COMMITTEE OF EXPERTS ON
THE EVALUATION OF ANTI-MONEY
LAUNDERING MEASURES AND
THE FINANCING OF TERRORISM
(MONEYVAL)

MONEYVAL(2018)26-ANALYSIS

4th ROUND MUTUAL EVALUATION OF "the former Yugoslav Republic of Macedonia"[1]

EXIT FOLLOW-UP REPORT SUBMITTED TO MONEYVAL

WRITTEN ANALYSIS ON PROGRESS IN RESPECT OF THE CORE AND KEY RECOMMENDATIONS

26 NOVEMBER 2018

[1]According to the Agreement of 17 June 2018 which entered into force on 12 February 2019, "the former Yugoslav Republic of Macedonia" became the Republic of North Macedonia - short name North Macedonia. The short name will be used in the Council of Europe with immediate effect. North Macedonia is a member of MONEYVAL. This progress report was adopted at MONEYVAL's 57th Plenary meeting (Strasbourg, 3-7 December 2018). For further information on the examination and adoption of this report, please refer to the Meeting Report of the 57th plenary at http://www.coe.int/moneyval.

LIST OF ACRONYMS USED

AML/CFT	Anti-money laundering/combating the financing of terrorism
BO	Beneficial Owner
CDD	Customer Due Diligence
CETS	Council of Europe Treaty Series
CFT	Combating the financing of terrorism
CPC	Criminal Procedural Code
CTR	Cash Transaction Reports
DNFBP	Designated Non-Financial Businesses and Professions
EC	European Commission
ECDD	Enhanced Client Due Diligence
ESW	Egmont Secure Web
ETS	European Treaty Series [since 1.1.2004: CETS = Council of Europe Treaty Series]
EU	European Union
FATF	Financial Action Task Force
FI	Financial Institution
FT	Financing of terrorism
FIO	Financial Intelligence Office
FIU	Financial Intelligence Unit
GDP	Gross Domestic Product
GPO	General Prosecutor's Office
GRECO	Secretariat of the Group of States against Corruption
HR	Human Resources
IMF	International Monetary Fund
INTERPOL	International Police Organisation
IOSCO	International Organisation for Securities Commissions
IRM	International Restrictive Measures Law
IT	Information Technology
LAN	Local Area Networks
LEA	Law Enforcement Agency
MER	Mutual Evaluation Report
MFA	Ministry of Foreign Affairs
ML	Money Laundering
MoJ	Ministry of Justice
MLA	Mutual Legal Assistance

Table of Contents

Mutual evaluation of "the former Yugoslav Republic of Macedonia": Fifth Expedited Follow-up Report

Application to be removed from the regular follow-up process

Note by the Secretariat

Introduction

1. The purpose of this paper is to introduce "the former Yugoslav Republic of Macedonia" fifth expedited follow-up report back to the Plenary, concerning the progress made to remedy the deficiencies identified in the 4th round mutual evaluation report (MER) adopted at MONEYVAL's 44th plenary in April 2014.
2. Following the adoption of the 4th Round MER, "the former Yugoslav Republic of Macedonia" was placed under regular follow-up and was asked to report back in an expedited manner in April 2015. The expectation was that significant progress would have been made by the time of submission of the follow-up report to address the main deficiencies underlying the key and core recommendations, in particular those related to Special Recommendation II.
3. In April 2015, the Plenary acknowledged the progress made by "the former Yugoslav Republic of Macedonia" on preventative measures (particularly in relation to R5 and R13), through the introduction of a new AML/CFT Law. Moreover, comprehensive legislative draft amendments to the Criminal Code to bring the TF offence in line with the international standards were in preparation. Following the Plenary discussion, the country was urged to adopt those amendments, as well as amendments to the law governing the freezing of terrorist assets, as expeditiously as possible. The Plenary requested the country to provide a further interim follow-up report at the 50th Plenary in April 2016, to be satisfied that further progress is achieved.
4. In April 2016, the 50th Plenary agreed that progress appeared to have been made by "the former Yugoslav Republic of Macedonia" in addressing the deficiencies underlying SR.I, II, IV and V. The Plenary, however, urged the country to bring the amendments to the law governing the freezing of terrorist assets into force, as soon as possible, and to improve the supervisory regime. The authorities were invited to provide an additional expedited follow-up report at the Plenary in December 2016.
5. The December 2016 52nd Plenary acknowledged the finalization of the ML/FT National Risk Assessment project that started in 2014. However, the Secretariat noted that deficiencies under SR.III and R.23 remain outstanding. The authorities were encouraged to bring into force as soon as possible the draft new Law on International Restrictive Measures, which would bring important improvements in implementation of SR.III, in particular through establishment of a legal framework for implementation of United Nations Security Council Resolution 1373. The "The Former Yugoslav Republic of Macedonia" was also encouraged to step up efforts to remedy deficiencies related to supervision. The Plenary invited "The former Yugoslav Republic of Macedonia" to submit a further progress report and to seek to exit at the latest in the first half of 2018.
6. The June 2018 MONEVYAL Plenary acknowledged the progress made by "The Former Yugoslav Republic of Macedonia" in addressing the shortcomings underlying SRI, SRII, SRIV, SRIII and SRV which were brought to a level of compliance up to equivalent to LC. In relation to R23, the Secretariat's analysis concluded that the progress reported by the authorities did not cover sufficiently the concerns expressed by the 4th round evaluation team. As a result, the Secretariat proceeded to the analysis of the steps taken by "the former Yugoslav Republic of Macedonia" for the remediation of

the *"Other Recommendations"*[1] rated PC in the previous round report, in order to advise the Plenary on the possibility to use its flexibility in the exit process, as provided by Rule 13 paragraph 4 of the Rules of Procedures. From the desk analysis performed it resulted that in case of six Recommendations (R6, R15, R21, R29, SRVI and SRIX), substantial improvement was achieved, for six Recommendations (R12, R16, R17, R24, R25, and R32) moderate progress was noted, and in case of two Recommendations (R33 and SRVIII) it is not clear if any specific measures have been take to improve the situation in "the former Yugoslav Republic of Macedonia". Therefore, in the Secretariat's view the overall developments with regard to the *"Other Recommendations"* was not sufficient to sustain the removal from the follow-up process, in the absence of full remediation of deficiencies identified in relation to the *"Key and Core"* Recommendations rated PC in the 4th round report.

7. However, following country's statement that the shortcomings identified in relation to R.23 were to be addressed in a pending legislative procedure which is expected to be finalised by December 2018, the Plenary decided to grant extra-time for the exit procedure. "The former Yugoslav Republic of Macedonia" was invited to present further progress in relation to R.23 at the 57th Plenary in December 2018 and seek removal from the follow-up procedure at that stage.

8. Since the progress achieved in relation to the Key and Core Recommendations was already acknowledge by the Plenary at the previous meeting, the Secretariat drafted the present report to describe and analyse the progress made in relation to R.23.

Key and Core Recommendations
R.5 - Customer due diligence (PC)
R.13 - Suspicious transaction reporting (PC)
R.23 – Regulation, supervision and monitoring (PC)
SR.I – Implementation of UN instruments (PC)
SR.II – Criminalisation of terrorist financing (PC)
SR.III – Freezing of Terrorist Assets (PC)
SR.IV – Suspicious transaction reporting related to terrorism (PC)
SR. V – International Cooperation (PC)
Other Recommendations
R6 – Politically exposed persons (PC)
R12 – DNFBPs (5, 6, 8-11) (PC)
R15 – Internal controls, compliance and audit (PC)
R16 - DNFBPs (13-15&21) (PC)
R17 – Sanctions (PC)
R21 – Special attention for higher risk countries (PC)
R24 – DNFBPs (Regulation, supervision and monitoring) (PC)
R25 – Guidelines and feedback (PC)
R29 – Supervisors (PC)
R32 – Statistics (PC)
R33 – Legal Persons (PC)
SRVI – AML requirements for MVTS (PC)
SRVIII – Non-profit organisations (PC)
SRIX – Cross-border declarations and disclosures (PC)

1 Not "Key and Core" Recommendations rated "PC": R6, R12, R15, R16, R17, R21, R24, R25, R29, R32, R33, SRVI, SRVIII and SRIX

Main changes and progress made by "the former Yugoslav Republic of Macedonia" since the adoption of the 4rd expedited follow-up report July 2018

9. The main progress achieved since the adoption of the fourth expedited follow-up report in July 2018 is the adoption on 24 October 2018 by the Parliament of the amendments to the Law on insurance supervision (published in the Official Gazette No.198/2018 from 31st of October and entered into force on 8th of November 2018).

10. In addition, the annual evaluation by the AML/CFT Council on the implementation of the Action Plan of the AML/ CFT National Strategy took place. The FIO and the Ministry of Finance initiated the preparation of relevant bylaws to further regulate certain issues from the AML/ CFT Law. The establishment of Register of beneficial owners was initiated.

11. Guidance for identification and verification of the beneficial owner and for the identification and verification of the PEPs were issued by the FIO.

Review of measures taken in relation to the Key and Core Recommendations

Recommendations related to legal issues

12. The Core and Key Recommendations related to legal issues, which were rated PC in the 4th round MER, were SRI (implementation of UN instruments), SRII (criminalisation of FT) and SRIII (implementation of UNSCRs).

Special Recommendation I

13. SRI was rated PC as a result of deficiencies identified in relation to implementation of the FT Convention and existing shortcomings in the terrorist funds freezing mechanism. In order to bring the FT offence in line with the respective UN FT Convention, the authorities adopted necessary amendments to the Criminal Code in December 2015. As a result, the remaining treaty offences (such as: Unauthorized procurement and use of nuclear materials; Attack on an Aircraft, Ship or Fixed Platform; Threatening the safety of the air traffic; Terrorism; or Taking hostages) which fell previously outside the scope of the FT offence, or had otherwise serious shortcomings, have now been harmonised and integrated into the Criminal Code.

14. As for the deficiencies in implementation of UNSCRs 1267 and 1373, the new IRM Law in 2017, provides for an improved national mechanism for giving effect to the relevant UNSCRs.

Special Recommendation II

15. As stated above, the amendments to the Criminal Code which have addressed the deficiencies with regard to the FT offence have now been adopted. In particular, the amendments extended the application of the FT offence to all nine offences within the scope of and as defined in the treaties listed in the annex to the UN FT Convention. In addition, the FT offence now explicitly refers to the population or government of *"any country",* as opposed to the previous version where a territorial limitation prevented the application to acts committed in order to compel (the government of) *"any country"*. Moreover, the FT offence now applies to money or other property, regardless of the manner of acquisition. This formulation should be wide enough to cover the meanings of *"by any means"* and *"any funds whether from a legitimate or illegitimate source"*.

Special Recommendation III

16. To evaluate compliance with SR.III, the 4th round evaluation team analysed the 2011 IRM Law and its implementing Decrees. Although the evaluators acknowledged that the 2011 IRM Law provided

for various improvements compared to the 2007 IRM Law in force at the time of the 3rd evaluation round, a number of important deficiencies remained. Most notably, the evaluators concluded that the general provisions of the 2011 IRM Law and the ad hoc Decrees issued on its basis failed to offer the comprehensive, adequate and effective framework of procedural rules for freezing of terrorist assets that is required under SRIII.

17. To remedy the deficiencies identified in the 4th round MER, the authorities decided to draft and adopt a new IRM Law. This Law was prepared since early 2016 and adopted on 22 December 2017 (after a slightly prolonged legislative process due to the formation of a new government). It was published in the *Official Gazette* No. 190/2017 of 25 December 2017 and entered into force on the 1st of January, 2018.

18. The Secretariat has previously analysed this Law (for the 52nd Plenary, December 2016), when still in draft form, in the context of the country's third 4th round follow-up report[2] and in the context of MONEYVAL's follow up process to the FATF's Terrorist Financing Fact Finding Initiative (TF FFI)[3]. Upon this analysis, the Secretariat advised the Plenary that the new IRM Law, if adopted as presented, appeared to address the deficiencies of the 4th round report to a large extent. Nonetheless, the Secretariat pointed at several areas where the framework would still benefit from more detailed legal provisions, where more guidance to the private sector was needed, and where effective implementation had to be demonstrated.

19. It is further recalled that at MONEYVAL's 55th Plenary in December 2017, "the former Yugoslav Republic of Macedonia" was found to be the last remaining jurisdiction under TF FFI follow-up. Therefore, MONEYVAL decided at that time to discontinue the dedicated TF FFI follow-up process and instead integrate the relevant issues in the regular 4th round follow up.[4] A conclusion of the extent to which "the former Yugoslav Republic of Macedonia" has remedied the significant gaps in its legal framework to implement R.6 (former SRIII) subject to TF FFI follow up, will be provided at the end of this Section.

20. First follows below an analysis of the extent to which the new IRM Law and any further measures reported by "the former Yugoslav Republic of Macedonia" in its report address the specific deficiencies identified in the 4th round MER.

Deficiency 1: Lack of clear, comprehensive and reliable procedural rules for freezing of terrorist funds or other assets of designated persons and entities in accordance with UNSCRs 1267/1988 and 1373. A specific, complex and target-oriented legislation should be drafted and adopted (preferably by amending the current IRM Law) so as to address all aspects of SR.III that are currently not, or not adequately covered, particularly in terms of detailed, comprehensive and calculable procedural rules with roles, responsibilities and deadlines throughout the process.

21. Following the recommendations formulated by the 4th round evaluation team, the authorities adopted a new IRM Law in 2017, as outlined above. The new Law is more specific, complex and target-oriented than the old Law in several ways. It contains more elaborate procedural rules with roles and responsibilities for implementing targeted financial sanctions throughout the process, both in relation to United Nations Security Council (UNSC) Resolution 1267 and UNSC Resolution 1373.

22. In relation to Resolution 1267, the Law sets forth that resolutions of the UNSC introducing restrictive measures shall be published on the website of the Ministry of Foreign Affairs (MFA) immediately after adoption and at the latest within 24 hours (Art. 6).[5] The Secretariat notes that, at the moment, this website only contains one Resolution, namely a new one that has been adopted since the entry

2 Secretariat oral presentation at MONEYVAL's 52nd Plenary (December 2016)

3 Second update, MONEYVAL52(2016)INF21

4 MONEYVAL55(2017)INF 15

5 http://mfa.gov.mk/index.php?option=com_content&view=article&id=2571&Itemid=1207&lang=mk

into force of the new IRM Law. Authorities advised that all previous decisions adopted by the Government according to IRM 2011 Law are still valid and remain published on the website of FIO. Under the new Law, the Government shall not adopt decisions related to UN resolutions that will be adopted or amended, but instead these will be published on the MFA website in accordance with new Art. 6 as outlined above.

23. In relation to Resolution 1373, the Law provides for a procedure for the Macedonian Government to introduce restrictive measures on its own behalf through a governmental Decision/Decree (Art. 2, 7). This can be done:

    - upon proposal by the MFA on the basis of decisions of the European Union or another international organization (Art. 8(1)) or on the basis of a request of another state (Art. 8(3), 10);
    - upon proposal by competent domestic authorities (Art. 8(2)).

24. For the procedures to be followed in these various situations, see further under Deficiencies No. 2 and No. 3 below. It is noted that these procedures do not contain deadlines for the competent authorities to make proposals or take decisions. Authorities advised that the proposals will contain a timeframe on a case-by-case basis, but that the urgent application of measures as outlined in Art. 6(1) will be a guiding general principle.

25. The restrictive measures apply immediately in "the former Yugoslav Republic of Macedonia" from the moment of their publication.[6] They include 'financial measures'[7], defined as prohibition on the transmission, conversion, transfer or disposal of property,[8] prohibition of making available property, and prohibition on establishing or prolonging a business relationship (Art. 5 point 4). The measures apply to property that is both fully or partially, directly or indirectly owned, used, disposed or controlled by designated persons, or deriving from such property (Art. 5 point 4). 'Property' is broadly defined and appears to cover all funds, other assets, and economic resources (Art. 5 point 5). Designated persons can include natural or legal persons, groups and organisations (Art. 3).

26. Through these targeted procedures and definitions, the new Law appears to offer a more adequate framework for targeted financial sanctions than the old one. Nonetheless, the Secretariat points out that, as was the case with the 2011 Law, the new Law does not contain a lot of indications as to how a financial measure should be implemented once a designation is made.

27. The authorities intend to remedy this caveat through the issuance of guidance for the application of financial measures, as foreseen in Art. 14 of the new Law. The Secretariat has been provided with the draft guidelines and assesses these positively. Whereas the guidelines under the old Law were, in the view of the 4th round evaluation team, mostly a reiteration of the general provisions of the Law, the new Guidelines appear much more instructive. They clearly outline the obligations of obliged entities and provide various practical indications on how to implement financial sanctions. However, for the time being these Guidelines are still in draft form and have not yet been adopted. It is further noted that the Guidelines are to a large extent tailored to financial institutions. Authorities are therefore encouraged to ensure proper guidance for other sectors as well.

28. Finally, the Secretariat points out that the Law contains a small gap. It indicates that the financial measures shall be implemented by the 'entities', defined as those subject to the AML/CFT Law – whereas under SR.III/new R.6, the freezing obligations apply to all natural and legal persons in the country.

6 For UNSCR 1267: on the MFA website (Art. 6); for UNSCR 1373: in the Official Gazette (Art. 7(3).

7 In addition to for example travel bans and embargoes.

8 In line with the definition of ' freeze' in the FATF Glossary.

29. This notwithstanding, the combination of the Law and the guidance together provides a clear, comprehensive and reliable procedural framework for freezing of terrorist funds. Thus, once the Guidelines are adopted, Deficiency No. 1 will be largely addressed.

Deficiency 2: No legislation available for freezing under procedures initiated by third countries and funds or assets controlled by designated persons. The authorities should take measures to extend this legislation to freezing under procedures initiated by third countries and funds or assets controlled by designated persons.

30. This deficiency is fully addressed through the adoption of the new 2017 IRM Law.

31. As noted in the paragraphs above, the Law provides for the possibility for the government of "the former Yugoslav Republic of Macedonia" to introduce financial measures on the basis of a request from competent authorities of another state (Art. 2(d), Art. 8(3)). The request must be submitted to the MFA, which will submit it to the Government in its turn. For the MFA to act, the request must contain data enabling the precise identification of the person or entity to be designated, and must be reasoned as to the grounds for suspicion that this subject is involved in or connected to terrorist activity (Art. 9, Art. 10).

32. Furthermore, financial measures now extend to assets controlled by designated persons.

Deficiency 3: No designation authority in place for UNSCR 1373. A national designating authority for the purposes of UNSCR 1373 should be appointed.

33. This deficiency is fully addressed through the adoption of the new IRM Law.

34. Under the Law, the Ministry of Internal Affairs, the Intelligence Agency, or the Financial Intelligence Office (FIO) are the competent domestic authorities to make proposals for designations for the purposes of UNSCR 1373 (Art. 8(2)). Each of these authorities can submit a proposal to the Government on persons or entities for which there are reasonable grounds to suspect that they participate in or are connected to terrorist activities (Art. 9(1)). The proposal must contain sufficient data to enable the precise identification of the person/entity (Art. 9(2)).

Deficiency 4: No protection is provided to the interests of bona fide third parties. The authorities should adopt provisions protecting the interests of bona fide third parties affected by the freezing mechanism.

35. This deficiency is fully addressed through the adoption of the new IRM Law.

36. Art. 16 of the Law stipulates that bona fide third parties may submit a request to a competent court for provisioning independent rights over property that is subject to financial measures. Authorities have advised that the competent court is the 'basic court' on whose territory the property is located. The request must be submitted within six months from the publication of the decision.

Deficiency 5, Recommendation 5: No procedures for considering de-listing requests and for unfreezing funds or other assets of delisted persons or entities and persons or entities inadvertently affected by a freezing mechanism. Publicly known procedures for considering de-listing requests and unfreezing assets of de-listed persons should be implemented. Procedures for unfreezing in a timely manner the funds and assets of persons inadvertently affected by the freezing mechanism upon verification that the person is not a designated person should be equally adopted.

37. This deficiency is partially addressed through the adoption of the new IRM Law.

38. Under Art. 17(2), a designated person may submit a request for delisting to the Government, when the ground for introducing the financial measure has ceased to be valid. The person must submit the request at the latest 30 days from the "knowledge of the termination of the basis" of the measure. Furthermore, the competent authorities for making designation proposals must submit a delisting proposal to the Government within 24 hours when they become aware that the grounds for

designation have ceased to be valid (Art. 17(1)). The Government is instructed to issue a Decision on the proposal (Art. 17(3)), but no time frame is indicated. Entities are obliged to take actions to terminate the application of the measures once the Government Decision is published (Art. 17(4)).

39. The Law does not contain provisions allowing persons inadvertently affected by a freezing measure to make a request for unfreezing to the competent authorities; and does not contain procedures for unfreezing in a timely manner the funds of persons inadvertently affected by the freezing mechanism. The Guidelines that are currently under preparation address this situation only in the sense that an obliged entity must unfreeze property that was preventatively frozen during its analysis of a potential match between a client and a designated person, once it is established by the entity or confirmed by the FIO that it concerns a false positive.

Deficiency 6: No procedure available for court review of freezing actions. The authorities should create and publicise the procedure for court review of freezing actions.

40. The new IRM Law contains a provision in Art. 7(4) stating that the designated person shall have the right to initiate an administrative dispute against the Government designation decision before an administrative court in accordance with the Law on Administrative Disputes. The recommendation is therefore addressed, although some more detailed provisions for the court review may be useful to ensure an effective procedure in practice.

41. **Overall conclusion:** Through the adoption of the new IRM Law, the FYROM authorities have made important progress in implementation of SR.III since the 4th round MER. The Secretariat considers that the country's compliance with SR.III has been brought to a level equivalent to largely compliant. The Secretariat invites the Plenary to encourage FYROM to complete the adoption of the planned Guidelines, which add important clarifications to the Law in terms of guidance on concrete freezing actions to be taken by obliged entities, as soon as possible. Also, the country is advised to adopt procedures for timely unfreezing of funds and assets of persons inadvertently affected by the freezing mechanism, and for independent review of freezing actions.

42. **TF FFI Follow-up:** Although various deficiencies remain, the Secretariat concludes that the significant gaps identified in the implementation of FATF Recommendation 6 under TF FFI have been remedied through the adoption of the new IRM Law.

43. Namely, the new Law introduces clear powers for the authorities to make national-level designations for the purpose of freezing of terrorist assets, in line with the criteria of UNSCR 1373, upon its own initiative or upon request of another country.

44. The Secretariat reiterates that the TF FFI was a desk-based exercise with a limited scope, establishing only whether certain basic legal powers to implement R6 are in place.

Recommendations related to financial issues

45. The Core and Key Recommendations related to financial issues, which were rated PC in the 4th round MER, were R5 (customer due diligence) and R23 (regulation, supervision and monitoring).

Recommendation 5

46. At the 47th Plenary (April 2015), in view of the result of the discussion on the report, the Committee agreed that progress has been made in addressing the deficiencies identified with regard to R.5. The new AML/CFT law adopted in September 2014 appears to address all technical deficiencies (and the first bullet point under "Effectiveness") underlying R5.

Recommendation 23

Background information

47. At the 56th Plenary (July 2018) the delegations noted that progresses has been made to cover some of the deficiencies established in the 4th round MER in relation to R.23. Nevertheless, not sufficient measures have been taken in order to remedy to major deficiencies noted 1 and 2 below. For these reasons, R23 remained the last of the "*Key and Core"* Recommendations not to have reached a level similar to *"largely compliant"* after the 4th round MER.

Deficiency 1: No clear legal prohibition which would prevent criminals and their associates from holding qualifying participations in insurance companies and insurance agencies.

48. Following the 56th Plenary meeting decision, the authorities reported that the Law on insurance supervision was amended (the new provisions entered into force as of 8 November 2018) and *"fit and proper"* criteria were introduced regarding shareholders of the insurance companies, members of the management and supervisory bodies in the insurance companies, authorized actuaries, insurance agents, insurance brokers and member of the Council of Experts.

49. The amendments in the Law on insurance supervision, provide changes in the Article 14 (shareholders of the insurance company), Article 23 (member of the management body in the insurance company), Article 28 (member of the supervisory body in the insurance company), Article 112 (authorized actuary), article 134-c (insurance agent), Article 138 (insurance broker) and Article 158-e (member of the Council of Experts).

Shareholders

50. According to the Art. 14 (1) and (2) of the Law on insurance supervision, a shareholder with qualified holding in an insurance company may not become a person, or legal entity controlled by a person: *i)* to whom a misdemeanor sanction or a penalty for prohibition to perform a profession, activity or duty has been pronounced in the field of insurance and finances or *ii)* who has been convicted, by an effective court decision, for unconditional imprisonment of more than six months, in the period of duration of the legal consequences of the conviction, for crimes against property, crimes against public finances, payment operations and economy, criminal offenses against official duty, as well as crimes of forging document, specific cases of forging documents, computer forgery, using a document with untrue content and pettifoggery of the Criminal Code.

51. The prohibition to become a qualified shareholder is further extended through Art. 14 (3), (4) and (5) to persons against which a minor sentence has been pronounced in the field of insurance or insurance undertakings; who in the last three years performed the function of a person with special rights and responsibilities in an insurance company for which a special administration has been introduced; or against which a bankruptcy procedure or a liquidation procedure has been initiated.

Members of the management bodies

52. Art. 23 of the Law on insurance supervision sets the qualification requirements for the members of the management body i.e. higher education diploma and five years of successful work experience in the field of finances or insurance or three years of work experience as a person with special rights and obligations in an insurance company and knowledge on the regulations in the field of insurance.

53. Member of a management body in an insurance company cannot be e person who has been imposed a misdemeanor sanction or punishment, prohibition on exercising a profession, business or office, in the field of insurance and finances or who is convicted for some crimes[9] by an effective court judgment to unconditional imprisonment of over six months, during the endurance of the legal consequences of the judgment.

9 Property crimes, crimes against public finances, payment operations and economy, official duty crimes, as well as crimes, of document falsification, special cases of falsifying documents, computer forgery, use of documents with false contents and practicing law without a license

54. Art 23 (5) extends the prohibition to be a member of a management body of an insurance company to persons who exercised an office of a person with special rights and responsibilities in an insurance company or any other legal entity where a separate management has been introduced or against which a bankruptcy or liquidation procedure is initiated, except if it is determined unambiguously, based on the available documents and data, that the person has not contributed to the occurrence of the conditions for introduction of a separate management, bankruptcy or liquidation procedure or has exercised the office just before or after the occurrence of the reasons for introduction of a separate management, initiation of a bankruptcy or implementation of a liquidation procedure.

Members of the supervisory bodies

55. Art. 28 of the Law on insurance supervision provides similar restrictions for persons acting as members of the supervisory bodies in insurance companies as in the case of members of the management bodies. (see paragraphs 60 and 61 above).

Deficiency 2: Fit & proper criteria for FI do not cover all the aspects required by EC 23.3.1, that is in terms of all criminal records and in relation to persons that are *"associates"* to criminals.

56. The *"fit and proper"* criteria for directors and senior management of financial institutions have been updated in the Securities Law, which was amended in January 2015 in order to provide for some requirements in relation to prospective directors of authorised market participants. However these are still limited to financial crimes. Similarly to the securities sector, since the adoption of the 4th round MER, *"fit and proper"* criteria for directors and senior managers of insurance companies, insurance agencies, have been adopted.

57. The *"fit and proper"* criteria for financial institutions continues to lack some of the aspects required by criterion 23.3 in terms of *all criminal records* and in relation to persons that are *"associates"* to criminals. On a positive note, the criminal conduct that would prevent convicted persons to accede to a management position or qualified shareholder position in a FI covers the most significant crimes or criminal conduct from the AML/CFT perspective and therefore the un-covered part is less material.

58. Regarding the *"associates"* of criminals, the Macedonian authorities informed that amendments on the Banking Law introducing changes regarding the fit and proper criteria in terms of all criminal records and persons that are associates to criminals was prepared by a working group coordinated by the Ministry of Finance. The draft is in the final phase of the governmental procedure and expected to be adopted by January 2019 at the latest.

Deficiency 3: Only limited measures regarding leasing companies.

59. Shortcomings not addressed yet.

Deficiency 4 (Effectiveness): Effectiveness of the FIO's supervision not sufficiently demonstrated.

60. The Macedonian authorities reported 52 supervisory actions in 2016 and 39 in 2017. Out of those 4 each year represented on-site controls. One of-site supervisory action targeted a leasing company (in 2016).

Deficiency 5 (Effectiveness): Very limited cooperation in supervisory measures between the FIO and the relevant sector supervisor.

61. The cooperation in supervisory measures between the FIO and the relevant sector supervisors has significantly improved. The new AML/CFT Law sets out clear procedures for coordination between the financial supervisors and the FIO: inform each other for the findings of the performed supervision, coordinate activities when conducting supervision, draft plans for performing supervision over the implementation of the measures and activities determined with the AML/CFT Law. Moreover, MoUs have also been entered into between the FIO and the financial and non-financial supervisory authorities explaining cooperation in the conducting supervision, the way of

mutual reporting and exchange of information and data. Regular coordination meetings between the FIO and all the supervisory authorities are also taking place on this purpose. The Secretariat is of the opinion that the second bullet-point on effectiveness has been addressed.

62. Authorities reported that the 'Action against economic crime' project, funded by EU and Council of Europe, implemented by Council of Europe and launched on 26 October 2016, currently conducts activities in order to improve the supervisory authorities cooperation and authority procedures for supervision, especially in the part of off-site control over the entities that should imposed measures and activities according to the AML/CFT Law. This goes in line with the previous point on cooperation in supervisory measures between the different authorities and will also help to improve the effectiveness of the supervision done by the FIO.

Deficiency 5 (Effectiveness): Several sectors were not subject to supervision by the FIO in recent years (insurance companies/brokers, pension funds, postal offices, leasing companies).

63. The total number of supervisory on-site inspections covering the financial sector remained stable since the adoption of the MER with a lesser number observed in 2016. Regarding the non- financial sector, the number has clearly decreased in 2016 and 2017 and no further information has been provided in order to justify this fact. Since the on-site visit, very few administrative sanctions[10] were applied following inspections having identified AML/CFT infringements. "the former Yugoslav Republic of Macedonia" mainly carried out education to DNFBPs regarding the clearance of deficiencies identified when performing the supervision in accordance with Article 50-a and Article 51 of the Law for which education is stipulated.

64. **Overall conclusion:** Progress has been achieved in relation to the remaining deficiencies on R23 since the last Plenary meeting. The authorities addressed the concerns related to the absence of *"fit and proper"* requirements for the insurance industry. The Secretariat considers that the country's compliance with R23 has been brought to a level equivalent to largely compliant.

Recommendations related to law enforcement issues

65. The Core and Key Recommendations related to law enforcement issues, which were rated PC in the 4th round MER, were R.13 (suspicious transaction reporting), SR.IV (suspicious transaction reporting related to terrorism) and SR.V (international cooperation).

Recommendation 13

66. In April 2015, the Plenary acknowledged the progress made by "the former Yugoslav Republic of Macedonia" in addressing deficiencies on suspicious transaction reporting. The ML reporting requirement under the new AML/CFT Law is in line with R.13.

Special Recommendation IV

67. SR.IV was rated PC mainly as a result of deficiencies identified in the FT reporting obligation which did not extend to funds related or linked to *terrorist organisations* and *those who finance terrorism* (as required by 13.2 and IV.1) and due to existing shortcomings underlying SR.II.

68. The FT reporting requirement was further revised in the AML/CFT Law in order to rectify the remaining deficiency identified in the first expedited follow-up report. The requirement now covers suspicions that financing of terrorism (or attempts thereof) was committed as well as suspicions that

10 In 2013 one written warning has been issued to a non-bank FI and one fine to a casino, no sanctions have been applied in 2014, one written warning has been issued to a non-bank FI in 2015, one written warning and one recommendation has been sent to two banks in 2016, on written warning has been sent to a bank in 2017 and four fines were applied to two legal entities and two persons responsible for the management of the two legal entities for a total amount of EUR 5,850.

funds are related to the financing of a terrorist act, terrorist organisation, an individual terrorist, or a person who finance terrorism. It appears to this review that the updated reporting requirement related to terrorism is now in line with c.13.2 and c.IV.1.

69. Moreover, the authorities have further revised and published on its website a list of TF indicators for all obliged entities. It should also be noted that, according to the authorities, with the implementation of the new electronic reporting system the number of reports submitted to the FIU electronically by all reporting entities has increased significantly over the last two years.

Special Recommendation V

70. SR.V was rated PC mainly as a result of deficiencies identified in the criminalisation of the FT offence which might limit the execution of the MLA request when the dual criminality is observed. As was mentioned above, the authorities of "the former Yugoslav Republic of Macedonia" brought in force the amendments to the Criminal Code which have addressed the major concerns regarding the widest possible provision of mutual legal assistance in FT cases.

Other Recommendations

Recommendation 6

71. Recommendation 6 on Politically exposed persons was rated PC due to the following deficiencies:

Deficiency 1: Definition of *"holder of public function"* refers only to close members of the family with whom holder of the public function lives in communion at the same address.

72. In addressing this deficiency, the AML/CFT law adopted in September 2014, extended the scope to family members in as provided by the Family Law.

Deficiency 2: There is no obligation to apply enhanced CDD measures and to conduct enhanced ongoing monitoring when the beneficial owner is a PEP.

73. The AML/CFT law (adopted in September 2014), in its article 16 (4) regulates this matter and imposes the following obligations to the reporting entities:

> *"When the entities execute transactions or enter into business relationship with holders of public functions, they shall be obliged to undertake the following enhanced due diligence measures:*
>
> *a) based on previously established procedure for risk assessment to determine whether the client and/or the beneficial owner is/are holder/s of public function or, if it is not possible, to provide a statement given by them;*
>
> *b) to provide an approval from the management structures for establishing business relationship with the client and/or the beneficial owner adopted by the entities management structure, as well as to provide a consent for continuation of the business relationship with an existing client who became a holder of public function;*
>
> *c) to undertake appropriate measures in order to determine the client's and/or beneficial owner's source of funds and wealth who is a holder of public function, and*
>
> *d) to perform enhance monitoring of the business relationship".*

74. In addition, the authorities advised that the item 26 of the National Bank Decision provides additional directions to banks how to carry out additional measures provided by the Law. In line with the Decision, banks are requested to: i) establish adequate system for timely identification of the holders of public functions; ii) assess the risk level the holder of public function imposes to the bank; iii) to

adopt the decision to establish business relation with the client by a person with special rights who is also responsible for the respective organisational unit in the bank, iv) to (dis)continue the business relation with that client in instances when current client becomes a holder of public function – this decision shall also be approved by the person with special rights and responsibilities; v) determine the source of funds of the client; and vi) carry out on-going monitoring of the business cooperation with these persons.

Deficiency 3 & 4: No requirement for the non-banking financial institutions to obtain senior management approval to continue business relationship when the beneficial owner is subsequently found to be, or subsequently becomes a PEP. No requirement to establish the *source of wealth* of customers or beneficial owners who are PEPs.

75. The AML/CFT law, in its paragraph 4 point c) prescribes that the reporting entities are requested *to undertake appropriate measures in order to determine the client's and/or beneficial owner - who is a holder of public function – a source of funds and wealth.*

Deficiency 5 (Effectiveness): Some non-banking financial institutions demonstrated a low level of awareness of the concept of PEP and experience difficulties in identifying them.

76. It appears that only one MVTS included PEPs list into its database. No other developments in this direction were reported by the authorities.

77. **Overall conclusion:** Whilst the vast majority of deficiencies/recommendations appear to be addressed, the recommended action *to provide guidance on the risk based identification of PEP and the application of appropriate CDD measures* is yet to be addressed. The authorities expect this measure to be in place once the large scale TA project with the Council of Europe is delivered. No further details as to expected timeframe of the project were provided. Overall, it appears that majority of deficiencies concerning R.6 are rectified.

Recommendation 12

78. The 4th round MER found the following deficiencies regarding DNFBPs:

Deficiency 1-10: Internet casinos are not subject to the AML/CFT Law. Deficiencies related to financial institutions also apply to DNFBPs. The understanding and awareness of the obligations dealing with the identification of the beneficial owners is insufficient. DNFBP demonstrated very low awareness of the concept of PEP and related CDD measures. There is very low awareness of risks arising from new and developing technologies across all DNBFPs.

79. **Overall conclusion:** Little information has been provided with regard to recommended actions under R.12, apart from the fact that the AML/CFT law provides a similar scope of requirements for the DNFBPs as for the financial institutions, given the language of Article 3. As noted in the MER, the deficiencies noted with regard to implementation of R. 5, 6 and 8-11 are equally relevant for the DNFBPs. Therefore, seeing that the technical deficiencies of those Recommendations are considered to be largely addressed, the only remaining concerns pertain to the absence of regulation for internet casinos and the effectiveness issues.

Recommendation 15

80. "the former Yugoslav Republic of Macedonia" was rated PC on R.15 due to the following issues:

Deficiency 1: No requirement, for the securities companies foreign exchange offices and provides of fast money transfers to maintain an adequately resources and independent audit function to test compliance with AML/CFT procedures, policies and controls.

81. The AML/CFT Law in its article 36 provides that 'the entities shall be obliged to perform an internal control over the implementation of the measures and activities for prevention of ML/FT at least once a year and to prepare documentation on the findings of the conducted control.'

Deficiency 2: Inadequate staff screening requirements.

82. The MER noted that the legislation fell short to put in place screening procedures when hiring employees. The AML/CFT law (Article 35(4)) states that the employees of the obliged entities responsible for AML/CFT matters *should meet high professional standards determined by the entity and have appropriate knowledge in the field of prevention of money laundering and financing terrorism.* No additional elaboration of these criteria was provided in the law.

Recommended Action 1: The obligation to designate an AML/CFT compliance officer at management level should be an express obligation for all obliged entities, and not only in the context of the preparation of the internal programmes.

83. This recommendation appears to be fully addressed by the AML/CFT Law. Its article 35 (1 and 2) provides that the entities are obliged to appoint a responsible person and if the entity employs more than 50 persons, besides this obligation, the entity should also establish a separate department within its operation. A responsible person, within the meaning of this law, is a person, appointed by the entity's managing body, who ensures the implementation of the measures and activities for prevention of money laundering and financing of terrorism and cooperation with the Financial Intelligence Office.

Recommended Action 2: The rights of the AML officer and his staff should be stated in the law for all obliged entities, and not only for the case than an obliged entity has 50 or more staff.

84. Furthermore, as per the MER's recommendation, the low includes the rights of the '*authorised person' together with the rights of AML/CFT department (those entities which have more than 50 employees)*. Article 35(6) provides that the obliged entity should separate the activities of the authorized person, i.e. the AML/CFT department, from other business activities of the. Moreover, the law provides that i) the independence of the authorized person and the department shall be guaranteed; ii) right to direct access to the electronic databases and timely access to all information needed for implementation of the AML/CFT Law shall be granted, and iii) direct communication with the entity's managing bodies shall be established.

Recommended Action 3: All financial institutions should be required to maintain an adequately resourced and independent audit function to test compliance with AML/CFT procedures, policies and controls. This should be a direct obligation on the obliged entities.

85. No information about financial institutions audit functions arrangements was provided.

Recommended Action 4: The screening procedures to ensure high standards when hiring employees should extend beyond checking professional standards and technical knowledge and should e.g. also cover the status of criminal convictions.

86. With regard to the recommended action to extend screening procedures beyond checking professional standards and technical knowledge and include the status of criminal convictions, the authorities advised that, in line with the Item 42 of the National Bank Decision, a bank is required to establish and to apply procedures for employment of new individuals in the bank which will enable hiring individuals who poses adequate ethic norms. It appears that no concrete reference to criminal records is included in the legislation.

87. No information was provided with regard to the deficiencies which concern effectiveness.

88. **Overall conclusion:** Overall, it appears that some but not all recommendations concerning R.15 were addressed.

Recommendation 16

89. The 4th round MER noted the following deficiencies on R.16:

Deficiencies 1-5: The reporting obligation does not refer to *funds* that are proceeds of criminal offences but to suspicion of laundering of proceeds. TF suspicions are limited to transactions and clients and do not extend to *funds* related to terrorist activities, terrorist organisations or those who finance terrorism. The internet casinos are outside of the scope of the reporting obligations. No guidance applicable for the DNFBP sectors to further explain the content of the AML/CFT internal programs requirements. No possibility for "the Former Yugoslav Republic of Macedonia" to introduce counter-measures.

90. Similarly as for R.12, little information was provided by the authorities on the progress achieved after the adoption of the 4th round MER. However, the steps taken in respect of the rectification of the deficiencies referred under R.13 and 21 positively affect compliance with R.16.

Recommendation 17

91. The following deficiencies have been identified in the course of the 4th round MER:

Deficiency 1: No possibility to revoke the licence of foreign exchange operations in case of violation of AML/CFT provision.

92. In response to this, the authorities provided Article 36a Item 3 of the Foreign Exchange Law which stipulates that the National Bank shall revoke the license for conducting currency exchange operations of a resident if it determines that it conducts currency exchange operations contrary to the regulations drawn by **"this"** law (hence it does not extend to provision of other laws including the AML/CFT Law). The authorities did not provide the text as an up-date or an amendment so it appears that the conclusion of the 4th round evaluation team remains valid.

Deficiency 2: No designation of authorities to impose sanctions in relation to several violations.

93. Articles 111 – 116 of the AML/CFT Law prescribe a range of sanctions for violation of the AML/CFT Law. Apart from this, the authorities provided extracts of several laws which entitle certain supervisors to impose sanctions: the Securities law in its article 180-a designates the SEC power to impose sanction (article 194). Securities and Exchange Commission is responsible for supervision of implementation of the AML/CFT regulations by the authorised participant on the securities market. In addition, the authorities advised that the Agency for Supervision of the Fully Funded Pension Insurance (MAPAS) is authorized to sanction the senior management and that it can revoke approval for the Management Board membership. However, it is not clear whether the imposition of these measures is directly related to violations of the AML/CFT Law.

Deficiency 3: Undue procedural hurdles for the FIO to initiate procedures for violation of AML/CFT Law provisions. This deficiency is yet to be addressed.

Deficiency 4 (Effectiveness): Little information was provided by the authorities on this matter, therefore no conclusion could be made on the progress achieved.

Recommended Action 1: The designation of authorities to initiate and impose sanctions provided for in the AML/CFT Law should be further clarified, especially for cases of concurring competence, e.g. following joint on-site inspections.

94. The authorities advised that the AML/ CFT designates the following AML/CFT supervisors: the National Bank, the Agency for Supervision on Insurance, the Securities Commission , the Agency for Supervision of Fully Funded Pension Insurance (MAPAS), the Public Revenue Office, the Postal Agency and commissions within the Bar and Notary Chambers. The FIU, in cooperation with these institutions or independently, performs AML/CFT supervision. They also advised that, alongside the AML/ CFT Law, Memorandums of Understanding signed between supervisory institutions regulates

separate issues especially for cases of concurring competences. Apart from these, rather general regulations and statements, the authorities did not provide concrete provisions which would directly target the imposition of sanctions and clear distinctions of competencies thereof.

Recommended Action 2: The procedural rules for the AML/CFT Law (e.g. Arts. 48, 53(1) and 54) should be brought in line with the amended sanction provisions by a complete designation of competent authorities in relation to all misdemeanours listed in the AML/CFT Law.

95. The AML/CFT Law, as amended in 2015, stipulates that the form and the content of the misdemeanour invitation, as well as the manner in which it is conducted, shall be prescribed by the Minister of Finance, on a suggestion of the FIU. Other than that, the law provides the obligation to supervisors to propose to the obliged entity, upon determining the concrete misdemeanour, to initiate a procedure for issuing a misdemeanour payment order. This has to be done before a claim for misdemeanour procedure is issued. Given the afore-mentioned, it appears that this recommendation was only partially implemented.

Recommended Action 3: The FIO should be given authority to initiate procedures for violation of provisions of the AML Law outside the process of the on-site supervision, e.g. upon desk based or standardised off-site supervisory examinations. This could possibly also enhance effectiveness of the sanctioning regime.

96. In line with its Guidelines for off-site supervision, the FIU may implements off-site supervision which would consist of: 1) control of information and documents submitted by the entities under the Law and 2) control of records and other information. Authorities advised that off-site supervision is carried out to determine irregularities and deficiencies upon which recommendations are made. In case a misdemeanour is detected an on-site supervision is obligatory in order to confirm the offense and initiate adequate procedure prescribed by the AML/ CFT Law. The Guidelines, however, were not submitted to the Secretariat.

Recommended Action 4: There should be the possibility to revoke the licence of foreign exchange operations in case of violations of the AML/CFT provisions. The reader is referred to the analysis made by the Secretariat under Deficiency 2.

97. **Overall conclusion:** Overall, only part of the recommended actions appear to be implemented with regard to R17.

Recommendation 21

98. The following recommended actions were made regarding R.21:

Deficiency 1: There is no legal basis for "the former Yugoslav Republic of Macedonia" to apply countermeasures (directly reflected in the following Recommended action); *Recommendation 1*: "the former Yugoslav Republic of Macedonia" authorities should establish mechanisms to apply counter-measures in respect of those countries that insufficiently apply the FATF Recommendations.

99. To address this recommendation, the AML/CFT law, in its Article 16 provides that "*the entities shall be obliged to undertake enhanced due diligence measures for transactions and business relationships with natural persons and legal entities from states which have not or insufficiently implemented the measures for prevention of money laundering and financing terrorism. The FIU shall regularly publish the list of states which have not or insufficiently implemented the measures for prevention of money laundering and financing terrorism on its official webpage. The, on proposal of the Anti-Money Laundering Council, shall adopt a decision on application of enhanced due diligence measures or termination of a business agreement with clients from states which have not or insufficiently implemented measures for prevention of money laundering and financing terrorism."*

Deficiency 2 (Effectiveness): No appropriate updates by the MoF to the list of countries with weaknesses in the AML/CFT system (directly reflected in the following Recommended actions); *Recommendation 2 and 3*: The list of countries with weaknesses in the AML/CFT system should be updated in regular intervals corresponding to the frequency of Public Statement issued by the relevant regional or international bodies. Taking into account the focus on the requirement to prepare and submit reports in many occasions (e.g. report on the purpose and the intention of the business relation, see c.21.2 MER) it is recommended to analyse and assess the usefulness of submission of these reports to the FIO.

100. The authorities considered these recommendations addressed through the legislation and information provided for Recommendation 1 on R.21.

101. **Overall conclusion:** Overall, it appears that R.21 recommended actions were largely implemented.

Recommendation 24

102. The 2014 MER made the following recommendations on R.24:

Deficiency 1: no measures to prevent criminals or their associates from holding or being the beneficial owner of a casino; whilst in the effectiveness part two other deficiencies were noted: i) the effective performance of AML/CFT supervision by the PRO was not demonstrated; and ii) the Attorney Committee is not actively pursuing its supervisory function; these deficiencies were directly reflected in the *Recommendations 1-3*: The authorities should introduce the necessary legal or regulatory measures to prevent criminals or their associates from holding or being the beneficial owner of a significant or controlling interest, holding a management function in, or being an operator of a casino. The supervisory committee for lawyers, that is the Attorney Committee, should play an active role in supervising the Bar Chambers members by taking up its supervisory function, including carrying out on-site visits. The FIO should inform the other supervisory authorities as listed in Arts. 46(1) and 47 AML/CFT Law about its activities on a regular basis, especially its on-site visits, in order to design and agree on a yearly on-site visit plan with each supervisory authority for the obliged entities under its scope. Thus gaps and overlaps in supervision could be effectively mitigated.

103. According to information provided in the follow up report, only the second recommendation was addressed. No remedial actions with regard to regulatory measures appear to be in place. No details about strengthening the supervisory role of the Attorneys Committee were provided. Some information about FIU - Public Revenue Office communication and coordination with regard to supervisory planning and its execution were provided (e.g. in 2017, FIO performed supervision over 6 accountant companies, 1 audit company, 6 notaries, 7 lawyers and 2 real estate companies, whereas irregularities were identified and then further processed with regard to 1 real estate agency and 1 notary).

104. **Overall conclusion:** It appears that recommendations concerning R.24 were only partially addressed.

Recommendation 25

105. R.25 on guidelines and feedback was rated PC due to the following deficiencies:

Deficiency 1: Guidance on TF suspicions is weak.

106. The authorities advised that they regularly updated the TF indicators while risk indicators were delivered in a timely and secured manner to obliged entities and competent authorities. Also the AML/CFT Law, in its Article 30 provides that *"the FIU is obliged to publish on its official web page information in an adequate scope on the current techniques, methods and trends for money laundering and financing terrorism, examples of discovered cases of money laundering and financing terrorism, unified quarterly conducted audits, quarterly audit for conducted education and other acts*

deriving from this Law or from a membership in international bodies and organizations". The authorities maintained that *"all FATF initiatives concerning FTF are supported by the authorities and risk indicators are delivered in timely and secured manner to obliged entities and competent authorities"*.

Deficiency 2: No guidance on the application of the R.11 requirements.

107. Similarly to sector specific guidelines, the guidance on the application of the analysis required under Recommendation 11 is not yet issued and will also be a part of technical assistance envisaged for 2018.

Deficiency 3: Insufficient feedback to the private sector.

108. In line with Article 87 (§1 and 2) of the AML/CFT Law, the FIU is obliged to notify the entity immediately after receiving the STR. In addition the FIU is obliged, at least on annual basis, to notify the entities about the controls its performed concerning the data received on the basis of Article 30 of this Law. In practice, in 2016 the FIU submitted a general feedback to all obliged entities on the quality and outcome of the submitted STRs. As of January 2017, the FIU submits an individual feedback for each submitted STR to the obliged entity concerned.

Deficiency 4: No sector specific guidelines for the application of the AML/CFT requirements other than STR reporting.

109. The authorities reported two guidelines prepared by the Public Revenue Office issued in 2013 and 2014. No additional actions appear to be undertaken following this particular recommendation. The authorities provided some details on trainings delivered by the FIU, however this recommendation still needs to be addressed.

Deficiency 5: The feedback from the supervisors and the FIO to the DNFBP sector is made on ad-hoc basis; *Deficiency 6 (Effectiveness)*: General feedback provided on an ad-hoc basis does not reach all the reporting entities.

110. This deficiency was rectified through article 87 of the AML/CFT Law (see above). In 2016 the FIU submitted a general feedback to all obliged entities on the quality and outcome of the submitted STRs. As of January 2017, the FIU submits an individual feedback for each submitted STR to the obliged entity concerned.

Recommended Action 1: The authorities are recommended to adopt guidance on all AML/CFT compliance requirements, such as CDD or PEPs related measures.

111. This guidance has not yet been delivered and, as other two its drafting will be supported through technical assistance project by the Council of Europe.

Recommendation 2: The authorities should take steps in addressing this shortcoming related to feedback from the supervisors and the FIO to the DNFBP sector, which is made on ad-hoc basis and therefore is the area for improvement.

112. As already noted, as of 2016, the FIU submits a general feedback to all obliged entities on the quality and outcome of the STRs. Starting from 01.01.2017, the FIU submits an individual feedback for each submitted STR to the obliged entity that submitted it. No particular information on feedback from other supervisors was provided.

113. **Overall conclusion:** Overall, it appears that the deficiencies have been partly addressed and some of the recommended measured have been taken.

Recommendation 29

114. The deficiencies noted in the 2014 MER regarding supervisors pertained to:

Deficiency 1: No explicit powers for the NRBM to compel the production of records from FX operators; *Recommendation 1*: The laws should provide for clear authority of the NBRM to compel the production of records from FX operators.

115. The NBRM Decision on the currency exchange operations through item 19 ensures the possibility for the NBRM to compel the relevant records by requiring the licensed currency exchange operator to facilitate supervision, inspection and provision of documentation upon the NBRM's request.

Deficiency 2: No explicit powers for the Postal Agency to compel production of records outside the on-site visits.

116. The authorities reported that according to Art. 77 of the Law on Postal Services, for the purpose of performing supervision, *"the entity of supervision (post office) shall be bound to provide to the authorized person … all the necessary information, data and documentation, regardless of the media used for keeping the same"*. It must be said that Art.77 was in force at the time of the previous round on-site visit, and the assessors did not consider the provision sufficient to meet the requirements of former essential criterion 29.2 (the reader is referred to paragraphs 993 and 998 of the 4th round MER).

Deficiency 3: No possibility to sanction **senior** management for all supervisors. ISA neither empowered to sanction directors nor senior management. *Recommendation 2*: ISA should be empowered to sanction directors and senior management for failure to comply with AML/CFT legal provisions.

117. The NBRM, MAPAS, ISA, PRO and Securities Commission are all determined supervisors according to AML/CFT Law Art. 91(1). Those bodies and institutions may request the initiation of a misdemeanor procedure for a committed crime referred to in the AML/CFT Law, by the subjects on which the supervision is performed. The authorities maintained that Arts 111, 112, 113 and 114 provide for fines for the responsible person (in the manner defined in Article 2 of the AML/CFT Law and Article 45 paragraph 3 of the Law on Misdemeanors). The National Bank and all other supervisory authorities may impose a misdemeanor on a responsible person.

Deficiency 4 & 5: The FIO can initiate enforcement procedures and sanctions only upon the findings of on-site inspections. Effectiveness of the powers of enforcement and sanction was not established.

118. No information was provided on these issues.

119. **Overall conclusion:** The authorities have taken legislative measures to expand the powers of the NBRM regarding foreign exchange offices and to extend the sanctioning regime to natural persons. However, the other technical deficiencies and the effectiveness issues remain outstanding.

Recommendation 32

120. Recommendation 32 was rated PC in the 4th round MER due to the following shortcomings:

Deficiency 1: The authorities do not maintain adequate statistics to allow them to review the effectiveness of their system for combating ML and TF on a regular basis. *Recommendation 1*: The authorities are recommended to maintain adequate statistics to allow them to review the effectiveness of their system for combating ML and TF on a regular basis.

121. A police database for collecting, processing and analysing information was completed for use in 2015. There is no specific reference made as to which statistics would be kept, nor as to whether ML/TF suspicions were considered ground for storing data. Besides, there is no information provided regarding the implementation or effectiveness of the database. No other relevant measures have been taken.

Deficiency 2: No statistics on provisional measures. *Recommendation 3*: The authorities might consider that the FIO could be the appropriate institution to collect all information and feed it into a comprehensive statistical system.

122. According to the authorities, the FIO maintains data on provisional measures. However, the MER raised concerns about the overall provisional measures (imposed by all LEA authorities) or, having in mind the FIU mandate and the examples provided by the authorities in the Follow-up report, it appears that FIU statistics are limited to its work.

Deficiency 3: Statistics on the predicate offences were only available for final convictions. *Recommendation 2*: The authorities should keep statistics generally on the predicate offences (not only for the final convictions) and on the autonomous/third party laundering cases (see Deficiency 4).

123. The Ministry of Interior informed about foreseen measures to upgrade the system for maintaining statistical information, including information concerning predicate offences. No information is provided regarding the results of such measures.

Deficiency 4: No statistics indicating the autonomous/third party laundering cases.

124. No information is provided about concrete action on this deficiency.

Deficiency 5: Lack of complete and integrated AML/CFT supervision statistics.

125. The authorities indicated that various institutions, including the Public Revenue Office, the SEC and the MAPAS, regularly inform the FIO with statistics on supervision. It remains unknown whether the FIO maintains a complete and integrated overview of all AML/CFT supervision statistics.

Deficiency 6: Statistics on MLA are not comprehensively maintained; *Recommendation 4*: The authorities of "the former Yugoslav Republic of Macedonia" should maintain comprehensive statistics on MLA issues and not only total figures on civil and criminal letters rogatory.

126. A project was started in 2016, which should target this deficiency. However, no specific actions to demonstrate the maintenance of comprehensive MLA statistics were taken.

Deficiency 7, *Recommendation 5*: The statistics on rogatory letters do not contain reliable information on the respective criminal offences involved, the typical investigative measures requested, the foreign states, and the overall number of refused foreign requests.

127. There is no specific information provided demonstrating the resolution of this deficiency.

128. **Overall conclusion:** From the information provided it appears that most of the deficiencies in relation to R32 remain not addressed.

Recommendation 33

129. In the fourth round MER "the Former Yugoslav Republic of Macedonia" was rated PC based on the following deficiencies:

Deficiency 1 & 2: The registration of corporate entities still does not ensure an adequate level of reliability of information registered. The transparency of ownership structure does not provide information of beneficial ownership; *Recommendation 1*: The evaluators reiterate the recommendation made in the previous round that "the former Yugoslav Republic of Macedonia" reviews its commercial, corporate and other laws with a view to taking measures to provide adequate transparency on beneficial ownership.

130. No information is provided regarding legislative or other measures taken to remedy these deficiencies.

131. **Overall conclusion:** The issues remain outstanding.

Special Recommendation VI

132. SR.VI on AML requirements for money/value transfer services was rated PC in the 4th round MER due to the following deficiencies:

Deficiency 1: Deficiencies in the AML/CFT Law relating to the preventive measures, particularly on CDD, apply to MVT operators.

133. MVT operators are considered obliged entities under the AML/CFT Law, and are therefore subject to the relevant measures described in the Law. Based on the information provided under Recommendation 5, this deficiency has been addressed.

Deficiency 2 (Effectiveness): There is an insufficient number of inspections and unsatisfactory level of monitoring over MVT operators; *Recommendation 1*: The authorities should increase the number of on-site and off-site inspection to detect main deficiencies and problematic issues related to MVT operators when applying the AML/CFT provisions.

134. In the period 2013-2017, the MSBs and exchange offices were subject to a total number of 731 on-site visits. The number of MVTs visited was 12; the number of MVT sub-agents visited counted up to 174 and the number of exchange offices visited reached 545. The authorities explained that there are three MVTs in the country that are not part of the commercial banks. Each MVT operator is subject to the AML/CFT control performed by the National bank every year.

Deficiency 3 (Effectiveness): Low awareness of preventive measures among MVT operators and sub-agents.

135. The authorities have not reported on any developments on this matter.

136. **Overall conclusion:** It appears that although the technical deficiencies have been addressed through the amendments of the AML/CFT Law, no substantial development has been made in relation to the effectiveness concerns.

Special Recommendation VIII

137. "The former Yugoslav Republic of Macedonia" was rated PC on SR.VIII due to the following deficiencies:

Deficiency 1, *Recommendation 2*: No review of the adequacy of domestic laws and regulations that govern the NPO sector.

138. An AML/CFT Strategy on the basis of the NRA outcomes was adopted in November 2017. One of the objectives of the Strategy is the *"prevention of misuse of NPO for TF purposes"*. No information is provided on the measures foreseen in this regard or on the intention to systematically review the adequacy of relevant domestic laws and regulations on the matter.

Deficiency 2: No mechanism introduced for the periodic/systemic reassessment of the TF vulnerabilities of the NPO sector; *Recommendation 3*: A systemic review of the NPO sector (either randomly or regularly) should be conducted which questions whether the domestic authorities possess timely information on the activities, size and other relevant features of the NPO sector (the occasional communication between the FIO and the competent body of the MoI should be sufficient in this respect.

139. As for Deficiency 1 on SR.VIII, the Strategy may introduce a mechanism for the periodic/systematic reassessment of TF vulnerabilities of the NPO sector, but no tangible measures have been reported.

Deficiency 3: Lack of an adequate control mechanism to ensure the veracity and validity of data and documents registered; *Recommendation 1*: The examination team recommends strengthening the mechanism by which the registration of false data and documents as well as the establishment of NPOs

for unlawful purposes can be avoided (first of all, there should be again an authority for "ascertaining the circumstances" as the registration authority did at the time of the previous evaluation).

140. As in case of the above deficiencies, the AML/CFT Strategy envisages focusing on NPO misuse for TF purposes but no concrete action has been reported.

Deficiency 4: No systematic/programmatic monitoring of the sector with a view to detecting potentially TF-related illicit activities; *Recommendation 4*: The examiners recommend introducing periodic reassessment of the sector so as to explore its potential vulnerabilities.

141. No information provided.

142. **Overall conclusion:** Besides the adopted AML/CFT Strategy, of which one of the objectives is the *"prevention of misuse of NPO for TF purposes"*, no further detailed information was provided on concrete measures taken to address the 4th round MER concerns.

Special Recommendation IX

143. The deficiencies noted in the 2014 MER regarding supervisors pertained to:

Deficiency 1: Bearer negotiable instruments are not covered by the declaration system; *Recommendation 1*: The authorities are strongly recommended to take legislative measures in order to provide the disclosure/declaration obligations for all bearer negotiable instruments above the threshold, regardless of the currency they are expressed in.

144. The AML/CFT Law in Articles 2 and 19 covers the issue of bearer negotiable instruments. Art. 2 of the respective law defines *"physical transferable means of payment"* as travellers' checks, bills, money orders and other physical transferable means of payment that are payable to the bearer or transferor without restriction; Art. 19(s) prescribes that the Customs Administration is required to register each export or import of physically transferable means of payment valuable more than the threshold.

Deficiency 2: No clear procedures for the Customs Administration regarding cases of non-disclosure or false declaration of currency over the threshold; *Recommendation 2, 4*: The authorities are encouraged to clarify in the Government Decision 77 that the sums above the threshold expressed in other currencies are subject to declaration obligations. Specific provisions giving the Customs Administration the competence to stop or restrain the currency or bearer negotiable instruments for a reasonable period of time in order to ascertain whether evidence of ML or TF may be found in case of false declaration should be adopted by the "the former Yugoslav Republic of Macedonia" authorities.

145. Two procedures are applied by the Customs Administration. The internal procedure on *"Acting upon misdemeanor detection and further implementation of the misdemeanor proceedings"* and the internal procedure on *"Acting upon crime detection"*, both adopted in 2015, serve the purpose of detecting all crimes within the mandate of the Customs Administration, including cases of money transfer and physical transferable assets detection; and detecting undeclared or falsely reported cash and physically transferable assets. No amended or recently introduced legislation was provided.

Deficiency 3: The designation of the Customs Administration in SR.III related matters is highly questionable; *Recommendation 3*: Procedures for the Customs Administration regarding the cases of non-disclosure or false declaration of currency and bearer negotiable instruments over the threshold should be adopted.

146. No information is provided as to whether the Customs Administration has been designated a competent authority for the implementation of measures within the scope of SR.III.

Deficiency 4: No specific legal provision dealing with the unusual movement of gold, precious metals and stones nor a methodology describing how to proceed in cases such assets are identified at the border;

Recommendation 6-7: The designation of the authority in charge with the application of SR.III requirements at the border should be clearer reflected in the appropriate laws or regulations. Procedures should be available for the customs officers for cases of unusual movement of gold, precious metals and stones describing the steps to be taken if such assets are identified at the border.

147. Article 22 of the Customs Administration and concluded co-operation agreements with foreign customs authorities prescribe customs control against uncommon cross-border movements of gold, precious stones or metals and establish possibilities for international co-operation. International exchange of information is also facilitated through the Customs Administration's access to the Rapid Alert Network of the World Customs Organisation. It remains unknown whether further legislative or other measures have been adopted to increase customs officials' understanding of the procedures for dealing with the unusual movement of gold, precious metals and stones identified at the border.

Deficiency 5: No information concerning any training program deployed by the authorities concerning ML/TF risk identification with a view of STRs submission to the FIO; *Recommendation 5, 8, 9*: Guidelines on the procedure or the manner of detecting ML/TF suspicions at the border should be provided to the customs officers to assist them in detecting and reporting STRs to the FIO. More trainings programs targeting ML/TF risks and red flags, with a view to STRs submission to the FIO are necessary for the Customs officers. A more proactive approach of the Customs authorities on AML/CFT matters is necessary in order to ensure the effective implementation of the requirements of SR.IX.

148. The trainings organised between 2012 and 2016 included the topic of *"acting upon detection of offenses and crimes"* (for all types of misdemeanors and crimes under the jurisdiction of Customs Administration), besides the prevention of ML and TF in general. According to the authorities a specific focus on the STR submission was placed. In 2015, the Customs Administration prepared Guidelines for selective controls in the customs operations, which proscribes a selective, risk-based approach for the customs controls.

Deficiency 6 (Effectiveness): No sign or billboard requiring the declaration of cash or other bearer instruments at the frontier.

149. The Customs Administration initiated and implemented a "Money Declare" campaign to inform passengers entering, leaving or transit the border about the rights and obligations associated with the import or export of money and non-currency products such as alcohol and tobacco. From the information provided, it appears that *"other bearer instruments"* were not subject of the campaign.

150. **Overall conclusion:** Progress has been achieved through legislative changes adopted, and practical measures to establish procedures for non-disclosure or false declaration of currency over the threshold. According to the authorities, trainings have been organised to enhance the understanding of customs officials on ML/TF risks. However, two deficiencies and the issue of effectiveness remain outstanding.

Conclusions

151. As already acknowledged during the 56th MONEYVAL Plenary meeting, "The former Yugoslav Republic of Macedonia" made tangible progress in addressing the shortcomings underlying SRI, SRII, SRIV and SRV by way of bringing the criminalisation of the FT offence in line with the UN TF Convention. With regard to SRIII, the adoption of the new IRM Law has brought the level of compliance up to equivalent to LC. However, the Secretariat emphasised that it is important that the authorities swiftly adopt the planned Guidelines for obliged entities, to ensure the effective implementation of targeted financial sanctions. The MONEYVAL Plenary should be kept informed on the progress made in this respect. The concerns expressed in relation to R5 and R13 have been resolved through the adoption of the new AML/CFT Law.

152. In relation to R23, the Secretariat's analysis concludes that with the adoption of the amendments on the Law on insurance supervision, significant progress has been achieved by the country since the last Plenary meeting. Currently, the R23 (last from the core and key) can be considered as having a level equivalent to a *"largely compliant"*.

153. Consequently, the Secretariat takes the view that "the former Yugoslav Republic of Macedonia" is in a position to exit the regular follow-up procedure, taking into consideration that all core and key recommendations rated "*partially compliant*" in the previous round have been brought to a level of at least *"largely compliant"*. Consequently, the Plenary is invited to consider removing "the former Yugoslav Republic of Macedonia" from the follow-up process. Moreover, the Plenary should strongly encourage the country to continue with the legislative process to address the remaining deficiencies highlighted in the present analysis to have them sufficiently addressed at the latest by the time of the country's 5th round mutual evaluation.

The MONEYVAL Secretariat