

Bosnia and Herzegovina

Fifth Round Mutual Evaluation Report

Executive Summary

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.

Financial intelligence, ML investigations, prosecutions and confiscation (Chapter 3; IO.6, 7, 8; R.1, 3, 4, 29–32)

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 F BiH. 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 Ratings¹

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


Technical Compliance Ratings²

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

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

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

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