INTERNATIONAL MONETARY FUND

Staff Country Reports

August 2003
IMF Country Report No. 03/263

Monaco: Assessment of the Supervision and Regulation of the Financial Sector Volume II—Detailed Assessment of Observance of Standards and Codes

This detailed assessment of observance of standards and codes in the financial sector of **Monaco** in the context of the offshore financial center program contains technical advice and recommendations given by the staff team of the International Monetary Fund in response to the authorities of Monaco's request for technical assistance. It is based on the information available at the time it was completed on **May 2003.** The staff's overall assessment relating to financial sector regulation and supervision can be found in Volume I. The views expressed in these documents are those of the staff team and do not necessarily reflect the views of the government of **Monaco** or the Executive Board of the IMF.

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ASSESSMENT OF THE SUPERVISION AND REGULATION OF THE FINANCIAL SECTOR

Volume II: Detailed Assessment of Observance of Standards and Codes

Principality of Monaco

MAY 2003

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ACRONYMS

AMB	Association Monégasque Bancaire (Monegasque Bankers' Association)
AMC	asset management company
AML	anti-money laundering
BCP	Basel Core Principle for Effective Banking Supervision
CCGP	Commission de Contrôle de Gestion de Portefeuille et des Activités Boursières Assimilées (Supervisory Commission for Portfolio Management and Related Stock Market Activities, Monaco)
CECEI	Comité des Etablissements de Crédit et des Entreprises d'Investissement, (Credit Institutions and Investment Firms Committee, France)
CFT	combating the financing of terrorism
Cies	companies
COB	Commission des Opérations des Bourses (Stock Exchange Commission, France)
CRBF	Comité de la Réglementation Bancaire et Financière (Banking and Financial Regulatory Committee, France)
CSOM	Commission de Surveillance des OPCVM (Supervisory Commission for Mutual Funds, Monaco)
CSP	company and trust service provider
DEE	Direction de l'Expansion Economique (Division of Economic Expansion, Monaco)
ECB	European Central Bank
EU	European Union
FATF	Financial Action Task Force
FCB	French Commission Bancaire (Banking Commission)
FT	financing of terrorism
FIU	financial intelligence unit
ILR	international letter rogatory
IOSCO	International Organization of Securities Commissions
KYC	know-your-customer
MFD*	Monetary and Financial Systems Department
ML	money laundering
MOU	memorandum of understanding
SAM	Société Anonyme Monégasque (Monegasque limited liability company)
SBM	Société des Bains de Mer
SCA	Société en commandite par actions (limited partnership with shares)
SICCFIN	Service d'Information et de Contrôle sur les Circuits Financiers, (Service for the Information and Supervision of Financial Channels, Monaco)
SO	Sovereign Order
STR	suspicious transaction report
UCITS	undertakings for collective investments for transferable securities (investment funds, mutual funds)

* The IMF's Monetary and Exchange Affairs Department (MFD) was renamed the Monetary and Financial Systems Department (MFD) as of May 1, 2003. The new name has been used throughout the report.

I. INTRODUCTION

1. The detailed assessments in this volume of the Offshore Financial Center Assessment of Monaco were carried out during the mission of April 22 to May 3, 2002, by a team that consisted of Ms. Mary G. Zephirin (Mission Chief), Ms. Jennifer Elliott (both MFD), Messrs Louis Forget (Consulting Counsel, LEG), Marcel Maes (Banking Consultant), and Ronald Ranochak (Consultant on companies and trusts service providers). They were updated in May 2003 to take account of legislative changes made, and regulatory measures undertaken, since the mission. The assessments include assessments of the AML/CFT-related principles of the Basel Core Principles for Effective Bank Supervision, of the AML/CFT regime based on the April 2002 Bank/Fund Draft Methodology, and of securities regulation on the basis of the IOSCO Objectives and Principles of Securities Regulation.

II. BASEL CORE PRINCIPLES FOR EFFECTIVE BANKING SUPERVISION

2. As described in Volume I, the Monegasque banking system is subject to French banking law and regulation and the supervision by the French Commission Bancaire (FCB). In 2000, France completed a self-assessment and received an IMF-led assessment of its compliance with the *Core Principles for Effective Banking Supervision* as developed by the Basel Committee on Banking Supervision. By extension, the conclusions from these assessments are broadly applicable to the supervision of the Monegasque banking system.

3. However, given the specific responsibility of the Monegasque authorities for AML/CFT, the supervisory regime in place was assessed vis-à-vis Basel Core Principle (BCP) 1.6 and BCP 15.

Table 1.1. Detailed Assessment of Compliance of Two of the Basel Core Principles

Principle 1.	**Objectives, Autonomy, Powers, and Resources** An effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banks. Each such agency should possess operational independence and adequate resources. A suitable legal framework for banking supervision is also necessary, including provisions relating to the authorization of banking establishments and their ongoing supervision; powers to address compliance with laws, as well as safety and soundness concerns; and legal protection for supervisors. Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.
Principle 1(6)	Arrangements for sharing information between supervisors and protecting the confidentiality of such information should be in place.
Description	Considerable progress has been made to improve international cooperation among banking supervisors and to increase the ability of Monegasque banks to provide information to their parent banks in order for them to respond to the need for consolidated supervision. These developments are discussed in Volume I and Part 2, Module 2 of the detailed AML/CFT assessment.

	The main issues raised in this respect are related to the existence of supervision from two jurisdictions and to the need to provide, in each case, for the waiver of confidentiality requirements. Among these are professional secrecy rules in banking, the confidentiality requirements applied to supervisors, and possibly also laws enacted to limit the use of computerized personal data.
Assessment	Largely compliant.
Comments	The chart in Volume I illustrates the absence of a direct formalized gateway between the primary supervisor of asset management activities (CCGP) and the FCB. However, the description of the interaction between CCGP and FCB as the two supervisory bodies of the Monegasque banks should be completed by pointing out that the Director of Budget and Treasury is a member of the FCB's committee on Monegasque banks and is privy to information about the supervision of portfolio management and mutual fund activities of these banks. In addition, SO No. 15.530 of September 27, 2002, created a Coordination Committee charged with organizing information sharing and supervisory coordination among the local supervisory authorities and comprising representatives from the Department of Finance and Economy, the Director of Budget and Treasury (who is a member of the CCGP), the Director of DEE, and the Director of SICCFIN. The framework should be enhanced by providing for direct formal channels of information exchange between these supervisors of the Monegasque banks.
Principle 15.	**Money Laundering** Banking supervisors must determine that banks have adequate policies, practices, and procedures in place, including strict "know-your-customer" rules that promote high ethical and professional standards in the financial sector and prevent the bank being used, intentionally or unintentionally, by criminal elements.
Description	The AML/CFT assessment reflects a detailed description and assessment of the AML/CFT sector specific criteria for the Monegasque banking industry. While the FCB (as the bank supervisor) continues to review all the aspects of the banking activities, including the internal controls and policies pertaining to customer identification requirements, SICCFIN assumes full responsibility for the supervision of compliance by the credit institutions with the legal anti-money laundering requirements. The great number of initiatives taken by SICCFIN during the two last years is also discussed below. They clearly demonstrate the firm intention to transform the institution into a supervisory authority for AML and CFT measures and to comply with BCP 15. The mission also acknowledges that most banks operating in Monaco are part of large international financial groups and comply with the stricter internal AML requirements of these groups.
Assessment	Largely compliant.
Comments	The Monegasque authorities are to be commended for the proactive attitude they have taken lately. SO 15.454 of August 8, 2002, amending SO 11.246 authorizes SICCFIN to "receive from and provide to a foreign supervisory authority information collected from financial undertakings installed in the Principality concerning internal procedures to counter money laundering", subject to reciprocity and provided the foreign authority is bound by equivalent professional secrecy obligations. The Coordination Committee created by SO 15.530 of September 27, 2002 also facilitates information exchange among Monegasque authorities. However, they will have to continue the ongoing work. The information sharing with foreign financial sector supervisors, permitted by SO 15.454, is limited to internal procedures and does not enable SICCFIN "directly or indirectly, to share with domestic and foreign financial sector supervisory authorities information related to suspected or actual criminal activities" (BCP 15 criterion). The pending FCB-SICCFIN agreement will have to fill this important gap.

	Full compliance with BCP 15 will also require SICCFIN to have a more formalized approach and issue a number of policy guidelines. The response of the banks to the questionnaires that have been issued in the past provided SICCFIN with the necessary material to that effect. The result allows SICCFIN to prioritize the banks that are receiving onsite examinations. SICCFIN also held seminars with financial institutions to ensure that they are familiar with the new law. Given the present AML workload and the problems that are inevitably linked with every new supervisory activity, a comprehensive review process of SICCFIN's ongoing work should be organized in due course, preferably no later than in the second half of 2003. At the same time, stock will be taken of the adequacy of the CFT measures.

Authorities' response to the assessment

4. The authorities' response is given in paragraph 17, Chapter III, Section F.

III. Anti-Money Laundering and Combating the Financing of Terrorism

A. General

5. The assessment of the AML/CFT arrangements in Monaco, based on the April 2002 Bank/Fund AML/CFT Methodology,[1] was coordinated by Louis Forget with sectoral inputs from Jennifer Elliott, Marcel Maes, Ronald Ranochak, and the legal input by Louis Forget.

B. Information and Methodology Used for Assessment

6. The assessment includes assessments of the legal and institutional framework under Part 1 of the Draft Methodology, the banking and securities sectors under Part 2 on prudentially-regulated institutions and company and trust service providers, and gaming under Part 3 of the Methodology covering non-prudentially-regulated institutions. Inclusion of these institutions was dictated by the characteristics of Monaco's financial sector and the features of its macroeconomy. In particular, account was taken of the reputational risk to which a small jurisdiction focusing on wealth management is potentially vulnerable. As discussed in Volume I, company and trust service providers are a key feature of the wealth management services offered by the jurisdiction and good, demonstrable AML coverage of these entities limits reputational risk. Gaming is an industry vulnerable to ML and the image of Monaco is closely associated with its casino with resulting reputational, and hence, macroeconomic implications for the jurisdiction. Only one company is licensed to operate games in Monaco—the *Société des Bains de Mer* (SBM), a company about 70 percent owned by the Monegasque government, and an important employer. The company owns not only the famous Monte Carlo casino, but four hotels, as well as entertainment and conference

[1] Since the assessment was undertaken, this has been superceded, in October 2002, by a revised methodology endorsed by FATF, the Fund, and the World Bank.

centers which cater to the other main (in addition to finance) growth sector of the economy—tourism. Ensuring that the casino has in place effective AML/CFT measures, protects the overall reputation of the jurisdiction and the sustainability of its growth strategy.

7. The assessment was based on information furnished by the authorities, including the completed OFC questionnaire, on the review of laws, regulations, and other documents describing the legal framework, supervisory provisions, and onsite inspections, and on interviews with public officials, private financial institutions, and professionals. In particular, discussions were held with SICCFIN, the FIU, and AML/CFT supervisory authority, the Attorney-General, the Director of Judicial Services, the gaming supervisor, the government representative in the SBM, and both Monegasque and French supervisory staff. Meetings were also held with the President of the Monegasque Bar Association, lawyers in private practice, and several private financial institutions. All of those interviewed provided the information requested and were very helpful.

C. Main Findings

8. Overall, the AML/CFT legal and institutional framework and supervisory system provides a sound basis for the prevention, detection, and prosecution of money laundering and the financing of terrorism. The penal code criminalizes money laundering and provides a list of predicate offenses (which does not yet include financing of terrorism offenses). The 1993 AML Law requires the reporting of suspicious transactions on the part of financial institutions and a number of professionals who may become aware of evidence of money laundering activities in the course of their work. The AML Law and supporting Sovereign Orders also require customer identification, record keeping, and internal controls by financial institutions. SICCFIN is actively engaged in monitoring compliance. Effective sanctions are provided for failure to apply the AML Law. Integrity standards are set out in the laws regulating each industry in the financial sector and are also implemented through licensing requirements under general laws on business activity. An amendment to the AML Law, enacted on July 12, 2002, added a requirement to report transactions related to terrorism financing and made CSPs subject to the full requirements of the AML Law. Freezing of suspect transactions is possible, first on the initiative of the FIU, and, after a period of 12 hours, by court order. Confiscation of laundered funds is also possible by court order.

D. Detailed Assessments

Part 1. Adequacy of the legal and institutional AML/CFT elements

Supervisory authority for financial institutions

General

9. Under the agreement between France and Monaco of April 14, 1945, and exchanges of letters between the two parties of May 18, 1963, November 27, 1987, and April 6 and May 10, 2001 (SO 14.892), the legislation in force in France concerning banks and financial institutions, and the regulations of a general nature issued in their implementation by the

Comité de la Réglementation Bancaire (CRB) apply to Monaco, and so do amendments to these rules. The French *Comité des Établissements de Crédit et des Entreprises d'Investissement* (CECEI) licenses banks to operate in Monaco, and the FCB is responsible, in those matters which concern it, for supervising credit institutions established in Monaco (Article 2 of the Exchange of Letters of November 27, 1963). However, certain provisions of French law, such as those regarding company law or criminal law, to which banking law may refer, cannot be applied in Monaco, which has its own laws on business entities and its own criminal code. Similarly, it is the Monegasque law on money laundering that applies to Monegasque banks and not the French law. Within these limits, French Law of January 24, 1984, on banking, as amended by the law of July 2, 1996, on the modernization of financial activities, applies in Monaco, but the provisions of the law of 1996 which regulate non-bank financial activities do not apply in Monaco. In this regard, Monaco has enacted its own laws on mutual funds (Law of January 8, 1990), and on portfolio management (Law of July 9, 1997).

Banks

10. With respect to banks, the FCB advises the Monaco authorities of the results of onsite controls pursuant to the provisions of Article 49 of the 1984 Law. As stated in the Exchange of Letters of November 27, 1987, decisions of the CECEI and of the FCB relating to Monegasque institutions "shall be notified to the Monegasque government which undertakes, where appropriate, to ensure compliance with decisions issued by the *Commission Bancaire* in disciplinary matters that apply on Monegasque territory" (Article 2 of the Exchange of Letters of November 27, 1987).

Insurance

11. The insurance sector is governed by the Franco-Monegasque convention on the regulation of the insurance activity of May 18, 1963, and the Decree No. 4.118 of December 12, 1968, defining the control of the State on insurance companies. In order to set up a subsidiary of an insurance company in Monaco, the prior authorization of the Ministry of State of Monaco is required and would be given only after the French authorities would have approved the establishment of the subsidiary. To date, no Monegasque insurance company has been established. All firms operating in this sector in Monaco (about 150) do so through some 50 brokers and agents. The companies they represent must be authorized by the French authorities, and they fall within the competence of the French *Commission de Contrôle des Assurances*. Brokers and agents are subject to Law No. 1.144 of July 26, 1991 relating to the exercise of certain economic activities, and must be authorized to operate in accordance with this law.[2]

[2] Source: Department of Finance and the Economy, Direction du Budget et du Trésor, *The Insurance Industry in Monaco*, June 6, 2001.

Securities

12. Mutual funds are regulated by Monaco Law No. 1.130 of January 8, 1990, relating to mutual funds, as amended by Law No. 1.230 of July 6, 2000. Portfolio management activities are regulated by Monaco Law No 1.194 of July 9, 1997, related to portfolio management and similar stock market activities, as amended by Law No 1.241 of July 3, 2001, and implemented by Sovereign Order (SO) No. 13.184 of September 16, 1997, and SO No. 14.966 of July 27, 2001.

Company Service Providers

13. The Minister of State is the competent authority for the regulation and supervision of the company and trust service providers as part of the Monegasque financial services sector. Operational responsibility resides with the Counselor for Finance and the Economy (equivalent to Minister of Finance and Economy). The General Administration Division of the *Direction de l'Expansion Économique* (DEE) carries out actual oversight.

The Monaco AML Law

14. Law No. 1.162 of July 7, 1993, relating to the participation of financial institutions in countering money laundering and the financing of terrorism (the AML Law) contains two lists of institutions which are subject to it. Under Article 1, financial institutions are subject to all provisions of the law regarding customer identification, special scrutiny for certain transactions, record keeping, vigilance, and internal controls and suspicious transaction reporting. Financial institutions covered by these provisions include banks, insurance companies, brokerage firms, securities houses, and bureaux de change. Under the July 2002 amendment to the AML Law, company service providers were added to this list. Under Article 2, persons who "in the conduct of their business, carry out, control or advise on transactions entailing the movements of funds", who may become aware of evidence of money laundering in the course of their dealings with their clients, are made subject to suspicious transaction reporting requirements. A list of particular professionals, subject to STR requirements, is set out in SO No. 14.446 of April 22, 2000.The list includes statutory auditors, chartered accountants, and liquidators in bankruptcy; legal and financial advisers, business agents and property dealers; estate agents; cash transporters; retailers, and persons organizing the sale of precious stones, precious materials, antiques, works of art, and other valuable objects; company service providers; and persons carrying out investment and fund transfer activities on behalf of others.

Table 2.1. Detailed Assessment of the Legal and Institutional AML/CFT Elements

1. Legal Requirements for Financial Service Providers (FSP) 1a. ***Customer due diligence*** FSP should be required to identify on the basis of an official identifying document, and to record the identity, of their customers, either occasional or usual, when establishing business relations or conducting transactions, and to renew identification when doubts appear as to their identity in the course of their business relationship.[3]	
Description	Article 10, first paragraph, of the AML Law requires that before opening an account, financial institutions verify the identity of their customer on the basis of an official identity document, or failing that, any reliable written document defined by Sovereign Order (SO). SO No. 11.160 of January 24, 1994, specifies that, for individuals, these documents must be official documents bearing a photograph of the individual, and for legal entities, the original, duplicate or a certified copy of a deed or extract from official registers stating the name, legal form and registered office of the legal entity and the powers of persons acting on its behalf. Financial institutions must also ascertain the identity of their occasional customers who carry out a transaction involving an amount of more than €15,000 or who rent a safe deposit box (Article 10, second paragraph, of the AML Law, and Article 2 of SO No. 11.160). Financial institutions must also ascertain the identity of persons on whose behalf an account is opened, a safe deposit box is rented, or a transaction is carried out, if the person requesting the service appears not to be acting on their own behalf, except if the requesting entity is also a financial undertaking subject to the AML Law (Article 10, third and fourth paragraphs, of the AML Law). All fund transfer operations must include information to be determined by a Sovereign Order to be issued (AML Law, Article 10bis).
Assessment	Compliant.
Comments	With respect to banks, the requirements set out in the AML Law are in addition to those stemming from the standards applied by the FCB in their supervision of Monegasque banks with regard to customer due diligence, and which are based on the BCP. The AML Law does not require that special attention be given to politically-exposed persons. Also, the AML Law does not require the periodic review of customer accounts (These were not requirements of the April 2002 Methodology).
1. Legal Requirements for Financial Service Providers (FSP) 1b. ***Record keeping*** FSP should be required to maintain records on customer identity and of customer transactions for at least five years following the termination of an account or business relationship, and following the completion of the transaction, respectively, for at least five years (or longer if requested by an authorized government official). These documents should be available for inspection by authorized government officials.	

[3] Financial service providers should ensure that the criteria relating to customer due diligence are also applied to branches and majority-owned subsidiaries located abroad, subject to local laws and regulations.

Description	Under the AML Law, financial institutions must keep for five years: documentary evidence of the identity of their regular and occasional customers, for five years after the closure of their accounts or cessation of relations with them; and documents related to transactions carried out with all their customers (Article 14 of the AML Law). *Banks:* French legal requirements regarding record keeping adopted in application of the 1984 Law on banking apply to Monaco banks which are subject to inspection by the Commission Bancaire in this regard. *Securities:* Customer account contracts are required for all accounts, and these contracts are approved at licensing (any subsequent material amendments must also be approved). The law contains detailed requirements for these contracts and requires that all investment advice be suitable in the context of the client's stated objectives, expectations and risk profile. The portfolio management firm is obligated to seek sufficient know-your-client information to enable it to fully understand the client's profile although there are no specific information gathering or identification requirements. However, clients must open a bank account through which all of the portfolio management activity is conducted (the portfolio management firm is prohibited from accepting funds or securities) (Source: Part 2, Module 4, AML/CFT Sector-specific Criteria for Securities Regulation).
Assessment	Compliant.
Comments	

1. Legal Requirements for Financial Service Providers (FSP)

1c. ***Suspicious transactions reporting***

FSP should be required to scrutinize (i) all complex or unusual transactions, and complex or unusual patterns of transactions, that have no apparent or visible economic or lawful purpose, and to make available their findings in writing to authorized government officials; (ii) transactions with persons in jurisdictions that do not have adequate systems in place to prevent or deter ML or FT; and (iii) funds transfers that do not contain originator information. If an FSP suspects that assets in a transaction either stem from criminal activity or is to be used to finance terrorism, the FSP should be required to make a suspicious transaction report (STR) to the FIU.

Description	The obligation to report suspicious transactions to SICCFIN is set out in the AML Law. The financial institutions subject to the reporting requirements under the Law as amended in July 2002 are: (1) banks and persons who carry out bank intermediation business on a regular basis; (2) the financial services of the Post Office; (3) insurance companies; (4) portfolio management companies (5) bureaux de change; and (6) company service providers. Financial institutions are required to report "all sums recorded in their books and all transactions relating to amounts that could come from drug trafficking or organized criminal activities and the facts and indices on which the reporting entity has based its report", as well as "all sums recorded in their books and all transactions relating to funds that could derive from terrorism or terrorist acts or terrorist organizations or that are intended to be used to finance them, and the evidence which provides the basis for their report" (Article 3 of the AML Law as amended). Financial institutions are also required to report cases where they have refused to undertake a transaction suspected of concerning funds derived from drug trafficking or organized criminal activity (Article 5). Financial institutions are required to give special attention to transactions above a certain amount (currently €150,000) which are unusual or complex and appear not to have an economic justification (Article 13 of the AML Law and Article 3 of SO No. 15.453). The persons falling under Article 2 of the AML Law, and professionals listed in SO No. 14.446 of April 22, 2000, are subject to reporting requirements similar to those of financial institutions (Article 19). Representatives of the law and notaries must make their reports to the Principal State Prosecutor (Article 19 of the AML Law).

	Gaming establishments are subject to similar reporting requirements (Article 25 of the AML Law), and make their reports to SICCFIN. Managers and employees of reporting entities who report suspicious transactions in good faith are immune from civil liability, and so are the entities themselves (Article 7 of the AML Law). Managers and employees of reporting entities who knowingly inform the owner of an account or who divulges information concerning action taken on the basis of a suspicious transaction report can be fined up to € 27,000 (Article 8 of the AML Law).
Assessment	Compliant.
Comments	There is no Monegasque insurance company, and as a result, no insurance company is subject to the AML Law. The French companies selling insurance products in Monaco do so through brokers and agents. In this connection, the following may be noted: (i) French insurance companies are prudentially supervised in France and are subject to French AML requirements, including the obligation to report suspicious transactions to the French FIU; (ii) by an amendment to the general provisions of the standard contract between insurance companies and their brokers and agents, French insurance companies have required the brokers and agents to implement AML procedures, including customer due diligence and suspicious transaction reporting requirements.
1. Legal Requirements for Financial Service Providers (FSP) 1d. ***AML/CFT internal controls*** Regulated financial institutions should be required to establish and maintain internal procedures to prevent their institutions from being used for ML or FT purposes.	
Description	The AML Law states that financial institutions "have a duty to be vigilant, to introduce internal control procedures, and to provide all appropriate training to the staff concerned (AML Law, Article 16). SO No. 11.160 of January 24, 1994, adds that financial institutions must state in writing the internal organizational measures they have taken in order to ensure compliance with the AML Law, and, in particular: (i) the measures they have taken having regard to the nature of their activities; (ii) the procedures for suspicious transaction reports; (iii) arrangements for the keeping of the information and documents related to suspicious transactions; (iv) the monitoring system whereby financial institutions can verify their compliance with these internal measures (Article 5 of SO No. 11.160).
Assessment	Compliant.
Comments	
1. Legal Requirements for Financial Service Providers (FSP) 1e. ***Sanctions*** Adequate sanctions should be provided for failure to comply with any of the requirements, and one or more authorized government officials should have jurisdiction to enforce compliance with the above criteria by all covered persons.	
Description	Sanctions for breaches of the AML Law on the part of financial institutions and their managers are found in the AML Law. Sector-specific legislation also includes sanctions that may be brought to bear in the event of a breach of the AML Law. *AML Law:* The AML Law provides for administrative and criminal penalties. Administrative penalties for failure to comply with the obligation of financial institutions under parts II and III of the AML Law reporting and other obligations of financial institutions) are: a warning, a reprimand, a ban on carrying out certain transactions, and withdrawal of authorization (Article 18 of the AML Law).

	Criminal penalties for failure to report suspicious transactions or a refusal to undertake a transaction because it appeared suspicious are fines of € 9,000–18,000 (Article 32 of the AML Law). Penalties for breach of certain other provisions of the Law, including those regarding record keeping, are € 2,250–-9,000 (Article 33 of the AML Law). *Banks:* In addition, banks are subject to the disciplinary powers of the FCB. Following failure on the part of a bank to act in accordance with the law, to respond to a recommendation of the FCB, or to heed a warning, or to act in accordance with the representations it made in seeking its authorization to operate, the FCB may impose the following sanctions: a warning, a reprimand, withdrawing the bank's authorization to carry out certain types of operations, temporary suspension of its managers, or their removal and withdrawal of the authorization (Article 45 of French Law No. 84–46 of January 1984). *Portfolio Managers:* Law No. 1.194 of July 9, 1997, as amended by law No. 1.241 of July 3, 2001, provides a comprehensive set of penalties for various breaches of the law, including imprisonment for senior managers and loss of license for the entity (Articles 19–29 of Law No. 1.194, as amended). *Company and Trust Service Providers:* CSPs are regulated by the DEE under Law No. 1.144 relating to the exercise of certain economic and legal activities and are brought under the AML supervision of SICCFIN by the July 2002 amendment of the AML Law. In each case, sanctions are available.
Assessment	Compliant.
Comments	
2. Integrity standard Laws should be adopted to prevent criminals and criminal organizations from controlling regulated financial institutions. Laws should be adopted to ensure that shell corporations, trust and company service providers, charitable or not-for-profit foundations, or other similar entities are not used for criminal purposes.	
Description	Except in the case of bureaux de change, where integrity standards are set out in the AML Law, provisions regarding integrity standards are to be found in certain general laws on business organizations and on the regulation of business activities in Monaco, as well as in the sector-specific laws. *General laws:* Business activities in Monaco are subject to licensing under Law No. 1.144 relating to the exercise of certain economic and legal activities, which requires that those who undertake such activities demonstrate their competence and integrity. Similarly, the establishment of partnerships including non-Monegasques is subject to prior authorization under Law No. 1.072 of July 27, 1984. *Banks:* No one may be a member of the board of directors or of a supervisory board of a financial institution, nor directly or through another person administer, direct or manage under any title, a financial institution, or act as the legal representative of such an institution if the person has been convicted of a crime or of a number of listed offenses (Article 13 of French Law No. 84–46 of January 1984). *Securities—Portfolio Management:* Under Law No. 1.194 of July 9, 1997, as amended by law No. 1.241 of July 3, 2001, the license to undertake portfolio management activities in Monaco is delivered by the Minister of State after a substantiated opinion from the Supervisory Commission for Portfolio Management and Similar Stock Market Activities furnishing evidence of, among other things, the integrity and professional experience of its senior managers (Article 3).

	Company and Trust Service Providers: CSPs are subject to licensing under Law No. 1.144 relating to the exercise of certain economic and legal activities. *Bureaux de change:* The AML Law contains a list of exclusions applicable to persons operating a bureau de change. The list includes persons who have committed a felony, theft, breach of trust, misappropriation, extortion, breach of legislation on foreign exchange, etc. (Article 22 of the AML Law).
Assessment	Compliant.
Comments	
3. Criminalization of ML and FT Laws should provide for the criminalization of ML and FT as serious offenses, and ML should extend to the proceeds of all serious offenses, including FT, with provision for proportionate and dissuasive sanctions, including loss of authority to do business.	
Description	ML is criminalized as a serious offense under Articles 218 to 218–3 of the Penal Code. A separate ML offense is provided for with respect to drug offenses in Article 4–3 of Law No. 890 of July 1, 1970. Predicate offenses are listed in Article 218–3 of the Penal Code and consist of forgery, forging, or illegally using seals, hallmarks, stamps and trade marks, misappropriation by persons exercising public authority, extortion, bribery, murder, procuring, kidnapping, and extortion, as well as proceeds from breaches of laws and regulations governing war equipment, provided the offence has been committed within the framework of an organized criminal activity (Article 219 of the Penal Code). FT has not yet been added to the list. It is possible to indict a person for a predicate offense even if the person is also indicted for ML, as the two offenses are separate. The predicate offense may have been committed outside Monaco, provided that the offense is also a predicate offense in Monaco (Article 218-1 of the Penal Code). It follows from the definition of ML that it is not necessary that any one be convicted of the predicate offense in order to convict someone of a ML offense related to that predicate offense. The proceeds of crime which constitute ML are all "assets and funds" (*"biens et capitaux")*, and not only monetary instruments and securities (Article 218 of the Penal Code). The law does not specify that knowledge, as an element of the offense, can be inferred from objective, factual circumstances, the test included in the Vienna and Strasbourg conventions. It is understood that there is no decision of the courts of Monaco on this point, and that the standard that would most likely be applied would be that knowledge can be inferred when factual circumstances lead to the conclusion that the indicted person "could not have ignored" the illicit origin of the funds in question. Sanctions for ML are five to ten years of imprisonment and basic fines of € 18,000–90,000. In case of aggravated circumstances, including when the person indicted was acting as part of a criminal organization or participated in other organized criminal activities, imprisonment is between 10 and 20 years, and fines are up to twenty times the basic amounts mentioned above. Loss of authority to do business could ensue under Law No. 1.144 of July 26, 1991, relating to the exercise of certain economic activities, which requires prior government approval before undertaking any economic activity in the Principality. FT has been criminalized as a serious offense under SO No. 15.320 of April 8, 2002, implementing the Convention for the Suppression of the Financing of Terrorism. The offenses established by the SO include the general financing of terrorism offense set out in the Convention as well as offenses based on eight (of the nine) treaties set out in the Annex to the Convention to which Monaco is a party.

	In implementing Article 5 of the Convention regarding the criminal liability of legal persons, the Order provides that legal persons (excluding the State, the City, and public agencies), domiciled in Monaco or established under its laws, may be held criminally liable for the offenses established under the Convention (Article 8 of SO 15.320). Sanctions for FT are five to ten years of imprisonment. FT sanctions for legal persons are fines of € 18,000–90,000 or the amount effectively furnished or collected, as well as the withdrawal of any administrative authorization previously given (Article 9 of SO No. 15.320). Monaco is a party to the Vienna Convention. It has signed and ratified the Convention on the Suppression of Financing of Terrorism as well as the Palermo Convention.
Assessment	Largely compliant.
Comments	Monaco complies with this principle with respect to both ML and FT, except for the need to add FT to the list of ML predicate offenses and, more generally, to review the list of predicate offenses. The definition of ML calls for the following comments: First, the assessor has not reviewed the entire Penal Code to ensure that all "serious offenses" (as the term may be defined) are included. Second, in order to constitute a predicate offense, an offense listed in the Penal Code has to have been committed "within the framework of organized criminal activity." Such a restriction may unduly limit the scope of the ML definition and constrain the ability of the authorities to cooperate internationally in AML. On the occasion of adding FT to the list of predicate offenses as required in the Fund-World Bank Methodology, the authorities may wish to review the present list of predicate offenses to ensure that all serious offenses are included. In this connection, the authorities may consider the revised FATF recommendations to be issued in June 2003; these are expected to contain a minimum list of predicate offenses. In addition to the points mentioned above, Monaco has also taken other initiatives of interest. First, on May 10, 2002, Monaco deposited an instrument of accession to the Strasbourg Convention, which came into force with respect to Monaco in September 2002. Second, in addition to the ML offense described above, Monaco has established an offense which is committed when a person, by ignoring his or her professional obligations, assists in any transfer, placement, hiding, or conversion of goods or funds of illicit origin. The sanction is one to five years imprisonment (Article 218–2 of the Penal Code). Third, a proposal to broaden the scope for holding legal persons criminally liable for certain offenses (in addition to cases falling within the terms of the Convention for the Suppression of the Financing of Terrorism) is in the advanced stages of discussion within government.
4. Confiscation of proceeds of crime or assets used to finance terrorism Laws should provide in criminal cases for the confiscation of assets laundered or intended to be laundered, the proceeds of ML predicate offenses, assets used for FT, or the instrumentalities of such offenses ("assets subject to confiscation"), but should adequately protect the rights of bona fide third parties.	
Description	The Penal Code provides that the court orders the confiscation of assets and funds (*"biens et capitaux"*) of illicit origin (i.e., those which are the product of the predicate offenses) (Article 219, first paragraph). If these assets and funds are mingled with legitimately acquired assets and funds, the mingled assets and funds may be confiscated up to the estimated value of the illegitimate assets and funds (Article 219, second paragraph). Confiscation is without prejudice to the rights of third parties (Article 219, third paragraph). Except in the case of drug-related laundering, confiscation does not extend to assets which were used in the commission of the predicate offense or which

	facilitated it. Confiscation of assets of equivalent value is not provided for. Freezing and seizing of assets before confiscation is possible, first on the initiative of SICCFIN and, after a 12-hour period, by court order. Confiscation of assets of equivalent value is not provided in the law. In addition to seizure under a Criminal Court order, there is a procedure for obtaining seizure by decision of a civil court (*saisie sous séquestre*). Tracing of assets suspected of being proceeds of the predicate offenses is possible with a court order. Under Articles 986 and 988 of the Monaco Civil Code, contracts, which are entered into for an immoral or illicit purpose, may be voided by court decision under the civil law notion of immoral or illicit cause. With respect to FT, Sovereign Order 15.321 of April 8, 2002, requires entities which hold assets of persons and entities named in Ministerial Orders to freeze them. Further ministerial orders were issued in July, October, and December 2002, as well as in February and March 2003.
Assessment	Largely compliant.
Comments	There is a need for Monaco to broaden the definition of assets that may be confiscated to include "instrumentalities" of crime and to provide for confiscation of assets of equivalent value. The Strasbourg Convention requires that each State party "adopt such legislative and other measures as may be necessary to enable it to confiscate instrumentalities and proceeds or property the value of which corresponds to such proceeds" (Article 2, paragraph (i)). Instrumentalities are defined as: "any property used or intended to be used, in any manner, wholly or in part, to commit a criminal offence or criminal offences" (Article 1, paragraph c.). By modifying its legislation as stated above, Monaco would bring itself in compliance with the draft Methodology as well as with the Strasbourg Convention.
5. Processes for receiving, analyzing, and disseminating disclosures of financial information and intelligence An FIU should be established that meets the Egmont Group definition[4] that is responsible for receiving, analyzing, and disseminating disclosures of financial and other relevant information and intelligence concerning suspected ML or FT activities. The FIU should be empowered to receive information necessary for the discharge of its functions, and to exchange information domestically or internationally. The FIU should have additional responsibilities, in particular to conduct research and provide training.	
Description	The Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN) was established by SO No. 11.246 of April 12, 1994, implementing the AML Law. SO No. 11.246 was amended by SO No. 15.454 of August 8, 2002. The following assessment is based on the amended AML Law and the amended SO. SICCFIN's purpose is to gather, seek, process, and circulate information on financial circuits used to launder money (Article 2 of SO No. 11.246). It is also explicitly charged with monitoring compliance of financial institutions to the AML Law (Article 26 of the AML Law). In its *Rapport d'Activités* of January 8, 2002, SICCFIN describes its activities as follows: (i) AML supervision of reporting institutions, including onsite inspections; (ii) awareness-raising activities with industry associations of reporting entities, such as the Association Monégasque des Banques; (iii) staff training; (iv) participation in local and international meetings; (vi) receiving and analyzing reports of

[4] The FIU is a central, national agency responsible for receiving (and, as permitted, requesting), analyzing, and disseminating to the competent authorities, disclosures of financial information (i) concerning suspected proceeds of crime; or (ii) required by national legislation or regulation, in order to counter money laundering.

	suspicious transactions; and (vii) cooperation with other FIUs. In order to accomplish its tasks, SICCFIN has wide powers to obtain any documents, such as contracts, accounting books and documents, minutes, audit and control reports, to obtain information from third parties which have undertaken controls for financial institutions, to ensure that financial institutions comply to their record keeping obligations, and to hear executives and staff of financial institutions and other persons who may provide information on the matters it is considering. SICCFIN staff may enter the premises, and inspect documents of reporting institutions. After hearing the representatives of a financial institution, SICCFIN may determine the measures the institution needs to adopt, and give it a specified time for this purpose (Article 26 of the AML Law and Article 3 of SO No. 11.246 as amended). Under Article 27 of the AML Law, when SICCFIN finds evidence of drug trafficking or organized criminal activity, or of terrorism, terrorist acts, or of terrorist organizations, it forwards a report to the Minister of State (a position largely equivalent to Prime Minister in many countries). Under Article 28, SICCFIN's staff are required to keep the facts that they collect confidential, except that when the facts may give rise to criminal prosecution, SICCFIN may communicate them to the Principal State Prosecutor. It is understood that, in practice, under these two provisions, information is sent to the Principal State Prosecutor, with a copy to the Minister of State. SICCFIN has the power to freeze a transaction for up to 12 hours on its own initiative. The transaction may be frozen for a longer time by decision of the President of the Tribunal of First Instance (a civil jurisdiction), who can also order the sequestration of the accounts concerned (Article 4 of the AML Law). In addition, under Article 219 of the Penal Code, the criminal court may order the confiscation of the assets and funds of illicit origin. SICCFIN has the power to obtain information from all State agencies. SICCFIN has direct access to the Monaco business registry (including its non-public data on partnerships), and can obtain other data on request from other government agencies. SICCFIN has issued questionnaires to reporting entities with respect to various elements of their AML obligations, and has started onsite AML inspections. With the participation of SICCFIN, the *Association Monégasque des Banques* (AMB) has issued a set of recommendations to its members, setting out the manner in which banks should discharge their obligations under the AML law. SICCFIN is a member of the Egmont Group. SICCFIN has entered into ten MOUs (at May 2003) on the exchange of information with other FIUs, and four more are under discussion. In the absence of an MOU, the Minister of State may provide other FIUs with information relating to transactions that appear to have a link with drug trafficking or organized criminal activity, subject to reciprocity and guarantees with regard to the confidentiality of the information provided (Article 31 of the AML Law). Also subject to reciprocity and guarantees regarding confidentiality, SICCFIN itself may give to other FIUs information on the internal AML measures taken by Monaco's financial institutions (Article 5 of SO 11.246 as amended). Information is also exchanged informally within the Egmont Group. Penalties for failure to report suspicious transactions or a refusal to undertake a transaction because it appeared suspicious are fines of € 9,000–18,000 (Article 32 of the AML Law). Penalties for breach of certain other provisions of the Law, including those regarding record keeping, are € 2,250–9,000 (Article 33 of the AML Law). Financial institutions are also subject to warnings, blames; the prohibition to undertake certain operation and the loss of license to operate are also available sanctions for failure to comply with reporting and other obligations under the AML Law.

	SICCFIN is established as a unit of the Department of Finance and Economic Affairs. Its staff are civil servants appointed in the name of the State Minister. The staff of SICCFIN does not enjoy special immunity. However, under the law on the status of civil servants, the State is obligated to defend civil servants against all attacks they may be subjected to in the course of their work and to compensate them for any loss (Article 14 of Law No. 975 of July 12, 1975 on the status of civil servants).
Assessment	Compliant.
Comments	As is mentioned above, under the AML Law, when SICCFIN finds evidence of drug trafficking or organized criminal activity, it forwards a report to the Minister of State, and when SICCFIN staff finds facts that may give rise to criminal prosecution, SICCFIN, which is otherwise bound by confidentiality laws, *may* communicate the information to the Principal State Prosecutor. There is a danger that this provision could be read as undermining SICCFIN's independence. However, in practice, it is understood that the evidence is sent to the Principal State Prosecutor with a copy to the Minister of State, and that the requirement to inform the State Minister is considered as a formality. On this basis, the 'compliant' rating is not modified by this provision of the AML Law. Nevertheless, the authorities may wish to consider an amendment to the AML law to require it to communicate its reports directly to the Principal State Prosecutor. The authorities may wish to consider that SICCFIN will soon reach a stage in its development where a set of internal rules would be useful to ensure that its staff are aware of their responsibilities and to provide a clear organization chart. It has been noted that by a court decision of 2001, the provision of the Sovereign Ordinance, which included attorneys in the list of persons subject to the reporting requirements, was struck down on the grounds that it was too vague. The authorities may consider reinstating attorneys in the list of professionals subject to reporting requirements under conditions that take into account the special situation of defense lawyers. The authorities may also wish to consider adding insurance brokers and agents to the list of professionals subject to the AML reporting requirements. Once SICCFIN has gained some experience under the amended AML Law and formalized cooperation arrangements with the *Commission Bancaire*, the Monaco authorities may find it opportune to undertake a thorough review of SICCFIN's activities, resources. and plans for the future. Such a review would be responsive to the provision of the Fund-World Bank Methodology which requires periodic reviews. If one assumes that the cooperation agreement with the *Commission Bancaire* will be finalized shortly, and taking account of implementation experience with the amended AML Law, it may be that the second half of 2003 would be an appropriate time to complete such a review.
6. International cooperation in AML/CFT matters Laws should permit bilateral and multilateral cooperation and the provision of mutual legal assistance (including exchange of information, investigation, prosecution, seizure and forfeiture actions, and extradition) in AML/CFT matters based on accepted international practices.	
Description	Monaco cooperates with other jurisdictions on AML/CFT in a number of ways: by providing mutual legal assistance in response to letters rogatory (and in issuing its own letters rogatory) on the basis of the MOUs entered into between SICCFIN and other FIUs (see Section 5, above) and informally. *Mutual Legal Assistance* With respect to mutual legal assistance in criminal matters, the Vienna Convention, the Strasbourg Convention (to which Monaco became a party in September 2002), the Suppression of the Financing of Terrorism Convention and the Palermo Convention, provide the legal basis for mutual legal assistance which in some cases goes beyond provisions applicable in the absence of such a

	convention. The conventions generally require that the parties give each other the widest measure of mutual legal assistance in investigations, prosecutions, and judicial proceedings in relation to criminal offences established in accordance with each convention. In addition to these multilateral conventions, Monaco is a party to bilateral conventions which also provide for mutual legal assistance in criminal matters. A bilateral agreement with France of September 21, 1949, provides for simplified requests for assistance between the two countries, under which the request for information or investigation may be sent directly to the judicial authorities, thus avoiding the lengthy diplomatic process. Simplified arrangements are also in place with Germany. In case of emergency, simplified procedures are possible with all countries. Informally, the judicial authorities cooperate with "liaison magistrates" (judicial officers who are designated to facilitate bilateral cooperation in judicial matters) in a large number of countries and its own judicial officers participate in numerous international meetings. There is no provision in the law for cooperative investigations, including controlled delivery. It is understood that this is usually not an obstacle to cooperation with other jurisdictions as Monaco is more likely to be a potential destination of laundered funds rather than a jurisdiction where predicate offenses are committed. With respect to extradition, Monaco is a party to some 17 bilateral treaties that provide for extradition. These, in addition to the Palermo Convention and other multilateral conventions, also provide a legal basis for extradition in matters involving organized criminal activity. In addition, Law No. 1.222 of December 28, 1999, provides for extradition in the matters it covers in the absence of a treaty. Extradition may be granted with regard to individuals who are indicted of an offense carrying an imprisonment term of one year or more, or convicted criminals who would have at least four months of their sentence remaining to be served. Extradition is not available in cases where the offense is of a political, fiscal, or military nature.
Assessment	Largely Compliant.
Comments	The authorities should consider establishing a formal legal basis for cooperative investigation, including controlled delivery. Mention should also be made of steps taken by the Monaco authorities to ensure that professional and banking secrecy laws do not unduly impede the ability of Monaco authorities to cooperate with foreign authorities in AML matters. In particular, under SO No. 14.892 of May 28, 2001, implementing an exchange of letters with the French Minister of Economy, Finance and Industry, on the harmonized supervision of credit establishments, Monegasque credit institutions are authorized to communicate to their head office information necessary for them to be supervised on a consolidated basis if this is required of them by a foreign supervisor (Article 2 of the exchange of letters). Also, the FCB may undertake, in specific cases, onsite verifications of a Monegasque credit institution at the request of a foreign banking supervisor, provided such supervisor is bound by the same secrecy rules as if the bank was a French bank and uses the information only for prudential supervision purposes (Article 3 of the exchange of letters). The issues that remain in this area are discussed in the detailed assessment of the banking sector, below. Similarly, in the field of securities, by an agreement of March 8, 2002, the French *Commission des Operations des Bourses* (COB) and the Monegasque Commission for Supervision of Portfolio Management and Similar Activities have agreed to promote mutual assistance and to exchange information required to fulfill their respective duties.
7. Controls and monitoring of cash transactions (for information only, not assessment)	
Description of controls on the	Under the Customs Convention between Monaco and France of May 18, 1963, the provisions of the French Customs Code and of customs laws and regulations are applicable in Monaco. As a

import and export of bank notes	result, Monaco forms a customs union with France, and there is no separate Monegasque regulation of the import and export of bank notes
Description of procedures for monitoring and recording cross-border movements of large amounts of cash	Under the 1945 agreement with France, French procedures apply. French Law 89/835 of December 29, 1989 (Article 98) states that the transportation of any amount greater than €7,500 in cash, equities, or valuables must be declared to the French customs on leaving and entering. Entry by air or road into Monaco requires passage through France, and French customs officers are stationed at the harbor in Monaco.
Description of factors which influence the use of cash in transactions	No information specific to Monaco is available on this topic.

Part 2: AML/CFT Elements in the Prudentially-Regulated Financial Sectors

Module 1—AML/CFT Core Criteria for Prudentially-Regulated Financial Sectors

Table 2.2. Detailed Assessment of AML/CFT Core Criteria for Prudentially-regulated Sectors

1. Organizational and administrative arrangements The supervisor/regulator monitors the prevention and detection of ML offenses, as well as for appropriate reporting of suspected money-laundering activities. The supervisor/regulator determines that regulated entities have in place policies and procedures that are adequate to deter improper use of the regulated entities by criminal elements. The supervisor/regulator promotes high ethical and professional standards by regulated entities.	
Description	As is explained in the introduction to Part 1, responsibility for monitoring of the AML elements with respect to financial institutions is vested in SICCFIN under the AML Law. SICCFIN's mandate for monitoring the AML elements applies to banks, insurance companies (none operates in Monaco), brokerage and securities houses, bureaux de change, and company service providers It may be noted that the AML Law also requires suspicious transaction reports on the part of a number of nonfinancial institutions; however, these institutions are not subject to the monitoring of SICCFIN. The banking industry dominates the financial sector and provides by far the most important point of entry of funds in the sector and the greatest number of suspicious transaction reports (in 2000 and 2001, suspicious transaction reports of banks represented slightly under 90 percent of all such reports received by SICCFIN). For this reason, the assessment of compliance with the AML/CFT core criteria for prudentially regulated industries is driven in large part by the assessment of the banking sector. A detailed description of the AML Law and of SICCFIN is included in Table 2.1 on the Legal and Institutional AML Elements.
Assessment	Largely compliant.

Comments	While the arrangements for the monitoring of the AML elements in the prudentially regulated sectors are complex in view of the involvement of supervisors from two jurisdictions, the AML Law provides a sound basis for SICCFIN's monitoring of the AML elements for financial institution. With the conclusion of an agreement between the FCB and SICCFIN, the institutional arrangements for the monitoring of AML/CFT will be compliant.
2. Customer identification and due diligence The supervisor/regulator determines that as part of AML/CFT requirements, regulated entities have documented and enforced policies for identification of customers and those acting on their behalf. There should be a minimum set of customer identification information with additional identification requirements commensurate with the assessed risk of ML.	
Description	The common set of customer identification requirements for financial institutions is set out in Article 10 of the AML Law (see Part 1, above). For a detailed description of the implementation of these requirements with respect to banks, please see Table 2.3 below.
Assessment	Largely compliant.
Comments	The absence of a more extensive due diligence requirement for higher-risk customers, especially, politically exposed persons (PEP), their families and associates, is one of the major shortcomings.
3. Monitoring and reporting of suspicious transactions The supervisor/regulator determines that regulated entities have adequate formal procedures to recognize and report suspicious transactions. Regulated entities and competent authorities (e.g., FIUs) should establish and regularly revise systems for detection of unusual or suspicious patterns of activity that provide managers and compliance officers with timely information needed to identify, analyze and effectively monitor customer accounts.	
Description	Financial institutions are subject to the AML monitoring of SICCFIN to which they make their suspicious transaction reports. As part of its monitoring procedures, SICCFIN has started to require that financial institutions have adequate procedures for the detection of suspicious transactions. The increasing number of such reports in the last two years is due, at least in part to the actions undertaken by SICCFIN in this regard (the well publicized successful prosecution of two cases of failure to report on the part of banks may have also contributed to the increase). It may also be noted that the number of cases forwarded to the Principal State Prosecutor has increased dramatically in the last few years. From an average of two files per year transmitted from 1994 to 1999, the number has increased to 12 in 2000 and 21 in 2001.
Assessment	Compliant.
Comments	While the systematic monitoring of financial institutions' ability to detect and report suspicious transactions is relatively recent, SICCFIN's actions in this respect are compliant.
4. Record keeping, compliance, and audit The supervisor/regulator determines that regulated entities have formal record keeping systems for customer due diligence and individual transactions including a defined retention period of five years. Record keeping procedures should be regularly reviewed for compliance with applicable laws, regulations, guidance notes, and the internal policies of the regulated entity.	
Description	SICCFIN requires that financial institutions have adequate record keeping systems for customers and transactions. In this respect, SICCFIN has urged those banks that did not already have fully computerized systems to implement such systems as quickly as possible.
Assessment	Compliant.
Comments	While the systematic monitoring of financial institutions' record keeping systems is relatively recent, SICCFIN's actions in this respect are compliant.

5. Cooperation between supervisors/regulators and competent authorities Competent authorities should be able to exchange information (typically through the FIU) related to suspected or actual offenses.	
Description	International cooperation in AML/CFT matters includes mutual legal assistance in criminal matters and extradition, and exchange of information between FIUs and other competent authorities. Mutual legal assistance is requested through international letter rogatory (ILR), the formal procedure under which governments and their judicial authorities request and furnish assistance in criminal matters, including the taking of evidence, the service of judicial documents, the execution of searches and seizures, the performance of onsite examinations, and the provision of evidence. From 1998 to 2001, the Principal Prosecutor's office received 211 ILRs on all subject matters, executed 189 of them, was still processing 19 others (in 2002), and denied execution of 3. Of these ILRs, the following number was related to money laundering: 63 received, 55 executed, 8 still being executed, and none denied. Monaco also addresses ILRs to other jurisdictions. During the same period, 189 ILRs were issued by Monaco, 125 were executed, 60 are being processed, and 2 were denied (and Monaco decided to withdraw two). Of these, 32 related to money laundering, of which 11 were executed, 21 are being processed, and none were denied. SICCFIN is a member of the Egmont Group, which indicates that it is considered as meeting the definition of an FIU. SICCFIN exchanges information of a general nature with the other members of the Egmont Group. SICCFIN also cooperates with foreign FIUs, with which some eight information exchange MOUs have been signed and a further four are under discussion. Specific issues with regard to the sharing of information between cross-sector supervisors are discussed in Table 2.3, below.
Assessment	Largely Compliant.
Comments	Compliant with respect to mutual legal assistance and extradition, and with respect to SICCFIN's cooperation with other FIUs. Largely compliant with respect to cross-border cooperation in the banking sector. Additional, formalized measures for exchange of information with supervisory authorities may be appropriate to enhance the cross-border cooperation in the banking sector.
6. Licensing and authorizations The licensing authority should take the necessary legal or regulatory measures to ensure that only qualified persons control financial institutions. Measures should prevent control or acquisition of a material participation in financial institutions by criminals or their confederates.	
Description	In Monaco, all business activity is subject to authorization by the DEE, whose procedures include a fit-and-proper test for persons applying for such authorizations, and managers of the concerned legal entities. In addition, certain activities, such as banking, are subject to specific authorizations. The administrative decision authorizing the activity (or denying it) must be substantiated with regard to the professional competence and to the financial guarantees and guarantees of good character presented by the applicant. Licensing of banks in Monaco is the responsibility of the French CECEI. French law requires a fit-and-proper test for members of boards of banks and bank managers. With regard to firms of portfolio managers, Monaco law requires that their managers and owners pass a fit-and-proper test, which includes a police check. The same requirement applies to insurance brokers and agents.
Assessment	Compliant.
Comments	

Module 2—AML/CFT sector-specific criteria for the banking sector

Table 2.3. Detailed Assessment of AML/CFT Sector-Specific Criteria for the Banking Sector

1. Organizational and administrative arrangements No applicable banking-specific criteria.	
2. Customer identification and due diligence The supervisor should require that banks (1) conduct more extensive due diligence in the case of high-risk customers; (2) establish a more systematic procedure for the identification of new customers before a banking relationship is established; (3) have appropriate due-diligence practices for introduced business and client accounts opened by professional intermediaries; (4) document and enforce policies regarding the identification of customers and those who act in their behalf; (5) have appropriate identification procedures when entering into activity with non-face-to-face customers; (6) refuse to enter into or continue a correspondent bank relationship with a bank incorporated in a jurisdiction in which it has no physical presence and which is unaffiliated with a regulated financial group; (7) pay particular attention when continuing relationships with respondent banks located in jurisdictions that do not apply sufficient AML/CFT measures; (8) pay particular attention to correspondent banking services; and (9) rules should require that banks include accurate and meaningful originator information on funds transfers and related messages.	
Description	By an agreement between Monaco and France on April 14, 1945, supplemented by exchanges of letters, the Monegasque banking system, which dominates the financial sector, is subject to French banking law and regulation and the supervision by France's *Commission Bancaire* (FCB). In 2000, France completed a self-assessment and received an IMF-led assessment of its compliance with the *Core Principles for Effective Banking Supervision* as developed by the Basel Committee on Banking Supervision. By extension, the conclusions from these assessments are broadly applicable to the supervision of the Monegasque banking system. An area of difference from the French banking system is the supervisory arrangement to deter money laundering. Since 1994, responsibility for this area is vested in the *Service d'Information et de Contrôle sur les Circuits Financiers* (SICCFIN). This agency was set up by SO 11.246 of April 12, 1994, in order to gather, seek, process, and circulate information on financial operations and circuits used to launder money. The agency also deals with the reports on suspicious transactions (see Part I, Section 1c). In addition to the French account opening procedures, specific "know-your-customer " rules are defined in Law No. 1.162 (Article 10) as amended by Law No. 1.253 of July 12, 2002 (Article 6). While the FCB (as the bank supervisor) continues to review all the aspects of the banking activities, including the internal controls and policies pertaining to customer identification requirements, SICCFIN assumes full responsibility for the supervision of compliance by the credit institutions with the legal anti-money laundering requirements. In addition to legal and official requirements, the professional associations collaborate with the authorities to reinforce general compliance with the AML prescriptions. SICCFIN has substantially increased the monitoring of AML compliance during the last two years. In June 2000, every bank was requested to update the SICCFIN files with a detailed description of the existing organizational and procedural measures in place in order to prevent money laundering. In a second phase SICCFIN has addressed the compliance of the financial institutions with these rules by issuing two questionnaires (July 19 and December 11, 2001).

	The July 19, 2001 questionnaire addresses the organizational measures taken by each institution in order to prevent money laundering. The first part of the questionnaire deals with the identity and hierarchical position of the SICCFIN correspondents. The second part seeks information on various aspects of the reporting process of suspicious operations. The December 11, 2001 questionnaire follows up on the compliance by the individual institutions with the AML requirements. Banks are asked to describe their due-diligence procedures for opening accounts, the identification of clients, the conservation of information, special transactions, information and training of staff, a permanent monitoring of the adequacy of the AML measures in place, the existence of adequate written rules, the internal communication of these rules, the SICCFIN correspondents, and the reporting process. However, no mention is made of any specific due diligence for higher risk customers; especially, politically exposed persons (PEP). These questionnaires are largely based on the anti-money laundering documents of the FCB. They serve the purpose of alerting banks to all requirements while providing SICCFIN with information on compliance. Furthermore, several documents related to the FATF requirements have been circulated to the financial sector. Certified public accountants have also been encouraged to establish a code of good conduct. In order to achieve greater synergy between them, FCB and SICCFIN have negotiated a cooperation agreement that is to be signed in the near future. The agreement will provide for a procedure regarding exchange of information between the two institutions and training. To cope with this substantial change in workload, SICCFIN's staff resources have been increased from three to eight (soon to be nine) persons and the supervisory approach has been strengthened (increase of onsite examinations). An intensive training program for SICCFIN staff members and exchange programs has been organized with the assistance of foreign FIUs. Furthermore, a third party has been contracted in order to provide for in-depth theoretical and practical training as to compliance of banks with AML requirements. A training manual has since been delivered and three days of theoretical training has been given to two SICCFIN staff. In the first week of May 2002, the contractual third party experts will accompany onsite examinations by SICCFIN staff. An examination manual has also been prepared to assist in this process. Given Monaco's adherence to the UN convention of November 2001 on CFT, the amendment to Law No. 1.162 requires reporting of transactions suspected to be linked with the financing of terrorism. SICCFIN is the administrative authority that ensures compliance with this requirement. It may be noted that most banks operating in Monaco are part of large international financial groups (only two banks belong to medium-seized international groups). Their representatives have pointed out that the Monegasque branches and subsidiaries have in fact to comply with the stricter internal AML requirements of their groups, which are imposed in a uniform way throughout their respective groups. These higher standards generally correspond with the requirements of the most demanding of the countries in which those groups are active ("positive" regulatory arbitrage). Reputation risk is also cited as being the most compelling factor in the proactive approach to AML, which characterizes the major financial players and this would appear to offer positive incentives. The response to the two questionnaires mentioned above have been examined by SICCFIN, and the results are serving as a basis for SICCFIN's supervisory action in individual cases.