

Anti-money laundering and counter-terrorist financing measures

Slovenia

1st Enhanced Follow-up Report & Technical Compliance Re-Rating

December 2018

Follow-up report



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

The 1st Enhanced Follow-up Report and Compliance Re-Rating on Slovenia was adopted by the MONEYVAL Committee at its 57th Plenary Session (Strasbourg, 3 – 7 December 2018).

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Slovenia: 1st Enhanced Follow-up Report and Technical Compliance Re-Ratings

I. INTRODUCTION

1. The mutual evaluation report (MER) of Slovenia was adopted in 1 June 2017. The report analyses the progress of Slovenia in addressing the technical compliance (TC) deficiencies identified in its MER, as well as the implementation of new requirements relating to FATF Recommendations which have changed since the MER was adopted (Recommendations 7, 18 and 21). The expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER. This report does not address what progress Slovenia has made to improve its effectiveness.

II. FINDINGS OF THE MUTUAL EVALUATION REPORT

2. The MER rated¹ Slovenia as follows:

IO 1	IO 2	IO 3	IO 4	IO 5	IO 6	IO 7	IO 8	IO 9	IO 10	IO 11
ME	SE	ME	ME	ME	ME	ME	ME	ME	ME	ME

Technical Compliance Ratings

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

3. Given these results, Slovenia was placed in enhanced follow-up.

4. Slovenia has submitted request for re-rating of Recommendation 16.

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

- Croatia
- Georgia

6. Section III of this report summarises the progress made to improve TC. Section IV sets out the conclusion and a table showing which Recommendations have been re-rated.

III. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

7. This section summarises the progress made by Slovenia to improve its technical compliance by:

¹ There are four possible levels of technical compliance: compliant (C), largely compliant (LC), partially compliant (PC), and non-compliant (NC).

- a) Addressing the TC deficiencies identified in the MER, and
- b) Implementing new requirements where the FATF Recommendations have changed since the MER was adopted (Recommendations 7, 18 and 21).

3.1. Progress to address technical compliance deficiencies identified in the MER

8. Slovenia has made progress to address the TC deficiencies identified in the MER. As a result of this progress, Slovenia has been re-rated on Recommendation 16.

Recommendation 7 (Originally rated PC – no re-rating)

9. Slovenia was rated PC with R.7 in light of the following gaps: delays in the implementation of targeted financial sanctions (TFS); the guidelines did not explicitly cover sanctions against proliferation financing (PF); the guidelines only addressed financial institutions (FIs), not designated non-financial business or professions (DNFBPs), and some elements appeared contrary to the standard; absence of publicly-known procedures for de-listing requests to the Security Council; absence of publicly-known procedures for unfreezing the funds of persons inadvertently affected by a freezing mechanism; no mechanism for communicating de-listing and unfreezing actions to the financial sector and DNFBPs immediately upon taking such action; and absence of guidance to FIs and other persons or entities, including DNFBPs, that may be holding targeted funds or other assets, on their obligations to implement a de-listing or unfreezing action.

10. In June 2017, the Interpretive Note to R.7 was amended to reflect the changes made to the proliferation financing-related United Nations Security Council Resolutions (UNSCRs) since the FATF standards were issued in February 2012, in particular, the adoption of new UNSCRs. As noted in the MER, Slovenia's PF TFS largely relies on EU regulations for the implementation of R.7. Since the adoption of the MER, Council Regulation 2015/1861/EU came into force, which makes amendments to EU legislation in light of UNSCR 2231's JCPOA.

11. None of the deficiencies described in par.9 related to R.7 have been addressed. Slovenia prepared a draft regulation on restrictive measures against the Democratic Peoples' Republic of Korea to ensure that restrictive measures are implemented without delay (to adopt national measures before EU legal acts). However, this is still in draft form and cannot be considered for re-rating purposes.

12. Council Regulation 2015/1861/EU, makes amendments to EU legislation in light of UNSCR 2231's JCPOA but the deficiencies identified in MER in relation to R.7 remain. **Therefore, Slovenia remains partially compliant with R.7.**

Recommendation 16 (Originally rated PC – re-rated to C)

13. Slovenia was rated PC with R.16 in light of following gaps: the absence of requirements in relation to beneficiary information was the main deficiency for C.16.1, C.16.2, C.16.3, C.16.7, C.16.8, C.16.9, C.16.10, C.16.13 and C.16.15, which also indirectly affected C.16.6. Another serious problem was the lack of a requirement for intermediary FIs to identify missing originator or beneficiary information and implementation of risk-based policies (C.16.11 and C.16.12).

14. EU Regulation no. 2015/847, which replaced EU Regulation no. 2006/1781, is directly applicable in Slovenia since 26 June 2017. The provisions in the new EU Regulation which address the deficiencies identified in the 5th Round MER are the following:

- Art 4 (2) of EU Regulation no. 2015/847 according to which the fund transfers are to include (a) the name of the payee and (b) the payee's account number, i.e. the beneficiary of the payment (C.16.1).
- In relation to batch files, Articles 6, 7(2c) and 11(2c) of EU Regulation no. 2015/847, address the issue with relevant references to Art. 4 for required and accurate originator information, as well as for required beneficiary information (C.16.2).
- According to Art. 6 of EU Regulation no. 2015/847 the cross-border wire transfers below EUR 1,000 should always be accompanied by the required originator and beneficiary information (C.16.3).
- Art. 16 of EU Regulation no. 2015/847 establishes a 5 year period for FIs to maintain records of originator and beneficiary. Upon expiry of this period, personal data is to be deleted, unless provided for otherwise by national law. The Regulation allows Member States to decide upon further retention only after carrying out a thorough assessment of the necessity and proportionality of such further retention, and where it is justified for the ML/FT purposes. That further retention period shall not exceed five years (C.16.7).
- Art. 10 of EU Regulation no. 2015/847 requires intermediary FIs to ensure that all the information received on the originator and the beneficiary accompanying a transfer of funds is retained with the transfer (C.16.9).
- EU Regulation no. 2015/847 does not provide for the exemption specified in this criterion regarding technical limitations preventing the appropriate implementation of the requirements on domestic wire transfers (C.16.10).
- Art. 11 of EU Regulation no. 2015/847 obliges the intermediary FI to implement effective procedures including, where appropriate, ex-post or real-time monitoring, in order to detect whether required originator or beneficiary information in a transfer of funds is missing (C.16.11).
- According to Art. 12 of EU Regulation no. 2015/847 the intermediary FI should have effective risk-based procedures for determining whether to execute, reject or suspend a transfer of funds lacking the required payer and payee information and for taking the appropriate follow up action. If the service provider has not been provided with the required payer or payee data, it shall reject the transfer or ask for the required information on the payer and the payee before or after the transmission of the transfer of funds, on a risk-sensitive basis (C.16.12).
- According to Art.7 of EU Regulation no. 2015/847 the payment service provider (PSP) of the payee shall implement effective procedures, including, where appropriate, ex-post monitoring or real-time monitoring, in order to detect whether information on the payer or the payee is missing for transfers of funds where the PSP of the payer is established outside the EU, as well as for batch file transfers where the PSP of the payer is established outside the EU (C.16.13).

- Art. 7 of EU Reg. no. 2015/847 provides that, in the case of transfers of funds exceeding EUR 1,000, the beneficiary FI shall verify the accuracy of the identification information on the beneficiaries before crediting their payment account or making the funds available to them (C.16.14).
- Art.8 of EU Reg. 2015/847 obliges the beneficiary FI to implement effective risk-based procedures for determining whether to execute, reject or suspend a transfer of funds lacking the required originator and beneficiary information and for taking the appropriate follow-up action (C.16.15).
- Absence of requirements related to the beneficiary information is addressed with Art. 2 par.1 of EU Regulation no. 2015/847 (C.16.16).
- According to Articles 9 and 13 of EU Regulation no. 2015/847 when a PSP holds information concerning both the originator and the beneficiary, it must take all of this information into account as part of its due diligence process, with a view to determining whether the transaction should be considered 'unusual' and suspicious, and therefore reported to the FIU. (C.16.17).
- FIs that conduct wire transfers are subject to the domestic and EU requirements that give effect to UNSCRs 1267 and 1373, and successor resolutions (C.16.18).

15. Following adoption of EU Regulation 2015/847 all the deficiencies have been addressed. **Slovenia is re-rated as compliant with R.16.**

Recommendation 18 (Originally rated LC - no re-rating)

16. In November 2017, the Interpretive Note to R.18 was amended to clarify the scope of information-sharing requirements.

17. Slovenia was rated largely compliant with R.18. It was found that it is not specified that policies, controls and procedures should cover training. Article 80 of APMLFT addresses this issue prescribing the obligation of the reporting entities to conduct regular training for all employees carrying out tasks for the prevention and detection of money laundering and terrorist financing pursuant to APMLFT. Financial groups should be required to implement group-wide programmes against ML/FT, which should be applicable, and appropriate to, all branches and majority-owned subsidiaries of the financial group but further explanations as to the implementation of group policies and procedures has still to be defined in sector specific guidance.

18. In addition it was found in MER that although the law required financial groups to implement group-wide policies and measures for detecting and preventing ML/FT in branches and majority-owned subsidiaries located in third countries (Art. 12 par.2 points 2 and 9 of APMLFT), there is no provision for branches and subsidiaries in EU countries as the term "third countries" within the APMLFT does not include the EU. Art. 75(1) also requires obliged entities to ensure that the measures for detecting and preventing ML/FT as stipulated in this Act are also implemented at equal or higher level in its branches and its majority-owned subsidiaries established in 'third countries'. However, since only one bank in Slovenia has foreign branches, then evaluation team did not deem the deficiencies under c. 18.2 to be very serious in the context of Slovenia. Authorities have explained that according to the Article 71(1) of APMLFT obliged persons who are a part of a group shall implement the policies and procedures of this group that relate to the measures for detecting and

preventing money laundering and terrorist financing stipulated by this Act, including the policies and procedures of data protection and information exchange within the group for the purposes of preventing money laundering and terrorist financing. According to the Article 71(2) of APMLFT the requirement to implement AML/CFT group policies and procedures applies not only to branches and majority owned subsidiaries from Member State countries but also to branches and majority owned subsidiaries from third countries.

19. It was also found in the MER that obliged entities have obligation to ensure that the measures for detecting and preventing ML/FT are also implemented at equal or higher level in its branches and its majority-owned subsidiaries established in 'third countries' which does not include the EU member states and provisions regulating the sharing of information by the obliged person with its group do not include sharing of information by branches and subsidiaries, outside Member States, with the obliged person. These deficiencies appear to be addressed with Articles 71 and 72 par.1 of APMLFT.

20. New revised criterion 18.2 (b) is addressed with Article 71(3) of APMLFT allows the exchange of information within the group including STRs unless the OMLP explicitly opposes the exchange of information on STRs

21. The revised requirements of R.18 are mostly met and Slovenia remains largely compliant with R. 18.

Recommendation 21 (Originally rated C - no re-rating)

22. The Methodology for assessing R.21 was amended in February 2018 to clarify the interaction between the tipping-off provisions and the revised requirements on information sharing within financial groups (R.18).

23. In the 5th Round MER Slovenia was rated C with R.21.

24. Pursuant to Article 122 of the APMLFT, obliged entities and their employees, including members of the board and supervisory board, are prohibited from disclosing to third persons the fact that an STR or related information is being sent to Financial Intelligence Unit. However, certain exceptions from this prohibition are stipulated in Article 123 par.1 of APMLFT, which allows the exchange of such information between credit and financial institutions from EU countries that belong to the same group, if the group policies and procedures are equivalent to the provisions of the APMLFT. In addition, Art. 123 par.2 of the APMLFT allows the exchange of such information between credit and financial institutions from Member States and their branches and major owned subsidiaries from third countries if the following criteria are met:

- the branches or majority owned subsidiaries which are located in a third country implement group policies and procedures, including the procedures on exchange of information within the group;
- group policies and procedures are equivalent to provisions of APMLFT.

25. The revised requirements of R.21 are met. Slovenia maintains the compliant rating for R.21.

IV. CONCLUSION

26. Overall, Slovenia has made progress in addressing the TC deficiencies identified in its 5th Round MER in relation to R.16 and has been re-rated from PC to C. For R.7, R.18 and R.21 the previous ratings are maintained (PC, LC and C).

27. In light of the progress made by Slovenia since its MER was adopted, its technical compliance with the FATF Recommendations has been re-rated as follows:

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

28. Slovenia will remain in enhanced follow-up, and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Slovenia is expected to report back to the Plenary within one year.

GLOSSARY OF ACRONYMS

AML	Anti-money laundering
APMLFT	Act on the Prevention of Money Laundering and Financing of Terrorism
BO	Beneficial ownership
C	Criterion
CDD	Customer due diligence
CFT	Countering the financing of terrorism
DNFBP	Designated non-financial business and professions
EU	European Union
FATF	Financial Action Task Force
FI	Financial institutions
FT	Financing of terrorism
FIU	Financial Intelligence Unit
LC	Largely compliant
MER	Mutual Evaluation Report
ML	Money laundering
NRA	National risk assessment
PC	Partially compliant
PF	Proliferation financing
PSP	payment service provider
R	Recommendation
STR	Suspicious transaction report
TC	Technical Compliance
TFS	Targeted financial sanctions
UNSCR	United Nations Security Council Resolutions

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

1st Enhanced Follow-up Report & Technical Compliance Re-Rating

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

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