH, Art. 9 and Art. 10), however the deficiency under c.31.1(a) applies (see the analyses under R. 31).
- (c) The rule for denying or postponing or restricting foreign MLA requests “if criminal proceedings are pending against the accused in BiH for the same criminal offense, unless the execution of the request might lead to a decision releasing the accused from custody” (MLA Law - BiH, Art. 9(1)(e)) equally applies to other forms of international police cooperation. This presents unduly restrictive conditions on the provision of international law enforcement assistance. Furthermore, the FIU may decline a request of another country’s FIU where disclosure of the information would be clearly disproportionate to the legitimate interests of the natural or legal person or irrelevant with regard to the purposes for which it was requested (MLA/CFT Law, Art. 76(5)). This precondition for the refusal is very broad and unclear, and therefore may place unreasonable or unduly restrictive conditions for the refusal of foreign FIU requests.

The ITA – BiH is also authorised to delay providing information, however the legal grounds for the delay are permissible under c.40.5(c).

The Securities Commission - RS may deny a request for assistance where a criminal proceeding has already been initiated based upon the same facts and against the same persons or the same persons have already been the subject of final punitive sanctions on the same charges in RS, unless the requesting authority can demonstrate that the relief or sanctions sought in any proceedings initiated by the requesting authority would not be of the same nature or duplicative of any relief or sanctions obtained in the jurisdiction of the requested authority. As the precondition is relevant only for the cases where sanctions have already been applied, the provision reads restrictive in relation to ongoing proceedings. Therefore, it is not permissible in terms of c.40.5(c). No information has been provided regarding other competent authorities.

**(d)** No restrictions regarding the status or nature of the requesting counterpart.

**Criterion 40.6 -**

When acting upon requests within international police cooperation, and in accordance with the data protection and data confidentiality regulations, the Directorate for Coordination of Police Bodies – BiH (SIOPC) submits a disclaimer which strictly defines the obligation of the requesting party to use the information for the purposes for which they were submitted. SIOPC and NCP are maintaining and transferring the limitations imposed by foreign competent authorities, and implementing controls and safeguards to ensure that information exchanged is used only for the purpose for, and by the authorities, for which the information was sought or provided.

The FIU is not allowed to submit or show data, information and documentation obtained from foreign competent authority to third natural or legal persons, or other bodies, nor use them for other purposes in contravention of the conditions and restrictions set by that foreign authority (AML/CFT Law, Art. 75 (2)). The same rule applies when the FIU sends domestically obtained information to foreign competent authority, requesting for a written warranty that data, information and documentation forwarded will be used only for purposes defined by provisions of AML/CFT Law (Art. 76 (3) and 77 (2)).

Relevant controls and safeguards exist also in relation to the information exchange by the ITA - BiH.

All the supervisors are bound by law to use the exchanged information only for the purposes for which the foreign authority gave its consent (AML/CFT Law, Art. 96(2)).

**Criterion 40.7 -**

SIOPC and NJCP use adequate levels of confidentiality marks, in accordance with the national legislation that governs data confidentiality, international agreements (e.g., Agreement with Europol) and the standards of international police organisations (Interpol, SELEC) (see under c.40.2(e)). There is no data provided on LEA legal powers to refuse to provide information if the requesting competent authority cannot protect the information effectively.

The ITA – BiH also has the duty to maintain appropriate confidentiality for the information received however there is no explicit authority to refuse providing information if the requesting authority cannot protect the information effectively.

The FIU should comply with the provisions of the Protection of Personal Data Law and Protection of Classified Data Law. The FIU may submit data, information and documentation obtained in BiH to foreign FIUs, provided that similar confidentiality protection is ensured (AML/CFT Law, Art. 76).

The supervisory authorities may cooperate and exchange information with foreign counterpart if the confidentiality requirements are equivalent to those in BiH (AML/CFT Law, Art. 96(1)).

**Criterion 40.8 -**

Relevant references stating the obligation for LEAs to conduct inquiries based on foreign requests have not been provided. However, taking into account the membership to Interpol and SELEC, as well as the Agreement with Europol it can be stated that the LEAs have the authority to conduct inquiries on behalf of counterparts and exchange all available information. No relevant legislative reference was provided for the ITA - BiH. The FIU is authorised to conduct inquiries on behalf of foreign counterparts, and exchange with their foreign counterparts the results (information) of those inquiries (AML/CFT Law, Art. 76 and Art. 79).

None of the supervisors has demonstrated its competence to conduct inquiries on behalf of foreign counterparts.

**Criterion 40.9** - The FIU has an adequate legal basis for providing co-operation on ML, associated predicate offences and TF. The AML/CFT Law defines the power of the FIU to provide the widest possible international cooperation (Art 75 to 79).

**Criterion 40.10** - The FIU can provide feedback upon request or whenever possible, although the AML/CTF Law does not stipulate a strict obligation for the FIU to provide feedback on the usefulness of data provided.

**Criterion 40.11** - The FIU has the power to submit data, information and documentation obtained in BiH to foreign FIUs and may request foreign law enforcement bodies, prosecutorial or administrative bodies, FIUs and international organisations involved in the prevention of ML and TF to submit data (AML/CTF Law, Art. 76 and 77).

**Criterion 40.12** - Financial supervisors can cooperate and exchange information with foreign supervisors (AML/CFT Law, Art. 96).

**Criterion 40.13** - The Law does not set any limitation on the information subject to exchange by the financial supervisors.

**Criterion 40.14** - Financial supervisors are authorised under the AML/CFT Law (Art. 96) to exchange any information with foreign supervisors.

**Criterion 40.15** - The ability of the Securities Commissions - FBiH and RS to conduct inquiries is not explicitly prescribed in legislation. The Securities Commission - BD may be requested to carry out supervision over the operations of a branch office.

The authorised representatives of foreign supervisors can be involved in on-site supervisions conducted by Banking Agencies of RS and FBiH (Banking Law - FBiH, Art. 143(5); and Banking Law - RS, Art. 188 (4)). While there are no provisions explicitly providing for the conduct of inquiries on behalf of foreign counterparts, the general powers granted to the financial supervisors to cooperate with their foreign counterparts would not prohibit this. No information has been provided regarding other financial supervisors.

**Criterion 40.16** - The information can be further exchanged with the explicit consent of the competent authority only for the purposes for which that authority gave its consent.

**Criterion 40.17** - There are no legal obstacles for the LEAs in BiH to exchange domestically available information with foreign counterparts for intelligence or investigative purposes relating to ML, associated predicate offences or TF. The FIU - as part of SIPA - exercises international cooperation in the field of prevention and investigation of ML and TF (SIPA Law, Art. 13(b)). In addition, prosecutor's offices and other competent authorities can address the FIU an order to exercise international cooperation through the channels available to the FIU (ESW).

Competent BiH authorities<sup>116</sup> can exchange information related to the identification and tracing of the proceeds and instrumentalities of crime through CARIN.

Domestically available information requested through the international police cooperation are exchanged by the SIOPC (with Interpol and SELEC) and NCP (with Europol) for all criminal offences, including ML/TF.

**Criterion 40.18** - BiH has been a member of Interpol since 1992, and the SELEC from 2000, and has signed the agreement with Europol in 2016, which was ratified in 2017. The cooperation agreement with Eurojust has not been signed yet (see c38.3). The NJCP was established in June 2023 based on the Agreement on operational and operative cooperation between BiH and Europol. According to the membership to Interpol and SELEC, and the Agreement with Europol there are no restrictions for the use of law enforcement powers to enforce investigative techniques available in accordance with the domestic laws. However, no legislative references were made available to the AT to confirm these powers.

**Criterion 40.19** - BiH authorities have the legal possibility to establish joint investigative teams (MLA Law - BiH, Art. 24). Further regulation on joint investigative teams at international level where the SIPA representatives are involved is provided under the SIPA Intelligence and Investigative Work Instruction (Art. 62).

**Criterion 40.20** - The FIU has the power to exchange information with foreign law enforcement bodies, prosecutorial or administrative bodies, and international organisations involved in the prevention of ML/TF activities (AML/CFT Law, Art. 76 and 77). The SIPA also has authority to cooperate with "other foreign appropriate bodies" (SIPA Law, Art. 23(1)). No other specific legislative sources have been provided to demonstrate the exchange of information with non-counterparts.

#### *Weighting and Conclusion*

BiH has established a solid legal framework for international cooperation under R. 40. Having said this, shortcomings exist in the system among which the most significant ones are as follows: (i) the multi-layered LEA system with potential overlapping efforts significantly reduces the potential for rapid cooperation; (ii) cooperation through ARO network has not been established; (iii) the FIU has not established a mechanism for prioritising requests; (iv) there is no SOP for effective cooperation between SIOPC and NJCP; (v) deficiency under c.31.1(a); (vi) restrictions for denying or postponing the provision of information exchange in cases where there are proceedings underway in BiH, beyond the permissible instances under 40.5(c); (viii) lack of evidence for the ability to conduct inquiries on behalf of foreign counterparts for the ITA - BiH; and (ix) lack of legislative sources in relation to numerous criteria of R.40. **R.40 is rated PC.**

---

<sup>116</sup> Department for Financial Investigations and Fight against Money Laundering in Ministry of Interior - RS; Court of BiH; and National Central Bureau of Interpol - Sarajevo.

## 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	<b>PC</b>	<ul style="list-style-type: none"> <li>• Several shortcomings were observed in the risk assessment process which may undermine the reliability of conclusions and appropriateness of risk rating assigned (c.1.1).</li> <li>• Legal authorisation for the temporary Working Group formed to assess risk does not establish a strict obligation to do so (c.1.2).</li> <li>• There is no methodology in place for keeping risk assessments up-to-date (c.1.3).</li> <li>• The precise mechanism for sharing results of risk assessments is not set out (c.1.4).</li> <li>• The authorities have not explained how risk is subsequently considered when allocating resources and implementing measures to prevent or mitigate ML/TF risk (c.1.5).</li> <li>• Exemptions for electronic money issuers and linked to the collection of written statements for verifying identity are not supported by risk assessments (c.1.6).</li> <li>• The scope of the AML/CFT Law does not apply to all FIs or DNFBPs. (c.1.6).</li> <li>• Enhanced measures must be applied in case of high, rather than higher risk (c.1.7).</li> <li>• Specific provision has not yet been made to deal with ML/TF risks identified in risk assessments (c.1.7).</li> <li>• Simplified measures for real estate transactions and EU customers are not supported by risk analysis (c.1.8).</li> <li>• It has not been demonstrated that supervisors have necessary powers to ensure that all covered FIs and DNFBPs are implementing obligations under R.1. Shortcomings identified under R.26 and R.28 apply (c.1.9 and c.1.12).</li> <li>• Except for covered FIs supervised by the banking agencies, there is no overriding requirement to consider all relevant risk factors (c.1.10 and c.1.12).</li> </ul>
2. National cooperation and coordination	<b>PC</b>	<ul style="list-style-type: none"> <li>• The absence of an overarching national AML/CFT strategy militates against a uniform approach across all areas, including for corruption where there is currently no national plan (c.2.1).</li> <li>• The bases for reviewing plans and strategies and interaction between national and entity strategies have not been explained (c.2.1).</li> <li>• Evidence has not been provided that the Working Group to coordinate action in the field of AML/CFT actively did so during the period under review (c.2.2).</li> <li>• The FIU – responsible for promoting operational cooperation – has no specific plan to promote cooperation (c.2.3).</li> <li>• At policy level, there is no permanent body in charge of cooperation and, where appropriate, co-ordination mechanisms to combat PF. Information has not been provided on specific operational coordination on PF matters (c.2.4).</li> <li>• Information has not been provided on ongoing cooperation and coordination with the Data Protection Agency when drafting new AML/CFT legislation (c.2.5).</li> </ul>
3. Money laundering offences	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no definition of property in the CC of FBiH (c.3.4).</li> <li>• There is no legal possibility to prove the intent and knowledge of the ML perpetrator by using objective factual circumstances in criminal proceedings conducted in FBiH, RS and BD (c.3.8).</li> </ul>
4. Confiscation and provisional measures	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no legal possibility to take steps that will prevent or void actions that prejudice country's ability to freeze, seize or recover property subject to confiscation (c. 4.2 (c)).</li> </ul>



<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
		<ul style="list-style-type: none"> <li>• There is no adequate measure in place dealing with the management of property seized and confiscated by the courts of BiH (c. 4.4).</li> </ul>
5. Terrorist financing offence	<b>LC</b>	<ul style="list-style-type: none"> <li>• TF offence does not include financing of all offences from the annex of the TF Convention (c.5.1).</li> <li>• Funds and other assets are not defined in the criminal legislation of RS (c.5.3).</li> <li>• There is no legal possibility to prove the intent and knowledge of the TF perpetrator by using objective factual circumstances in criminal proceedings conducted in FBiH, RS and BD (c.5.5).</li> <li>• The liability of legal persons is limited (c.5.7).</li> </ul>
6. Targeted financial sanctions related to terrorism & TF	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no mechanism in place for the Ministry of Security - BiH itself to solicit relevant information from operation partners on potential designations (c.6.3(a)).</li> <li>• There remains some ambiguity in the law being limited to freezing (c.6.5(c)).</li> <li>• The only way national designations and de-listings are communicated is via the website of the Ministry of Security - BiH. There are no provisions which require FIs and DNFBPs to be notified when there are new UN or national listings or de-listings (c.6.5(d) and c.6.6(g)).</li> <li>• A request or a review of a listing decision with the Court of BiH directly is only possible within one month of a designation (c.6.6(c)).</li> </ul>
7. Targeted financial sanctions related to proliferation	<b>PC</b>	<ul style="list-style-type: none"> <li>• The same shortcomings identified under c.6.5(c) (c.7.2(c)).</li> <li>• There is no provision which requires responsible bodies, competent institutions, and other agencies to forward on this communication to FIs and DNFBPs immediately (c.7.2(d) and c.7.4(d)).</li> <li>• There are no explicit powers for ensuring monitoring and supervision for PF. BiH's framework does not provide for any direct civil, administrative or criminal sanctions where there is a failure in FI's and DNFBP's compliance with TFS obligations (c.7.3).</li> </ul>
8. Non-profit organisations	<b>NC</b>	<ul style="list-style-type: none"> <li>• Subset of NPOs falling under the FATF definition and the features and types of NPOs which are likely to be at risk of TF abuse have not been identified (c.8.1(a)).</li> <li>• Nature of threats posed by terrorist entities for NPOs that are at risk of being abused, as well as how terrorist actors abuse those NPOs, has not been identified (c.8.1(b)).</li> <li>• BiH has not reviewed the adequacy of measures, including laws and regulations, related to the subset of the NPO sector that may be abused to support TF (c.8.1(c)).</li> <li>• The country does not periodically re-assess the TF-related vulnerabilities of the NPO sector and their mitigation (c. 8.1 (d)).</li> <li>• The promotion of accountability, integrity and public confidence in the administration and management of NPOs is limited (c. 8.2(a)).</li> <li>• Authorities do not undertake outreach to raise awareness of: (i) the potential vulnerabilities of NPOs to TF abuse and TF risks; and (ii) the measures that NPOs can take to protect themselves against such abuse (c.8.2(b)).</li> <li>• Work has not been undertaken with NPOs to develop best practices to address TF risks and vulnerabilities for the purpose of protecting NPOs from TF abuse (c.8.2(c)).</li> <li>• There are no other initiatives specifically geared towards encouraging NPOs to conduct transactions via regulated financial channels (c.8.2(d)).</li> <li>• There are no measures to promote effective supervision or monitoring the NPO sector in terms of risks of ML and TF. As noted under c.8.1, the subset of NPOs that are vulnerable to TF abuse has not been identified (c.8.3).</li> </ul>

<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
		<ul style="list-style-type: none"> <li>• Authorities have not monitored the compliance of NPOs with the requirements of this Recommendation, including the risk-based measures being applied to them under criterion 8.3 nor have effective, proportionate and dissuasive sanctions for violations by NPOs or persons acting on behalf of these NPOs (c.8.4).</li> <li>• mechanisms enabling effective co-operation, co-ordination and information sharing are limited (c. 8.5(a)).</li> <li>• There is a lack of investigative expertise and capability, despite there being an institutional framework to do so (see IO.9 and IO.10) (c.8.5(b)).</li> <li>• Access to information on the administration and management of particular NPOs (including financial and programmatic information) is limited (c.8.5(c)).</li> <li>• Deficiencies identified under R.37-40 and a lack of points of contact, or procedures specifically related to NPOs (c.8.6).</li> </ul>
9. Financial institution secrecy laws	<b>LC</b>	<ul style="list-style-type: none"> <li>• It is unclear how professional secrecy provisions would not be enforceable when FIs implement R.13 or R.17.</li> </ul>
10. Customer due diligence	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply.</li> <li>• There is no overriding requirement for electronic documents or public registers used to verify identity to be reliable or independent (c.10.3)).</li> <li>• There is no explicit requirement to understand a business relationship or transaction (c.10.6).</li> <li>• There is no explicit requirement to obtain information on powers that regulate or bind a person, persons having a senior management position, or principal place of business if it differs from the registered office (c.10.9).</li> <li>• There is no requirement to include the beneficiary of a life insurance policy as a relevant risk factor in determining whether EDD measures are applicable (c.10.13).</li> <li>• There is no requirement to verify the identity of the BO of a beneficiary. Enhanced measures apply to beneficiaries presenting a high rather than higher risk (c.10.13).</li> <li>• There is no explicit requirement to consider making a STR when it is not possible to conduct ongoing monitoring (c.10.19).</li> <li>• Where a covered FI reasonably believes that performance of CDD measures will tip off the customer, there is no possibility not to pursue the CDD process (c.10.20).</li> </ul>
11. Record keeping	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply.</li> </ul>
12. Politically exposed persons	<b>PC</b>	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply.</li> <li>• Definitions for “closest family member” and “close associate” are not sufficiently broad (c.12.3).</li> <li>• Senior management must be informed when high rather than higher risks apply to a life insurance policy. In such a case there is no explicit requirement to consider making an STR (c.12.4).</li> </ul>
13. Correspondent banking	<b>C</b>	<ul style="list-style-type: none"> <li>• This Recommendation is met.</li> </ul>
14. Money or value transfer services	<b>LC</b>	<ul style="list-style-type: none"> <li>• The authorities have not explained what action is taken to identify unauthorised MVTs activities (c.14.2).</li> <li>• There is no explicit requirement for MVTs providers that use agents to include them in their AML/CFT programme and monitor them for compliance with that programme (c.14.4).</li> </ul>
15. New technologies	<b>NC</b>	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply (c.15.1 and c.15.2).</li> <li>• ML/TF risk assessments do not systemically identify and assess risks that may arise in relation to new products, business practices or use of technology (c.15.1).</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>• Limited data is held on VAs and VASPs and there is only limited analysis in the assessment of risk of TF through VAs (c.15.3(a)).</li> <li>• The VA action plan does not specifically deal with identified risks (c.15.3(b)).</li> <li>• Shortcomings identified under c.1.10 apply (c.15.3(c)).</li> <li>• The application of a requirement to disclose the name of the authorised person to the FIU by a legal person created in BiH that carries on VA activities exclusively outside BiH has not been explained (c.15.4(a)).</li> <li>• Limited measures are in place to prevent criminals or their associates from holding or being the BO on an interest in a VASP or holding a management function in a VASP in RS. No measures are in place in FBiH and BD (c.15.4(b)).</li> <li>• The range of fines that can be applied to sanction failure by a legal person to notify that it is a VASP is not proportionate. Sanctions cannot be applied against natural persons (c.15.5).</li> <li>• VASPs are not required to be registered in the FBiH or BD (c.15.5).</li> <li>• The authorities have not explained what action is taken to identify unauthorised VA activities in RS (c.15.5).</li> <li>• The authorities have not provided evidence that systems are in place for ensuring compliance with the AML/CFT Law (c.15.6(a)).</li> <li>• FBiH and BD supervisors do not have supervisory powers (c.15.6(b)).</li> <li>• Supervisors have not issued tailored guidance to VASPs (c.15.7).</li> <li>• The range of sanctions available to deal with breaches of AML/CFT requirements is not proportionate (c.15.8(a)).</li> <li>• In FBiH and BD, the range of sanctions available to deal with breaches of the AML/CFT Law by directors or senior management is not proportionate (c.15.8(a)).</li> <li>• Correspondent account and “travel rule” requirements do not apply to VASPs (c.15.9).</li> <li>• Shortcomings identified under R.10, R.12 and R.17 to R.21 are relevant (c.15.9).</li> <li>• Shortcomings under R.6 and R.7 apply (c.15.10).</li> <li>• LEAs have not demonstrated that they can rapidly provide the widest range of international cooperation (c.15.11).</li> </ul>
16. Wire transfers	LC	<ul style="list-style-type: none"> <li>• Exemptions from the scope of application of requirements are not entirely in line with the Standard.</li> <li>• Shortcomings identified under c.31.1 apply (c.16.6).</li> <li>• There are no specific requirements for beneficiary FIs covering the application of reasonable measures to identify transfers that lack required originator or required beneficiary information (c.16.13).</li> <li>• There are no specific requirements covering the application of risk-based policies and procedures for dealing with missing information (c.16.15).</li> <li>• Shortcomings identified under c.6.5(c) are relevant (c.16.18).</li> </ul>
17. Reliance on third parties	LC	<ul style="list-style-type: none"> <li>• Third parties must apply CDD and record-keeping requirements in line with those applying in BiH, rather than those set out in R.10 and R.11 (c.17.1 and c.17.3).</li> <li>• When determining in which countries third parties can be based, it is necessary to consider only ML/TF risk (c.17.2).</li> <li>• There is no explicit requirement for higher country risk to be adequately mitigated by a group AML/CFT programme (c.17.3(c)).</li> </ul>
18. Internal controls and foreign branches and subsidiaries	LC	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply.</li> <li>• There is no requirement to implement a more general programme against ML/TF (c.18.1).</li> <li>• There is some discretion on application of the general rule to appoint a compliance officer (authorised person) at management level (c.18.1(a)).</li> <li>• The scope of screening procedures is limited, including for banks (c.18.1(b)).</li> </ul>

<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
19. Higher-risk countries	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply.</li> <li>• The authorities have not explained what measures are in place to ensure that FIs are advised of concerns about weaknesses in AML/CFT systems in other countries (c.19.3).</li> </ul>
20. Reporting of suspicious transaction	<b>LC</b>	<ul style="list-style-type: none"> <li>• The definition of TF provided for under Article 3, para. 3 of the AML/CFT Law does not cover the financing of the travel of individuals who travel 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 (c.20.1).</li> <li>• The deficiency under c.5.1 applies (c.20.1).</li> </ul>
21. Tipping-off and confidentiality	<b>C</b>	<ul style="list-style-type: none"> <li>• This Recommendation is met.</li> </ul>
22. DNFBPs: Customer due diligence	<b>LC</b>	<ul style="list-style-type: none"> <li>• Shortcomings identified under R.10, R.12, c.15.1 and R.17 apply (c.22.1, c.22.3, c.22.4 and c.22.5).</li> <li>• There are shortcomings in the scope of application of CDD measures in relation to accountants and TCSPs (c.22.1(d) and (e)).</li> </ul>
23. DNFBPs: Other measures	<b>LC</b>	<ul style="list-style-type: none"> <li>• There are shortcomings in the scope of application of CDD measures in relation to accountants and nominee activities provided by TCSPs (c.22.1(d) and (e)).</li> <li>• Shortcomings identified under R.10, R.20, R.18 and R.19 apply (c.23.1, c.23.2, and c.23.3).</li> </ul>
24. Transparency and beneficial ownership of legal persons	<b>PC</b>	<ul style="list-style-type: none"> <li>• There is no process for obtaining BO information in FBiH or BD for companies. Mechanisms are not in place for obtaining BO information for associations or foundations by authorities (c.24.1).</li> <li>• Analysis presented in risk analyses is too high-level and have not been sufficiently assessed (c.24.2).</li> <li>• Information is not held on the scope authority in FBiH or BD. Registers for associations and foundations in BD are not public (c.24.3).</li> <li>• There is not explicit requirement for legal person to collect information set out under c.24.3 themselves. Shareholder information is not required to be maintained by companies in the country in FBiH or BD (c.24.4).</li> <li>• Powers are not available to competent authorities to request the records of legal persons to ensure that obligations to register changes are complied with. In BD, the court is only updated of changes in the list of members (but no other information). Across the country there are no provisions in place for interests in partnerships (c.24.5).</li> <li>• With respect to information held by obliged entities, the period between reviews of such documents, data and information for lower or standard risk relationships may mean that information held is not accurate or up to date. For information held by registries in RS, powers are not available to competent authorities to request the records of legal persons to ensure that obligations register changes are complied with (c.24.7).</li> <li>• No specific measures are in place to ensure that legal persons cooperate with competent authorities to the fullest extent possible in determining who is the BO (c.24.8).</li> <li>• Information has not been provided on record-keeping requirements for information held by legal persons or authorities (c.24.9).</li> <li>• No information has been provided on powers in sectoral laws used to monitor compliance by DNFBPs (other than casinos) with the AML/CFT Law (c.28.4(a) and (c.24.10)).</li> <li>• No mechanism is in use to prevent the misuse of nominee shares (c.24.12).</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
25. Transparency and beneficial ownership of legal arrangements	LC	<ul style="list-style-type: none"> <li>• It cannot be concluded that a sufficient range of dissuasive sanctions for proportionate application exists in BiH (c.24.13).</li> <li>• Shortcomings identified under R.37 (rated LC) and R.40 (rated PC) also apply to c.24.14 (c.24.14).</li> <li>• Competent authorities do not monitor the quality of assistance received from counterparts abroad with respect to responses to requests for basic and BO information (c.24.15).</li> </ul>
26. Regulation and supervision of financial institutions	PC	<ul style="list-style-type: none"> <li>• Record-keeping requirements do not apply to persons holding an equivalent role to a professional role (c.25.1(c) and c.25.2).</li> <li>• Trustees and equivalent are not required to disclose their status to FIs and DNFBPs (c.25.3).</li> <li>• Shortcomings identified under c.31.1 apply (c.25.5).</li> <li>• Shortcoming identified under R.37 and R.40 (particularly c.40.5 and c.40.8) apply here (c.25.6).</li> <li>• The ability to access BO information for trusts and similar legal arrangements solely through law enforcement channels may limit or delay access to foreign counterparts (c.25.6).</li> <li>• No information has been provided on monitoring powers available to supervisors of professional trustees (c.25.8).</li> </ul> <ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply (c.26.1).</li> <li>• No explicit prohibition is placed on the authorisation of shell banks (c.26.2).</li> <li>• Measures to prevent criminals from holding a significant or controlling interest in: (i) a professional intermediary; (ii) an investment fund management company in BD; and (iii) an MCO in F BiH are limited to a narrow range of offences (c.26.3).</li> <li>• Measures to prevent criminals from holding a management function in a MCO in F BiH are limited to a narrow range of offences (c.26.3).</li> <li>• Measures to prevent criminals from holding a management function in a professional intermediary in F BiH are limited to the director (c.26.3).</li> <li>• Measures to prevent criminals from acting as insurance brokers or agents in F BiH are limited to a narrow range of offences (c.26.3).</li> <li>• Measures are not in place to prevent criminals holding significant or controlling interests or holding management functions in: (i) insurance brokers that are legal persons; (ii) leasing providers in RS; or MCOs in RS (c.26.3).</li> <li>• Measures are not in place to prevent criminals: (i) holding significant or controlling interests in leasing providers in F BiH; or (ii) holding an interest or management function in a leasing provider - RS (c.26.3).</li> <li>• It is not clear whether measures to prevent criminals from holding a significant or controlling interest or holding a management function in a currency exchange office are sufficiently broad (c.26.3).</li> <li>• No provisions have been identified to prevent associates of criminals from holding interests or management functions in: (i) professional intermediaries; and (ii) insurance intermediaries (c.26.3).</li> <li>• Information has not been provided on the extent to which action can be taken against an insurance broker in F BiH where there is a change in circumstances during the period that they are licenced. No information has been provided on checks applied when licensing agents (c.26.3).</li> <li>• It has not been demonstrated that legal provisions are in place to deal with subsequent changes in ownership of MCOs in RS or when adverse information becomes available after acquisition or appointment or links to criminals (c.26.3).</li> <li>• The authorities have not explained controls are in place in securities firms BD for: (i) persons holding management functions;</li> </ul>



Recommendations	Rating	Factor(s) underlying the rating
		<p>and (ii) dealing with shareholders and management that do not meet conditions for granting authorisation (c.26.3).</p> <ul style="list-style-type: none"> <li>• The authorities have not fully demonstrated that regulation and supervision of the banking, securities and insurance sectors are in line with the core principles (c.26.4(a)).</li> <li>• Authorities have not provided documentary evidence to show that regulation, supervision or monitoring systems in place for currency exchange, factoring, and MVTs activities conducted by postal operators have regard to ML/TF risks in the sector (c.26.4(b)).</li> <li>• There is no clear reference to the need to consider the diversity and number of peer institutions or to assess adequacy of internal controls, policies and procedures when determining the frequency and intensity of supervision (c.26.5).</li> <li>• There are inconsistencies between statutory requirements and methodologies applied to determine the frequency and intensity of supervision (c.26.5).</li> <li>• The authorities have not provided information on methodologies applied to comply with the AML/CFT Law (Art. 97(4)) for: (i) securities in the BD; (ii) currency exchange; (iii) factoring; or (iv) MVTs activities conducted by postal operators (c.26.5).</li> </ul>
27. Powers of supervisors	LC	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply.</li> <li>• Powers are not available to supervise investment funds for AML/CFT purposes in the FBiH (c.27.1).</li> <li>• It has not been demonstrated that supervisory powers for foreign exchange offices in the RS and BD extend to oversight of compliance with AML/CFT requirements (c.27.1, c.27.2 and c.27.3).</li> <li>• Information has not been provided on sanctions that may be applied in the securities (FBiH and BD), insurance (RS), and currency exchange sectors (BD) for failing to cooperate with the supervisor (c.27.1).</li> <li>• No information has been provided on powers held by Administrations for Inspection Affairs to supervise or monitor FIs with the AML/CFT Law (c.27.1, c.27.2 and c.27.3).</li> <li>• No information has been provided on powers held by the securities supervisors in BD to compel production of information (c.27.3).</li> <li>• It is not always explicitly stated that sanctions available for prudential supervision may be applied for failure to comply with AML/CFT requirements (c.27.4).</li> <li>• Additional sanctions may not be applied under sectoral laws to MCOs in the RS, currency exchange operators or postal operators (c.27.4).</li> </ul>
28. Regulation and supervision of DNFbPs	NC	<ul style="list-style-type: none"> <li>• There are activities to which the AML/CFT Law does not apply.</li> <li>• Measures are not in place to prevent associates of criminals from holding interests or management functions in operators of games of chance (c.28.1(b)).</li> <li>• The authorities have not provided documentary evidence to show that systems are in place for monitoring compliance with AML/CFT requirements (c.28.3).</li> <li>• No information has been provided on powers in sectoral laws used to monitor compliance by DNFbPs (other than casinos) with the AML/CFT Law (c.28.4(a)).</li> <li>• Information has not been provided on measures taken to prevent criminal ownership and management/accreditation of criminals for: (i) real estate agents; (ii) DPMS; (iii) lawyers (FBiH); (iv) accountants; and TCSPs (c.28.4(b)).</li> <li>• It is not clear whether measures to prevent criminals from becoming a lawyer are sufficiently broad (c.28.4(b)).</li> <li>• It has not been demonstrated that a sufficient range of sanctions can be applied proportionately by supervisors to greater or lesser breaches of requirements (c.28.4(c)).</li> <li>• There is no clear reference to the need to consider the diversity and number of peer institutions or to assess adequacy of internal</li> </ul>



<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
		controls, policies and procedures when determining the frequency and intensity of supervision (c.28.5).
29. Financial intelligence units	<b>C</b>	<ul style="list-style-type: none"> <li>This Recommendation is met.</li> </ul>
30. Responsibilities of law enforcement and investigative authorities	<b>C</b>	<ul style="list-style-type: none"> <li>This Recommendation is met.</li> </ul>
31. Powers of law enforcement and investigative authorities	<b>LC</b>	<ul style="list-style-type: none"> <li>According to criminal procedure codes, banking information is possible to obtain only for proceeds generating offences which excludes TF offence.</li> </ul>
32. Cash couriers	<b>LC</b>	<ul style="list-style-type: none"> <li>Sanctions for undeclared and falsely declared cash are not dissuasive and proportionate (c.32.5).</li> <li>There is not legal possibility to stop or restrain cash and BNI for predicate offences (c.32.8).</li> </ul>
33. Statistics	<b>PC</b>	<ul style="list-style-type: none"> <li>BiH authorities do not maintain comprehensive statistics on STRs.</li> <li>BiH authorities do not maintain accurate statistics on investigations, prosecutions and convictions.</li> <li>No comprehensive statistics are maintained on seizure orders and confiscation.</li> <li>BiH authorities do not maintain comprehensive and accurate data on MLA and other forms of international cooperation.</li> </ul>
34. Guidance and feedback	<b>PC</b>	<ul style="list-style-type: none"> <li>Sectoral guidance does not cover some important DNFBPs.</li> <li>The extent to which some core principles supervisors provide feedback is unclear.</li> <li>LEAs do not establish guidelines or provide feedback.</li> </ul>
35. Sanctions	<b>PC</b>	<ul style="list-style-type: none"> <li>There are activities to which the AML/CFT Law does not apply.</li> <li>The AML/CFT Law does not include a sanction for “tipping-off”.</li> <li>The range of sanctions available to supervisors and competent courts in respect of DNFBPs cannot be considered proportionate (c.35.1).</li> <li>A sufficient range of sanctions cannot be applied proportionately to greater or lesser breaches of TFS requirements related to TF (c.35.1).</li> <li>Information has not been provided on sanctions that may be applied to NPOs for failure to comply with requirements set under R.8 (c.35.1).</li> </ul>
36. International instruments	<b>PC</b>	<ul style="list-style-type: none"> <li>Deficiencies under R.3 and R. 5 (except for c.5.2bis) are applicable (c.36.2).</li> <li>The offence set out under Art. 24 of the Merida Convention is not criminalised at state level (c.36.2).</li> <li>Art. 13 of the Palermo Convention, Art. 5(4) of the Vienna Convention and Art. 54(1(a)) and Art. 55 (1) of the Merida Convention are not implemented (c.36.2).</li> <li>There is no central mechanism or authority for the administration of frozen, seized or confiscated property at state level, as prescribed by Art. 31 of the Merida Convention (c.36.2).</li> <li>BiH has not incorporated the measures related thereto measures for direct recovery of property (Merida Convention, Art. 53) (c.36.2).</li> <li>Art. 7(2) of the Vienna Convention; Art. 14(1), 16(10), 18(2, 3, 21), 27(1(b)), 46(24) of the Palermo Convention; Art. 44(11), 46(2, 3, 21), 48(1(b)), 57(1) of the Merida Convention) are not fully implemented, and deficiencies under c.37.1-37.3, c.37.6, c.38.1(a-d) and c.38.3(b) apply (c.36.2).</li> </ul>

<b>Recommendations</b>	<b>Rating</b>	<b>Factor(s) underlying the rating</b>
		<ul style="list-style-type: none"> <li>• BiH has not provided information on commercial carriers (Vienna Convention, Art. 15), illicit traffic by sea (Vienna Convention, Art. 17), the use of mail (Vienna Convention, Art. 19), or measures taken under Art. 31 of the Palermo Convention in relation to ethics and tender procedures (c.36.2).</li> </ul>
37. Mutual legal assistance	<b>LC</b>	<ul style="list-style-type: none"> <li>• BiH authorities have not submitted any internal guidelines and procedures regarding the established mechanisms for timely prioritisation, coordination and monitoring of the execution of MLA requests (c.37.2).</li> <li>• There is no adequate case management system in place throughout all competent authorities at national level (c.37.2).</li> <li>• The Ministry of Justice - BiH has the authority to weigh the reasonableness of the request to provide information on natural or legal persons (c.37.3).</li> <li>• The deficiency under c.31.1(a) limits the ability to provide international cooperation (c.37.8).</li> </ul>
38. Mutual legal assistance: freezing and confiscation	<b>PC</b>	<ul style="list-style-type: none"> <li>• The deficiency relating to enforcement of custodial sentences identified under R. 36 (the enforcement of custodial sentences), and the lack of timely prioritisation and coordination mechanism identified under R. 37 are applicable to this criterion (c.38.1).</li> <li>• There are no objective criteria set for defining the need for articles or property to be returned to the injured person (c.38.1).</li> <li>• There is no definition of “property” at state level. In addition, use of the term is not harmonised in criminal legislation of the entities and district (c.38.1(a)).</li> <li>• The definition of “proceeds of crime” at entity/district level is not harmonised with the state level (38.1(b)).</li> <li>• The MLA Law – BiH does not regulate issues related to the “corresponding value” of instrumentalities (c.38.1(c)).</li> <li>• “Instrumentalities intended for use in committing crime” are not covered by BiH legislation (c.38.1(d)).</li> <li>• BiH is not able to respond to non-conviction based confiscation related provisional measures (c.38.2).</li> <li>• BiH does not have arrangement concluded with Eurojust (c.38.3 (a)).</li> <li>• BiH on the state level did not conclude arrangements, neither cooperation on the state level has been established with foreign ARO offices related to seizure and confiscation of assets. BiH has not designated ARO office that acts as the single point of contact on the state level (c.38.3 (a)).</li> <li>• The ability of BiH to manage or dispose of property at the request of foreign requests can be limited by the criteria envisaged for managing property or disposing thereof (c.38.3 (b)).</li> </ul>
39. Extradition	<b>LC</b>	<ul style="list-style-type: none"> <li>• There is no fully automated unique central case management system in BiH at state level for processing MLA requests for extradition. Neither there are processes for timely execution of extradition requests including prioritisation (c.39.1(b)).</li> <li>• The legislation does not stipulate time limits for submitting the case to the competent authorities for the purpose of prosecution in cases when the extradition relates to citizens and hence is refused (c.39.2).</li> <li>• Deficiencies under R.3 and R.5 are applicable (c.39.3).</li> </ul>
40. Other forms of international cooperation	<b>PC</b>	<ul style="list-style-type: none"> <li>• Multi-layered organisational structure of the LEAs on state/entity/district level, with potential overlapping and duplicating the efforts, significantly reduces the potential for rapid cooperation (c.40.1).</li> <li>• International cooperation through ARO network is not established (c.40.1).</li> <li>• There is no SOP for effective cooperation between SIOPC and NJCP and the prevention of overlapping (c.40.2(c)).</li> </ul>

Recommendations	Rating	Factor(s) underlying the rating
		<ul style="list-style-type: none"> <li>• Procedures for timely execution within national competent authorities of foreign requests received through SELEC and Liaison Officers Network have not been provided (c.40.2(d)).</li> <li>• The FIU does not have an established mechanism for priority classification and timely execution of international requests (c.40.2(d)).</li> <li>• No information has been provided by other competent authorities (supervisors of MVTs, currency exchange offices and DNFBPs (c.40.3).</li> <li>• No information has been provided in respect of the agreement signing procedure (c.40.3).</li> <li>• The Directorate for Coordination of Police Bodies – BiH, the FIU are not legally bound to provide feedback to competent authorities from which they have received assistance (c.40.4).</li> <li>• No information has been provided on the availability of feedback by ITA - BiH and supervisory authorities (except for Securities Commissions of RS and FBIH) (c.40.4).</li> <li>• The deficiency under c.31.1(a) applies (c.40.5(b)).</li> <li>• BiH may refuse cooperation in cases where there is an inquiry, investigation or proceeding underway, unless the execution of the request might lead to a decision releasing the accused from custody (c.40.5(c)).</li> <li>• Art. 76(5) of the AML/CFT Law may place unreasonable restrictive condition for the refusal of foreign FIU requests (c.40.5(c)).</li> <li>• The Securities Commission – RS may deny a request for assistance where a criminal proceeding has already been initiated based upon the same facts and against the same persons (c.40.5(c)).</li> <li>• No information has been provided on financial (except for Securities Commission - RS) and DNFBP supervisors (c.40.5(c)).</li> <li>• There is no data provided for the LEAs' legal powers to refuse to provide information if the requesting competent authority cannot protect the information effectively (c.40.7).</li> <li>• Relevant references evidencing the obligation of the ITA – BiH to conduct inquiries based on foreign requests have not been provided (c.40.8).</li> <li>• No information has been provided regarding financial supervisors other than banking and securities sectors (c.40.15).</li> <li>• No specific legislative sources have been provided to demonstrate the exchange of information with non-counterparts (except for the FIU and SIPA) (c.40.20).</li> </ul>

## GLOSSARY OF ACRONYMS

AML/CFT Law	Law on Anti-Money Laundering and Combating the Financing of Terrorism (February 2024)
AMLS	Anti-Money Laundering Application Software
APIF	Agency for Intermediary, IT and Financial Services
Banking Supervision Manual	Manual for controlling the compliance of banks' operations with the standards of prevention of ML/TF activities
BD	Brčko District of Bosnia and Herzegovina
BiH	Bosnia and Herzegovina
CARIN	Camden Asset Recovery Interagency Network
CTR	Cash transaction report
CC	Criminal Code
CPC	Criminal Procedure Code
Decision on Bank Board Approvals	Decision on the Conditions and Procedure for Granting and Withdrawal of Approvals for Selection or Appointment of Supervisory Board and Management Board Members of Banks and Revocation of Issued Approvals
Decision on Banking Approvals	Decision on the Requirements and the Process of Granting, Withdrawal and Revocation of Approvals for Performance of Banking Activities
Decision on Banks	Decision on minimum standards for banks activities in AML/CFT
Decision on Currency Exchange Operations	Decision on conditions and procedures of performing currency exchange operations
Decision on Leasing Approvals	Decision on Conditions and Procedure in Issuing and Revoking an Approval to a Leasing Company
Decision on Leasing Providers	Decision on minimum standards for leasing companies' activities in AML/CFT – FBiH
Decision on MCOs	Decision on minimum standards for microcredit organisations' activities in AML/CFT – FBiH
Decision on MCO Approvals	Decision on the Conditions and Procedure of Issuing and Revoking Work Permits and Other Consents to MCOs
EMI	Electronic money institution
ESW	Egmont Secure Web
FBiH	Federation of Bosnia and Herzegovina
FIU	Financial Intelligence Department of the State Investigation and Protection Agency
FTF	Foreign terrorist fighter
GDP	Gross domestic product
Guidelines on Insurance	Guidelines for risk assessment and implementation of the AML/CFT Law in the field of insurance - FBiH

	Guidelines for risk assessment and implementation of the AML/CFT Law in the field on insurance – RS
Guidelines on Securities	Guidelines for risk assessment and enforcement of the AML/CFT Law for entities regulated by the Securities Commission – FBiH  Guidelines for risk assessment and implementation of the AML/CFT Law for obliged entities under the jurisdiction of the Securities Commission – RS
HJPC	High Judicial and Prosecutorial Council
IAIS	International Association of Insurance Supervisors
Insurance Intermediaries Law	Law on Intermediaries in Private Insurance – FBiH  Insurance Intermediaries, Insurance and Reinsurance Law – RS
Insurance Supervision Methodology	Methodology on for conducting risk-based AML/CFT supervision
IOSCO	International Organisation of Securities Commissions
ITA - BiH	Indirect Taxation Authority of BiH
Law on Restrictive Measures	Law on application of certain temporary measures in support of effective implementation of the mandate of the international criminal tribunal for the for the former Yugoslavia and other international restrictive measures
JIT	Joint investigation team
Leasing Supervision Manual	Manual for supervising compliance of leasing companies with AML/CFT standards
MCO	Microcredit organisation
MCO Supervision Manual	Manual for supervising compliance of MCOs with AML/CFT standards
MLA Law - BiH	Law on Mutual Legal Assistance - BiH
NJCP	National Joint Contact Point for cooperation with Europol
NRA	National risk assessment (2018 to 2022) (adopted by the Council of Ministers – BiH on 29 August 2018)
NRA Addendum	Full follow-up to the NRA (2022 to 2024) (adopted by the Council of Ministers – BiH on 30 March 2023)
Obliged entity	Person subject to AML/CFT Law
OCGs	Organised criminal groups
OCTA	Organised Crime Threat Assessment
RS	Republika Srpska
Securities Supervision Regulation	Regulation on the Supervision of Participants in the Securities Market
Securities Supervision Rules	Rules on the Method of Performing Control in the Securities Market
SELEC	Southeast Law Enforcement Centre

---

SIOPC	Sector for International Operational Police Cooperation
SIPA	State Investigation and Protection Agency
SOP	Standard operation procedure
TFS	Targeted financial sanctions
THB	Trafficking in human beings
UN	United Nations
UNSCR	United Nations Security Council Resolution
VAT	Value-added tax

---



© MONEYVAL

[www.coe.int/MONEYVAL](http://www.coe.int/MONEYVAL)

December 2024

Anti-money laundering and counter-terrorist financing measures -  
**Bosnia and Herzegovina**  
**Fifth Round Mutual Evaluation Report**

This report provides a summary of AML/CFT measures in place in Bosnia and Herzegovina as at the date of the on-site visit (12-28 February 2024). It analyses the level of compliance with the FATF 40 Recommendations and the level of effectiveness of the Bosnia and Herzegovina AML/CFT system and provides recommendations on how the system could be strengthened.