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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

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

First progress report submitted to MONEYVAL by MONACO[1]

[1] Adopted by MONEYVAL at its 29th Plenary Meeting (Strasbourg, 16-20 March 2009). For further information on the examination and adoption of this report, please refer to the Meeting Report (ref: MONEYVAL(2009)16 at www.coe.int/moneyval)

1. General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field

After taking account of the findings of the evaluation report on Monegasque anti-money laundering and terrorism financing arrangements adopted by the Moneyval Committee in 2006, which set out various changes needed to respond to international developments, and in order to make Monegasque provision in this area clearer and more understandable, the Government of Monaco decided to restart from scratch.

The result was a proposed comprehensive reform of current arrangements, which are the fruit of numerous successive modifications, in order to re-establish a certain consistency.

It was therefore considered appropriate to prepare draft legislation to repeal and replace Act 1.162 of 7 July 1993 relating to the participation of financial undertakings in countering money laundering and terrorism financing.

The proposed provisions call for the following comments:

Chapter I – General

Sections 1 and 2: Define the bodies and persons concerned. These are bodies and persons previously covered by Act 1.162 and sovereign order 14.466.

Section 3: For the purposes of the legislation, defines money laundering, terrorism financing and corruption.

Chapter II – Obligations to identify customers and to maintain due diligence

Sections 4, 4bis and 5: Specify the circumstances in which the identity of customers and, if appropriate, persons on behalf of whom transactions are carried out, must be reported.

Although it established an obligation to identify customers, Act 1.162 of 7 July 1993 relating to the participation of financial undertakings in countering money laundering and terrorism financing had fairly little to say on the precise procedures to be applied. This aspect of the prevention of money laundering, terrorism financing and corruption is of crucial importance and in accordance with new international standards more specific and detailed provisions are required on the identification of customers and any beneficial owners, and on how to confirm their identity. To be able to do this, it is essential to have a precise definition of beneficial owner.

Under the legislation, the bodies and persons subject to it should identify and verify the identity of beneficial owners. To meet this requirement, they should have free access to public registers and be entitled to ask their customers for any relevant information or obtain information from other sources, bearing in mind that the importance of these due diligence measures depends on the risk of money laundering or terrorism financing, which varies according to types of customer, business relationship and product or transaction.

Moreover, as tighter controls in the financial sector have led those responsible for money laundering and terrorism financing to seek other means of concealing the proceeds of crime and the channels in question can be used to finance terrorism, the obligation to identify customers and to show due diligence now have to cover a wider range of professions. The draft legislation therefore extends these obligations to the non-financial professions specified in section 2 of amended Act 1.162, which until now have only been required to report suspected cases.

Section 6: Prohibits anonymous treasury bonds and savings deposits and specifies what forms of identification must be applied to transactions involving such instruments.

Section 7: Specifies what forms of identification must be applied to transactions involving precious metals and manual exchange operations.

Section 8: Species a number of exceptions to the identification measures in sections 4, 4 bis and 5, having regard to the risk-based approach.

It needs to be recognised that the risk of money laundering and terrorism financing can vary. Under the risk-based approach, the principle that simplified due diligence procedures are applicable to customers in certain cases appears in the legislation.

Chapter III – Obligations concerning internal organisation

Section 9: Specifies that bodies and persons covered by the legislation must take specific measures to deal with the increased risk of laundering that may exist in certain circumstances.

Sections 9-13: Specify a certain number of organisational obligations that bodies and persons covered by the legislation must satisfy, in particular:
- specific measures to deal with the increased risk of laundering that may exist in certain circumstances;
- the period over which documents must be retained and the conditions, and the monitoring of transactions;
- examination of transactions particularly likely, because of their complex or unusual character, having regard to the customer's activities or the lack of any financial or apparently legal justification, to be linked to money laundering or terrorism financing;
- training and familiarisation of staff with the provisions of the legislation;
- appointment of a person responsible for applying the legislation and drawing up procedures.

Certain situations carry a higher risk of money laundering or terrorism financing. Even though the identity and business profile of all customers have to be established, there are cases where particularly rigorous procedures for establishing and verifying identities are required.

Chapter IV – Limiting cash payments

Section 14: It has often emerged that significant cash payments carry a very high risk of money laundering or terrorism financing. Articles priced at or above a certain level may not therefore be paid for in cash.

Chapter V – Obligation for bodies and persons covered by sections 1 and 2 to report suspicions to the anti-money laundering and terrorism financing authorities

Sections 15, 23, 25 and 28: concerned with the Financial Information and Monitoring Department (SICCFIN).

SICCFIN acts as the financial intelligence unit and as such collects, analyses and deals with reports of suspicion from bodies and persons covered by the legislation and refers to the state prosecutor suspected cases of money laundering, terrorism financing or corruption. SICCFIN has been granted extensive powers for this purpose. It can suspend the execution of transactions reported to it for up to three working days and ask the president of the court of first instance to extend this period. It also has the right to request documents retained by bodies and persons covered by the legislation (section 23). It can also seek on its own initiative, or with the assistance of the police or other government departments, any information it considers necessary to carry out its responsibilities as the financial intelligence unit. Finally, section 25 authorises SICCFIN to exchange information with foreign financial intelligence units.

When SICCFIN reports cases of possible money laundering, terrorism financing or corruption to the state prosecutor, the latter must report back on any action taken in response to such referrals, to ensure that the reporting undertakings are kept informed (section 15). This feedback is designed to allow SICCFIN to update its knowledge of methods and techniques used in money laundering and terrorism financing and to make this available in turn to undertakings subject to the duty of due diligence.

Sections 16, 22, 26 and 29: the reporting obligation

In principle, before carrying out an operation or transaction that might involve money laundering or terrorism financing bodies and persons covered by the legislation must report it to SICCFIN. However such reports of suspicions may be made after the operation if the suspicion appeared later, if it was impossible, either for legal or technical reasons, to defer execution of the operation, or if the report might have impeded investigations into the beneficiaries of suspected laundering or terrorism financing operations.

In the case of all bodies and persons covered by the legislation, suspicions are reported directly to SICCFIN. However, notaries, lawyers and legal officials report directly to the state prosecutor.

The draft legislation also establishes the principle that such reports of suspicion to SICCFIN are confidential, which means that the fact that they have been made and their contents may not be revealed by the reporter to the owner of the sums or the person carrying out the activity, or a third party, on pain of criminal penalty.

However money laundering and terrorism financing are international problems and have to be fought on a global scale. The draft law therefore authorises financial undertakings belonging to the same group to inform each other of the existence and content of reports of suspicions. However, such exchanges must be confined to persons authorised to receive the information and be solely for the purpose of combating money laundering and terrorism financing. Such information exchange are also authorised outside particular groups or networks, but only between undertakings of the same category and when the information concerns the same customer and transaction.

Finally, since these arrangements for preventing money laundering, terrorism financing and corruption require the active co-operation of the bodies and persons covered by the legislation, the draft law proposes to strengthen the legal protection of those concerned by stipulating that no civil proceedings or prosecutions for false allegations or beach of professional confidentiality may be brought against undertakings that have made such reports of suspicions to SICCFIN in good faith. Similarly, unless there is collusion with the owner of the sums, no criminal proceedings for drug trafficking, handling stolen goods or laundering may be brought against undertakings that have carried out suspect transactions if these transactions have been reported to SICCFIN in accordance with the procedure.

Chapter VI – Supervisory authorities

Sections 30 to 32: Monitoring of the application of the law.

SICCFIN is responsible for enforcing the legislation and measures taken under it by bodies and persons concerned, other than lawyers, notaries and legal officials, who are supervised by the state prosecutor.

To make the checks carried out more effective, certain bodies and persons concerned are required to produce an annual report prepared by an auditor to assess the application of the new law.

Finally, since money laundering, terrorism financing and corruption are international problems, SICCFIN is authorised to collaborate with foreign agencies with comparable supervisory responsibilities.

Chapter VII - Cross-border transportation of currency and bearer negotiable instruments

Sections 33 to 36: National arrangements in response to FATF Special Recommendation IX on cross-border transportation of currency and bearer negotiable instruments.

Any individual entering or leaving the country in possession of currency and bearer negotiable instruments whose total value equals or exceeds an amount specified in a sovereign order must, if requested by the designated supervisory authority, make a report on the relevant form.

Chapter VIII - Penalties

Sections 37 to 41: The penalties applicable for failure to comply with this legislation**.**

In addition to the penalties laid down in Amended Act 1.162, bodies and persons covered by the legislation who fail to comply with their obligations may be liable to a fine. Penalties imposed are published in the Official Journal.

Chapter IX – Various provisions

Section 42: Amends Article 218.1 of the Criminal Code to take account of the new internationally recognised definition of money laundering.

Section 43: Amends Article 219 of the Criminal Code to authorise the confiscation of equivalent value.

To coincide with the draft legislation and in recognition of the delays inherent in any legislative process, the Government has decided to implement some of the proposed measures immediately.

Sovereign orders have therefore been drawn up to modify the existing legal framework[2].

2. Key recommendations

Please indicate improvements which have been made in respect of the FATF Key Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Although the change to article 218-3 appears to satisfy international standards, the Monegasque authorities should consider revising it with regard to European requirements, in particular as regards the threshold approach*
Measures taken to implement the Recommendation of the Report	Section 218-3 covers all the designated categories of offences listed in the Glossary to its 40 Recommendations. In view of the severity of the penalties laid down in the Monegasque Criminal Code it has not so far seemed necessary to reduce the designated threshold.
Recommendation of the MONEYVAL Report	*The authorities should ensure that all designated categories of offence are covered, including the financing of terrorism within the overall meaning of the recommendations and the interpretative note.*
Measures taken to implement the Recommendation of the Report	Terrorism financing offences are predicate offences of money laundering. They are incorporated into the Criminal Code in Article 391-1 3°, 6th dash. To ensure that terrorism financing meets all the requirements of the

[2] The following Sovereign Orders have been adopted and published in the Official Journal of the Principality no. 7093 (Friday 13 March 2009):
- Sovereign Order n° 2.097 of 5 March 2009 amending Sovereign Order n° 11.160 of 24 January 1994 on application criteria of Law n° 1.162 of 7 July 1993 regarding the participation of financial undertakings in the fight against money laundering and the financing of terrorism (p. 3180).
- Sovereign Order n° 2.098 of 5 March 2009 amending Sovereign Order n° 16.652 of 20 December 2004 establishing the Liaison Committee against money laundering and the financing of terrorism (p. 3184).
- Sovereign Order n° 2.099 of 5 March 2009 amending Sovereign Order n° 11.246 of 12 April 1994 establishing a Service d'Information et de Contrôle sur les Circuits Financiers (Financial Circuits Information and Control Department) (SICCFIN) (p. 3185).

	recommendation and the interpretative notes, the Monegasque authorities have decided to extend the definition of this offence by amending article 2 of sovereign order 15.320 of 8 April 2002.
Recommendation of the MONEYVAL Report	*The authorities should clarify the level of proof of the predicate offence.*
Measures taken to implement the Recommendation of the Report	In a recent decision, the Court of Cassation has clarified the level of proof required for a predicate offence. According to a judgment of 20 November 2008, laundering offences can be prosecuted without the need for a prior conviction for the offence that procured for its perpetrator the assets that were the subject of the laundering.
Recommendation of the MONEYVAL Report	*To facilitate the implementation of the new provision, the authorities should consider issuing a manual presenting the AML/CFT legal framework and information on the laundering offence (definition, typology, material elements, intentional element, level of proof required etc.).*
Measures taken to implement the Recommendation of the Report	Within Monaco, there are sufficiently few prosecutors and investigating judges responsible for criminal cases for them all to be familiar with the relevant legal provisions. Regular meetings are held where judges can discuss this type of issue in confidence. Two representatives of the Director of Legal Services, in the form of his director and the state prosecutor, or their representatives, attend meetings of the liaison committee with representatives of SICCFIN and all the relevant professions to discuss laundering and terrorism financing, consider typologies and detection methods and inform the relevant undertakings of problems arising.
(Other) changes since the last evaluation	

Recommendation 5 (Customer due diligence) I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Additional measures should be introduced by the Monegasque authorities to prevent any anonymous financial transactions using bearer treasury and other short term bonds (though their use is very limited).*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included measures to prevent all anonymous financial transactions using bearer treasury bonds and other securities in the proposed changes to the legislation shortly to be introduced in the National Council. Under this legislation they would be explicitly banned. **Draft legislation, section 6** All anonymous transactions using treasury bonds or other negotiable securities are prohibited. Section 4 shall apply to persons subscribing to treasury bonds as defined

	in article 3 of order 1105 of 25 March 1955 on the issue of treasury bonds and to other negotiable securities as defined in Act 712 of 18 December 1961 on the issue of negotiable securities by commercial or industrial undertakings. All information relating to the identity and status of subscribers must be recorded in a register that must be retained in accordance with section 10.
Recommendation of the MONEYVAL Report	*The Monegasque authorities should modify the formulation of the obligation to identify the usual customers, so that this disposition applies explicitly and with certainty to every person with whom business relationships are entered into, independently of the opening of an account.*
Measures taken to implement the Recommendation of the Report	The authorities have drafted measures to change the wording of the duty to identify regular customers to ensure that this provision will apply explicitly and definitively to everyone before any business relationship is entered into, irrespective of whether or not an account is opened. The proposed changes to the legislation will shortly be introduced in the National Council. Business relationship is defined in a draft sovereign order to implement the new legislation and covers all eventualities (see article 2 of the draft order, below). **Draft legislation, section 4** Bodies and persons specified in sections 1 and 2 must identify their customers and their agents and verify their identity, based on documentary proof, of which a copy shall be retained: 1. for regular customers, before establishing a business relationship; 2. for occasional customers, when they wish to effect: a. a transfer of funds b. a transaction whose value equals or exceeds an amount specified in a sovereign order, whether this is effected in one operation or several operations between which there appears to be a link; or c. a transaction, even below the value specified in the sovereign order, where there is suspected money laundering, terrorism financing or corruption; or 3. when the bodies and persons specified in sections 1 and 2 have doubts about the veracity or accuracy of the information concerning the identity of an existing customer. In the case of individuals, the identification and verification shall include the family and first names and the address. In the case of legal persons, other legal entities and trusts, they shall cover the business name and registered office, the list of directors and the provisions governing the power to commit the body concerned, without prejudice to the measures stipulated in section 5.1. The identification shall also concern the planned purpose and nature of the business relationship.

	The arrangements for applying this section shall be laid down in a sovereign order. **Draft sovereign order, article 2** A business relationship is established within the meaning of section 4.1 of the legislation when: • an undertaking and a customer conclude a contract whose execution requires several successive operations to be effected between them over a fixed or unspecified period, or which creates continuing obligations; a customer regularly and repeatedly requests the services of the same undertaking to undertake distinct and successive financial operations.
Recommendation of the MONEYVAL Report	*The verification modalities of the identity of occasional customers wishing to make a wire transfer valued at under € 15 000 should be clearly defined by binding provisions.*
Measures taken to implement the Recommendation of the Report	• Sovereign order 1.630 of 30 April 2008 specifies clearly the arrangements for verifying the identity of occasional customers who request a financial undertaking to effect an occasional transfer of funds of an amount less than € 15 000. **Sovereign Order 1.630 of 30 April 2008 amending Sovereign Order 631 of 10 August 2006** Article 1 A paragraph is added to Article 1 of Our Order 631 of 10 August 2006 aforesaid, reading as follows: "They are required to verify the identity of occasional clients requesting a wire transfer or fund transfer, whatever the amount." • The Monegasque authorities have included provisions in the new draft legislation that specify clearly the arrangements for verifying the identity of occasional customers who wish to make wire transfers. Identity must be established and verified no matter what the sum involved (see Special Recommendation VII) **Draft legislation, section 4** Bodies and persons covered by sections 1 and 2 must identify their customers and their agents and verify their identity, based on documentary proof, of which a copy shall be retained: 1. for regular customers, before establishing a business relationship; 2. for occasional customers, when they wish to effect: a. a transfer of funds b. a transaction whose value equals or exceeds an amount specified in a sovereign order, whether this is effected in one operation or several operations between which there appears to be a link; or c. a transaction, even below the value specified in the sovereign order, where there is suspected money laundering, terrorism financing or corruption; or

	3. when the bodies and persons specified in sections 1 and 2 have doubts about the veracity or accuracy of the information concerning the identity of an existing customer. In the case of individuals, the identification and verification shall include the family and first names and the address. In the case of legal persons, other legal entities and trusts, they shall cover the business name and registered office, the list of directors and the provisions governing the power to commit the body concerned, without prejudice to the measures stipulated in section 5.1. The identification shall also concern the planned purpose and nature of the business relationship. The arrangements for applying this section shall be laid down in a sovereign order. **Draft sovereign order, article 6** 1. When customers who are individuals are met face to face, their identity must be verified in accordance with section 4 of the legislation by means of any currently valid official document carrying a photograph. 2. When an address is not included in the official document presented by a customer, or in case of doubt as to the correctness of the address given, the undertaking is required to verify this information via another document likely to offer proof to the real address and to take a copy of this.
Recommendation of the MONEYVAL Report	*The elements on which the identification of trusts is based should be more accurate and should indicate more clearly for the concerned entities who has to be identified during a trust identification.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have supplemented the measures concerning the identification of trusts in a draft sovereign order that will be published shortly. **Draft sovereign order to amend sovereign order 11.160, article 1:** Sub-paragraphs 6 and 7 of article 1 of sovereign order 11.160 of 24 January 1994 are repealed and replaced by the following sub-paragraphs: When identifying customers that are legal entities or trusts, the financial undertakings shall take cognisance of the existence, nature, objectives pursued and management and representation arrangements of the legal entity or trust concerned. They shall verify this information based on any documents likely to provide supporting evidence and retain copies of all these documents. Identification shall include taking cognisance of and verifying the list of persons authorised to manage these customers, based on documentary proof. When the customer is a legal person, the beneficial owners shall be understood to be:

	- individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal person; - individuals who otherwise exercise power to direct the management of the legal person. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not necessary to identify the company's shareholders or to verify their identity. This exception does not apply in cases where money laundering, terrorism financing or corruption are suspected. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners based on any documents likely to provide supporting evidence under the legislation applicable to the legal person. When the customer is a legal entity or trust, the beneficial owners shall be understood to be: 1. when the future beneficiaries have already been named, the person or persons who are beneficiaries of at least 25% of the assets of the legal entity or trust; 2. when the individual beneficiaries of the legal entity or trust have not yet been named, the group of persons in whose principal interest the legal entity or trust has been established or produces its effects; 3. the individual or individuals who exercise control over at least 25% of the assets of the legal entity or trust; 4. the constituent or constituents of the legal entity or trust. Financial undertakings shall take all reasonable measures to: - verify the list of beneficial owners in 1. and 4. of paragraph 11, based on the instrument creating the legal entity or trust or any other documents likely to provide supporting evidence; - establish the list of real beneficial owners specified in 2. and 3. of the previous paragraph, based on any available information that can reasonably be relied on. • The Monegasque authorities have supplemented the measures concerning the identification of trusts in draft legislation that will shortly be submitted to the National Council. The following articles specify which persons must be identified as part of the identification of trusts. **Draft sovereign order, article 8** When identifying customers that are legal persons or trusts, the financial bodies shall take cognisance of the existence, nature, objectives pursued and management and representation arrangements of the legal person or trust concerned, and shall verify this information by means of any relevant documentation, of which they shall retain copies. Identification shall include taking cognisance of and verifying the list of persons authorised to manage these customers, based on documentary proof.

	Draft sovereign order, article 16 When the customer is a legal entity or trust, the beneficial owners shall be understood to be: 1. when the future beneficiaries have already been named, the person or persons who are beneficiaries of at least 25% of the assets of the legal entity or trust; 2. when the individual beneficiaries of the legal entity or trust have not yet been named, the group of persons in whose principal interest the legal entity or trust has been established or produces its effects; 3. the individual or individuals who exercise control over at least 25% of the assets of the legal entity or trust; 4. the constituent or constituents of the legal entity or trust. The undertakings concerned shall take all reasonable measures to verify the list of real beneficial owners in paragraph 1.1. and 1.4., based on the instrument creating the legal entity or trust or any other documents likely to provide supporting evidence; They shall take all reasonable measures to establish the list of real beneficial owners specified in paragraphs 1, 2 and 3, based on any available information that can reasonably be relied on.
Recommendation of the MONEYVAL Report	*The Monegasque provisions should be adapted to include, as beneficial owners, the persons who have no share of the capital but still provide the leadership of or "brains behind" a company and persons who have established trusts.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have set out, in a draft sovereign order that will shortly be published, measures to identify, in connection with real beneficiaries, persons who do not have a controlling interest in the capital of a legal person but still represent the persons who comprise the mind and management, and persons who have constituted trusts. **Draft sovereign order to amend sovereign order 11.160, article 1** Sub-paragraphs 6 and 7 of article 1 of sovereign order 11.160 of 24 January 1994 are repealed and replaced by the following sub-paragraphs: When identifying customers that are legal persons or trusts, financial undertakings shall take cognisance of the existence, nature, objectives pursued and management and representation arrangements of the legal person or trust concerned. They shall verify this information by means of any relevant documentation, of which they shall retain copies. Identification shall include taking cognisance of and verifying the list of persons authorised to manage these customers, based on documentary proof. When the customer is a legal person, the beneficial owners shall be understood to be: - individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal entity; - individuals who otherwise exercise control over the management of the legal entity. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is

	located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not necessary to identify the company's shareholders or to verify their identity. This exception does not apply in cases where money laundering or terrorism financing are suspected. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners based on any documents likely to provide supporting evidence under the legislation applicable to the legal person. When the customer is a legal entity or trust, the beneficial owners shall be understood to be: 1. when the future beneficiaries have already been named, the person or persons who are beneficiaries of at least 25% of the assets of the legal entity or trust; 2. when the individual beneficiaries of the legal entity or trust have not yet been named, the group of persons in whose principal interest the legal entity or trust has been established or produces its effects; 3. the individual or individuals who exercise control over at least 25% of the assets of the legal entity or trust; 4. the constituent or constituents of the legal entity or trust. Financial undertakings shall take all reasonable measures to: - verify the list of beneficial owners in 1. and 4. of paragraph 11, based on the instrument creating the legal entity or trust or any other documents likely to provide supporting evidence; - establish the list of real beneficial owners specified in 2. and 3. of the previous paragraph, based on any available information that can reasonably be relied on. • The Monegasque authorities have also set out, in a draft amendment to the legislation that will shortly be presented to the National Council, measures to identify, in connection with real beneficiaries, persons who do not have a controlling interest in the capital of a legal person but still represent the persons who comprise the mind and management, and persons who have constituted trusts. **Draft sovereign order, article 15§1** §1. When the customer is a legal person, the beneficial owners shall be understood to be: - individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal entity; - individuals who otherwise exercise control over the management of the legal entity. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not necessary to identify the company's shareholders or to verify their identity.

	This exception does not apply in cases where money laundering or terrorism financing are suspected. §2. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners specified in §1.1, based on any documents likely to provide supporting evidence under the legislation applicable to the legal person. **Draft sovereign order, article 16** When the customer is a legal entity or trust, the beneficial owners shall be understood to be: 1. when the future beneficiaries have already been named, the person or persons who are beneficiaries of at least 25% of the assets of the legal entity or trust; 2. when the individual beneficiaries of the legal entity or trust have not yet been named, the group of persons in whose principal interest the legal entity or trust has been established or produces its effects; 3. the individual or individuals who exercise control over at least 25% of the assets of the legal entity or trust; 4. the constituent or constituents of the legal entity or trust. The undertakings concerned shall take all reasonable measures to verify the list of real beneficial owners in paragraph 1.1. and 1.4., based on the instrument creating the legal entity or trust or any other documents likely to provide supporting evidence; They shall take all reasonable measures to establish the list of real beneficial owners specified in paragraphs 1, 2 and 3, based on any available information that can reasonably be relied on.
Recommendation of the MONEYVAL Report	*Without reconsidering the fact that every financial institution, as far as it is concerned, is obliged to define the most appropriated concrete modalities of identification of high risk situations that require an increased vigilance, and jointly with the threshold of € 100 000 above which the vigilance regarding the clients operations needs to be reinforced, the Monegasque authorities should define what conditions these individual systems should satisfy to be considered as adequate. The Monegasque authorities should publish in particular guidelines concerning the setting up of the risk-based approach referred to in art. 5, al.2, 4th and 5th dash of the OS*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in the draft legislation to be tabled shortly more details on the conditions individual systems must satisfy to be considered adequate. **Draft legislation, section 11** The bodies and persons covered by sections 1 and 2 are required to pay especially close attention to any transactions particularly likely, because of their complex or unusual character, having regard to the customer's activities or the lack of any financial or apparently legal justification, to be linked to money laundering or terrorism financing.

	The bodies and persons concerned shall prepare a written report on the result of this examination concerning the origin and destination of the sums involved and the object of the transaction and its beneficiary. The report and all documents pertaining to the transaction shall be submitted by the persons specified in section 13 for retention for the period specified in section 10 and shall be made available if required to SICCFIN. The measures specified in this section shall also apply to transactions involving a consideration with links to a state or territory whose legislation is recognised to be inadequate or whose practices are considered to be an obstacle to combating money laundering, terrorism financing or corruption. The states or territories and the minimum amount of the transactions concerned shall be specified in a ministerial order. **Draft sovereign order, article 38** SICCFIN may propose any changes to legislation or regulations it deems necessary to combat money laundering, terrorism financing or corruption. SICCFIN may issue any instructions or recommendations it considers necessary concerning the application of the legislation and this sovereign order. • In addition, on 28 February 2008, SICCFIN wrote to financial undertakings setting out the risk based approach to be applied. (see appendix).
Recommendation of the MONEYVAL Report	*The provisions that are in force concerning the increased vigilance should be completed to specify the additional responsibilities to which the entities are bound, beyond the obligation to proceed to a new customer identification.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly more details about the additional obligations by which the relevant bodies are bound, over and above that of newly identifying customers where increased diligence is required. The wording has been altered to cover these points. **Draft legislation, section 4** Bodies and persons covered by sections 1 and 2 must identify their customers and their agents and verify their identity, based on documentary proof, of which a copy shall be retained: 1. for regular customers, before establishing a business relationship; 2. for occasional customers, when they wish to effect: a. a transfer of funds b. a transaction whose value equals or exceeds an amount specified in a sovereign order, whether this is effected in one operation or several operations between which there appears to be a link; or c. a transaction, even below the value specified in the sovereign order, where there is suspected money laundering, terrorism financing or corruption; or 3. when the bodies and persons specified in sections 1 and 2 have doubts about the veracity or accuracy of the information concerning the identity

	of an existing customer. In the case of individuals, the identification and verification shall include the family and first names and the address. In the case of legal persons, other legal entities and trusts, they shall cover the business name and registered office, the list of directors and the provisions governing the power to commit the body concerned, without prejudice to the measures stipulated in section 5.1. The identification shall also concern the planned purpose and nature of the business relationship. The arrangements for applying this section shall be laid down in a sovereign order. **Draft sovereign order, article 10** In order to identify the planned object and nature of the business relationship, undertakings shall take cognisance of and register the types of transaction which customers request and any information necessary to determine the purpose of the business relationship envisaged by the customer. This information, which includes in particular the origin of the customer's assets and his or her financial background, must be confirmed by reliable documents, figures or other sources of information.
Recommendation of the MONEYVAL Report	*Though the Monegasque authorities maintain that the financial institutions are not allowed, other than in situations specified in law, to exercise simplified diligence in situations that they themselves have identified as low risk, the wording of the regulations does not unambiguously exclude this possibility.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order shortly to be published measures to prevent financial undertakings from applying simplified due diligence procedures in situations that they themselves consider to be low risk, other than ones specified in law. **Draft sovereign order to amend sovereign order 11.160, article 4** Article 5.2.5 of sovereign order 11.160 of 24 January 1994 is amended as follows: - the procedure to follow to establish the distinctions between and requirements of different levels of risk according to objective criteria set by each financial undertaking, taking into account the services and products it offers and those of the customers at whom it aims, in order to determine an appropriate scale of risk; • In addition, the draft changes to the legislation will completely reorganise the anti-laundering and terrorism financing arrangements. This new wording prevents financial undertakings from applying simplified due diligence procedures in situations that they themselves consider to be low risk, other than ones specified in law.

	Draft legislation, section 4bis §7 1. The bodies and persons specified in sections 1 and 2 must exercise constant vigilance with regard to business relationships, particularly by examining operations and transactions concluded throughout the duration of a business relationship and, if necessary, the origin of funds, to verify that these operations and transactions are consistent with what is known about these customers, their social and financial backgrounds, their commercial activities and their risk profile, and by keeping the relevant documents, data and information up to date by paying close attention to operations and transactions effected. 2. If the bodies and persons specified in sections 1 and 2 are unable to satisfy the obligations in section 4 and §1 above, they may not establish or maintain a business relationship. They should decide whether SICCFIN should be informed of this, in accordance with sections 16 to 20. 3. The bodies and persons specified in §§ 1 to 5 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that has itself carried out these due diligence procedures and is established in a state whose legislation imposes obligations equivalent to those in sections 4, 4bis and 5, compliance with which is monitored. 4. The bodies and persons specified in §§ 6 to 15 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that has itself carried out these due diligence procedures. 5. The bodies and persons specified in sections 1 and 2 whose activities include money transfers are required to include in these operations and the accompanying messages, precise and useful information on the customers making the order. These bodies shall also retain all information and transmit it when they act as intermediaries in a payment chain. Specific measures may be taken for cross-border batch transfers and permanent transfers of salaries and pensions that do not create an increased risk of money laundering, terrorism financing or corruption. The conditions in which this information must be retained or made available to the authorities or other financial institutions shall be specified in a sovereign order. 6. The bodies specified in the 7th paragraph of section 1 must identify their customers and verify their identity, based on documentary proof, of which a copy shall be retained, when they purchase or exchange gambling chips for amounts equal to or in excess of the amount specified in a sovereign order and when they wish to effect any other operation relating to gaming, without prejudice to the measures specified in section 5. 7. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the

	customer, the business relationship or the transaction. **Draft legislation, section 5§2** 1. The bodies and persons specified in sections 1 and 2 must identify and take all reasonable measures to verify the identity of persons for whose benefit operations or transactions are effected: a. if there is any doubt as to whether customers specified in section 4§1 are acting on their own account or it is certain that they are not acting on their own account; b. when the customer is a legal person, a legal entity or a trust. When the customer is a legal person, a legal entity or a trust, the measures include the identification of the individual or individuals who actually own or control the customer. 2. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the transaction. **Draft sovereign order, article 25** The undertakings concerned shall draw up and implement a policy and procedures appropriate to their area of activity to be applied before any business relationship is established, to enable them to contribute fully to preventing money laundering, terrorism financing and corruption by taking cognisance and carrying out an appropriate examination of the characteristics of new customers and/or the services or operations for which their assistance is requested, particularly with regard to the risk of money laundering, terrorism financing or corruption. The relevant policy and procedures shall establish distinctions between and the requirements of different levels of risk according to objective criteria set by each undertaking, taking into account the services and products he offers and those of the customers at whom he aims, in order to determine an appropriate scale of risk. Undertakings must be able to show that the scale of the measures they are taking is appropriate to the risk of money laundering, terrorism financing or corruption.
Recommendation of the MONEYVAL Report	*The provisions authorizing a lower level of diligence for customers that are public companies do not require them to be subject to the laws of countries that comply with and apply the FATF recommendations.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be published shortly measures to ensure that the simplified due diligence measures concerning companies inviting investment from the public are only applicable if the customer company is covered by the legislation of a country that complies with and applies FATF recommendations. **Draft sovereign order to amend sovereign order 11.160, article 1** Sub-paragraphs 6 and 7 of article 1 of sovereign order 11.160 of 24 January 1994 are repealed and replaced by the following sub-paragraphs: When identifying customers that are legal entities or trusts, financial undertakings shall take cognisance of the existence, nature, objectives

	pursued and management and representation arrangements of the legal entity or trust concerned. They shall verify this information by means of any relevant documentation, of which they shall retain copies. Identification shall include taking cognisance of and verifying the list of persons authorised to manage these customers, based on documentary proof. When the customer is a legal person, the beneficial owners shall be understood to be: - individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal person; - individuals who otherwise exercise control over the management of the legal person. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not necessary to identify the company's shareholders or to verify their identity. this exception does not apply in cases where money laundering or terrorism financing are suspected. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners based on any documents likely to provide supporting evidence under the legislation applicable to the legal person. When the customer is a legal entity or trust, the beneficial owners shall be understood to be: 1. when the future beneficiaries have already been named, the person or persons who are beneficiaries of at least 25% of the assets of the legal entity or trust; 2. when the individual beneficiaries of the legal entity or trust have not yet been named, the group of persons in whose principal interest the legal entity or trust has been established or produces its effects; 3. the individual or individuals who exercise control over at least 25% of the assets of the legal entity or trust; 4. the constituent or constituents of the legal entity or trust. Financial undertakings shall take all reasonable measures to: - verify the list of beneficial owners in 1. and 4. of paragraph 11, based on the instrument creating the legal entity or trust or any other documents likely to provide supporting evidence; - establish the list of real beneficial owners specified in 2. and 3. of the previous paragraph, based on any available information that can reasonably be relied on. • The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure that the simplified due diligence measures concerning companies inviting investment from the public are only applicable if the customer company is covered by the legislation of a country that complies with and applies FATF recommendations. **Draft sovereign order, article 15§1** §1. When the customer is a legal person, the beneficial owners shall be understood to be:

	- individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal person; - individuals who otherwise exercise control over the management of the legal person. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not necessary to identify the company's shareholders or to verify their identity. This exception does not apply in cases where money laundering or terrorism financing are suspected. §2. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners specified in §1.1, based on any documents likely to provide supporting evidence under the legislation applicable to the legal person.
Recommendation of the MONEYVAL Report	*The provisions authorizing a lower level of diligence for customers that are financial institutions subject to the legislation or public companies do not stipulate exceptions when there are suspicions of money laundering or terrorist financing.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be published shortly measures to ensure that the simplified due diligence measures are not applicable if there are suspicions of money laundering or terrorism financing. **Draft sovereign order to amend sovereign order 11.160, article 1** Sub-paragraphs 6 and 7 of article 1 of sovereign order 11.160 of 24 January 1994 are repealed and replaced by the following sub-paragraphs: When identifying customers that are legal entities or trusts, financial undertakings shall take cognisance of the existence, nature, objectives pursued and management and representation arrangements of the legal entity or trust concerned. They shall verify this information by means of any relevant documentation, of which they shall retain copies. Identification shall include taking cognisance of and verifying the list of persons authorised to manage these customers, based on documentary proof. When the customer is a legal person, the beneficial owners shall be understood to be: - individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal person; - individuals who otherwise exercise control over the management of the legal person. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not

	necessary to identify the company's shareholders or to verify their identity. This exception does not apply in cases where money laundering or terrorism financing are suspected. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners based on any documents likely to provide supporting evidence under the legislation applicable to the legal person. When the customer is a legal entity or trust, the beneficial owners shall be understood to be: 1. when the future beneficiaries have already been named, the person or persons who are beneficiaries of at least 25% of the assets of the legal entity or trust; 2. when the individual beneficiaries of the legal entity or trust have not yet been named, the group of persons in whose principal interest the legal entity or trust has been established or produces its effects; 3. the individual or individuals who exercise control over at least 25% of the assets of the legal entity or trust; 4. the constituent or constituents of the legal entity or trust. Financial undertakings shall take all reasonable measures to: - verify the list of beneficial owners in 1. and 4. of paragraph 11, based on the instrument creating the legal entity or trust or any other documents likely to provide supporting evidence; - establish the list of real beneficial owners specified in 2. and 3. of the previous paragraph, based on any available information that can reasonably be relied on. • The Monegasque authorities have also taken account of this recommendation in the draft changes to the legislation by making it clear that section 15.1 does not apply if money laundering, terrorism financing or corruption are suspected **Draft sovereign order, article 15§1** §1. When the customer is a legal person, the beneficial owners shall be understood to be: - individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal person; - individuals who otherwise exercise control over the management of the legal person. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not necessary to identify the company's shareholders or to verify their identity. This exception does not apply in cases where money laundering or terrorism financing are suspected. §2. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners specified in §1.1, based on any documents likely to provide supporting evidence under the legislation applicable to

	the legal person.
(Other) changes since the last evaluation	
Recommendation 5 (Customer due diligence) II. Regarding DNFBP[3]	
Recommendation of the MONEYVAL Report	*The Monegasque authorities should put a stop to the legal uncertainty that comes from the decision of annulation No. 14.466 of 22 April 2000 pronounced by the Supreme Court the 6 March 2001, as it only points out the lawyers. They should ensure that the lawyers are subject to the preventive obligations provided for in the recommendation 12 of the FATF.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly a precise statement of cases where lawyers are subject to the same obligations as financial establishments, to end the legal uncertainty following the Supreme Court's decision of 6 March 2001 to annul sovereign order 14.466 of 22 April 2000, in so far as it concerns this profession. **Draft legislation, section 2** Where this is expressly stipulated, the provisions of this legislation shall also apply to the following persons: 1. notaries; 2. court bailiffs; 3. persons coming within the scope of Act 1.231 on the various professions of auditors; 4. persons coming within the scope of Act 1.047 on the professions of defence lawyer and lawyer: • when they prepare for or carry out transactions for their client concerning: a. the purchase or sale of real estate or commercial undertakings; b. activities in connection with the formation, operation or management of companies; c. the establishment, operation or management of trusts, companies or similar bodies; • when they act in the name of their client and on the client's behalf in any financial or property transaction.
Recommendation of the MONEYVAL Report	*The legal framework applicable to the casinos should be completed so that they are required to ensure that the customers are acting on their own behalf or on behalf of effective beneficiaries.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be published shortly measures requiring casinos to establish whether their customers are acting on their own behalf or that of beneficial owners. **Draft sovereign order to amend sovereign order 11.160, article 3** The following provisions are inserted before the final sub-paragraph of article 1 of sovereign order 11.160 of 24 January 1994: Gaming houses shall be required to establish whether their customers are

[3] i.e. part of Recommendation 12.

	acting on their own behalf or that of beneficial owners. • The Monegasque authorities have also included in the draft legislation to be tabled shortly measures requiring casinos to establish whether their customers are acting on their own behalf or that of beneficial owners by making them subject to section 5 of the legislation on exactly the same basis as the other professions listed. **Draft legislation, section 1** The following bodies and persons are subject to the provisions of this legislation: 1. Persons who carry on banking or bank intermediation business on a regular basis; 2. Persons undertaking activities specified in section 1 of Act 1.338 of 7 September 2007 on financial activities; 3. Insurance companies as specified in Article 3 of Order 4.178 of 12 December 1968 instituting state supervision of insurance and guaranteed investment undertakings of all types and organising the insurance industry, insurance intermediaries, agents and brokers established in the Principality in connection with life insurance and insurance linked to investments; 4. Persons appearing in the list in section 3 of Act 214 of 27 February 1936, as amended; 5. Persons specified in section 3 of Act xxx carrying out operations relating to the establishment, management and control of legal persons, legal entities or trusts, and as such providing some or all of the following services to third parties: • acting as agent in the constitution of a legal person, legal entity or trust; • acting, or making the necessary arrangements for someone else to act, as director or secretary general of a company, as partner in a partnership or private limited company, or in a similar function for other legal persons or entities; • providing a registered office, commercial address or premises, or an administrative or postal address for a company, partnership or any other legal person or entity; • acting, or making the necessary arrangements for someone else to act, as the administrator of a trust; • acting, or making the necessary arrangements for someone else to act, as a shareholder on behalf of another person. **7. Gaming houses;** 8. Bureaux de change as specified in section 1 of Act XXX; 9. Money transmitters as specified in section 2 of Act XXX; 10. Estate agents specified in Act 1.252 of 12 July 2002 on activities relating to certain operations connected with real estate and businesses; 11. Retailers; 12. Business, legal and tax advisers; 13. Services concerned with guarding, protecting and transporting currency;

	14. Dealers in precious objects, such as precious stones, precious materials, antiques, works of art and other valuable objects; 15. Pawnbrokers; 16. Other persons who, in the conduct of their business, carry out, control or advise on transactions entailing movements of funds. Bodies and persons undertaking financial activities that meet the following criteria are not subject to the provisions of this legislation: - the turnover generated by the financial activity must not exceed a maximum figure laid down in a sovereign order; - transactions associated with the activity must not exceed a maximum amount by customer and by transaction laid down in a sovereign order, whether the transaction takes the form of a single operation or several apparently linked operations; - the financial activity is not the principal activity and the turnover it generates must not exceed a percentage of the total turnover of the body or person concerned laid down in a sovereign order; - the financial activity is appurtenant and direct linked to the principal activity; - the principal activity is not specified in the first sub-paragraph of this section; The financial activity is performed solely for the customers of the principal activity and is not generally offered to the public. ***Draft legislation, section 5*** 1. The bodies and persons specified in sections 1 and 2 must identify and take all reasonable measures to verify the identity of persons for whose benefit operations or transactions are effected: a. if there is any doubt as to whether customers specified in section 4§1 are acting on their own account or it is certain that they are not acting on their own account; b. when the customer is a legal person, a legal entity or a trust. When the customer is a legal person, a legal entity or a trust, the measures include the identification of the individual or individuals who actually own or control the customer. 2. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the transaction.
Recommendation of the MONEYVAL Report	*Other DNFBP (in particular real estate agents, dealers in precious metals and precious stones, notaries, legal and tax advisers and other independent accounting professions) should be required to* *be subject to due diligence with regard to customers and their transactions in accordance with FATF Recommendation 5.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to make other designated non-financial businesses and professions subject to the same due diligence requirements towards customers and their operations as financial establishments, in accordance with FATF recommendation 5 (see section 4-4bis-5).

	Draft legislation, section 1 The following bodies and persons are subject to the provisions of this legislation: 1. Persons who carry on banking or bank intermediation business on a regular basis; 2. Persons undertaking activities specified in section 1 of Act 1.338 of 7 September 2007 on financial activities; 3. Insurance companies referred to at Article 3 of Order 4.178 of 12 December 1968 instituting state supervision of insurance and guaranteed investment undertakings of all types and organising the insurance industry, insurance intermediaries, agents and brokers established in the Principality in connection with life insurance and insurance linked to investments; 4. Persons appearing in the list in section 3 of Act 214 of 27 February 1936, as amended; 5. Persons referred to in section 3 of Act xxx carrying out operations relating to the establishment, management and control of legal persons, legal entities or trusts, and as such providing some or all of the following services to third parties: • acting as agent in the constitution of a legal person, legal entity or trust; • acting, or making the necessary arrangements for someone else to act, as director or secretary general of a company, as partner in a partnership or private limited company, or in a similar function for other legal persons or entities; • providing a registered office, commercial address or premises, or an administrative or postal address for a company, partnership or any other legal person or entity; • acting, or making the necessary arrangements for someone else to act, as the administrator of a trust; • acting, or making the necessary arrangements for someone else to act, as a shareholder on behalf of another person. 7. Gaming houses; 8. Bureaux de change as specified in section 1 of Act XXX; 8. Money transmitters as specified in section 2 of Act XXX; 10. Estate agents specified in Act 1.252 of 12 July 2002 on activities relating to certain operations connected with real estate and businesses; 11. Retailers; 12. Business, legal and tax advisers; 13. Services concerned with guarding, protecting and transporting currency; 14. Dealers in precious objects, such as precious stones, precious materials, antiques, works of art and other valuable objects; 15. Pawnbrokers; 16. Other persons who, in the conduct of their business, carry out, control or advise on transactions entailing movements of funds. Bodies and persons undertaking financial activities that meet the following

	criteria are not subject to the provisions of this legislation: - the turnover generated by the financial activity must not exceed a maximum figure laid down in a sovereign order; - transactions associated with the activity must not exceed a maximum amount by customer and by transaction laid down in a sovereign order, whether the transaction takes the form of a single operation or several apparently linked operations; - the financial activity is not the principal activity and the turnover it generates must not exceed a percentage of the total turnover of the body or person concerned laid down in a sovereign order; - the financial activity is appurtenant and direct linked to the principal activity; - the principal activity is not specified in the first sub-paragraph of this section; - The financial activity is performed solely for the customers of the principal activity and is not generally offered to the public. **Draft legislation, section 4** Bodies and persons covered by sections 1 and 2 must identify their customers and their agents and verify their identity, based on documentary proof, of which a copy shall be retained: 1. for regular customers, before establishing a business relationship; 2. for occasional customers, when they wish to effect: a. a transfer of funds b. a transaction whose value equals or exceeds an amount specified in a sovereign order, whether this is effected in one operation or several operations between which there appears to be a link; or c. a transaction, even below the value specified in the sovereign order, where there is suspected money laundering, terrorism financing or corruption; or 3. when the bodies and persons specified in sections 1 and 2 have doubts about the veracity or accuracy of the information concerning the identity of an existing customer. In the case of individuals, the identification and verification shall include the family and first names and the address. In the case of legal persons, other legal entities and trusts, they shall cover the business name and registered office, the list of directors and the provisions governing the power to commit the body concerned, without prejudice to the measures stipulated in section 5.1. The identification shall also concern the planned purpose and nature of the business relationship. The arrangements for applying this section shall be laid down in a sovereign order. **Draft legislation, section 4bis** 1. The bodies and persons specified in sections 1 and 2 must exercise constant vigilance with regard to business relationships, particularly by

	examining operations and transactions concluded throughout the duration of a business relationship and, if necessary, the origin of funds, to verify that these operations and transactions are consistent with what is known about these customers, their social and financial backgrounds, their commercial activities and their risk profile, and by keeping the relevant documents, data and information up to date by paying close attention to operations and transactions effected. 2. If the bodies and persons specified in sections 1 and 2 are unable to satisfy the obligations in section 4 and §1 above, they may not establish or maintain a business relationship. They should decide whether SICCFIN should be informed of this, in accordance with sections 16 to 20. 3. The bodies and persons specified in §§ 1 to 5 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that has itself carried out these due diligence procedures and is established in a state whose legislation imposes obligations equivalent to those in sections 4, 4bis and 5, compliance with which is monitored. 4. The bodies and persons specified in §§ 6 to 15 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that has itself carried out these due diligence procedures. 5. The bodies and persons specified in sections 1 and 2 whose activities include money transfers are required to include in these operations and the accompanying messages, precise and useful information on the customers making the order. These bodies shall also retain all information and transmit it when they act as intermediaries in a payment chain. Specific measures may be taken for cross-border batch transfers and permanent transfers of salaries and pensions that do not create an increased risk of money laundering, terrorism financing or corruption. The conditions in which this information must be retained or made available to the authorities or other financial institutions shall be specified in a sovereign order. 6. The bodies specified in the 7th paragraph of section 1 must identify their customers and verify their identity, based on documentary proof, of which a copy shall be retained, when they purchase or exchange gambling chips for amounts equal to or in excess of the amount specified in a sovereign order and when they wish to effect any other operation relating to gaming, without prejudice to the measures specified in section 5. 7. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the transaction. **Draft legislation, section 5** 1. The bodies and persons specified in sections 1 and 2 must identify and

	take all reasonable measures to verify the identity of persons for whose benefit operations or transactions are effected: a. if there is any doubt as to whether customers specified in section 4§1 are acting on their own account or it is certain that they are not acting on their own account; b. when the customer is a legal person, a legal entity or a trust. When the customer is a legal person, a legal entity or a trust, the measures include the identification of the individual or individuals who actually own or control the customer. 2. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the transaction.
Recommendation of the MONEYVAL Report	*The limitation of the financial activities of the SFE to those that are in relation with the games provided by the motherhouse (SBM) results from the practice, and is not based on legislation, regulations or statutory rules. The Monegasque authorities should establish this limitation of the activities of the SFE on a certain legal basis.*
Measures taken to implement the Recommendation of the Report	The Government decided to establish the SFE on 10 March 1966, subject to the express condition, referred to in the government record, that the new company undertake to engage in recovery and very short-term loan operations only with customers of the SBM and within the SBM's premises (though it was made clear that this undertaking would not appear in the articles of association). The undertaking was formally confirmed in a letter dated 14 April 1966 from the first President of the SFE to the Minister of State. As such, the undertaking has contractual force. Consideration is being given to whether such a condition should appear in the articles of association. There is a problem of substance in that it is not possible to take legal action to recover gambling debts, in accordance with Article 1804 of the Civil Code, whereby the law does not recognise any actions concerning gambling debts or the payment of stakes (see TPI 18 September 2007 and 3 June 1993).
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*The Monegasque authorities should complete the provisions concerning the data and record keeping to explicitly provide for the required period for the retention of documents relating to transactions to be extended of requested by the competent authority in specific cases, if it is necessary to carry out their responsibilities. The same applies to the retention in writing of identification information, accounting documentation and commercial correspondence.*

Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to supplement existing requirements to make it explicit that the length of time any information or document relating to transactions should be maintained can be extended if a competent authority so requests in connection with specific cases and to carry out its responsibilities. **Draft legislation, section 10** The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after ending relationships with regular or occasional customers as defined in sections 4.1 and 4.1, a copy of all documents used to identify and verify the identity of those customers. The same shall apply to documents used for identification purposes in accordance with section 5. The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after the implementation of operations, copies of registrations, account books, commercial correspondence and other documents relating to transactions to permit their precise reconstitution. They shall record operations carried out so as to be able to reply to the requests for information specified in section 23, within the time limit specified in this section. SICCFIN may request an extension to the retention period in specific cases. The bodies and persons specified in sections 1 and 2 are required to operate systems to enable them to reply rapidly and in full to any request for information from SICCFIN to enable it to determine whether they are maintaining or have maintained over the previous five years a business relationship with a specific individual or legal person and the nature of this relationship.
Recommendation of the MONEYVAL Report	*The law or regulation should as well be complemented in order to specify that data and documents must be maintained in a form that makes it possible to reconstruct individual transactions and provide evidence in the case of prosecution*.
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures specifying that information and documents must be maintained in a manner that permits the reconstitution of individual transactions and the provision of evidence in the event of criminal prosecution. **Draft legislation, section 10** The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after ending relationships with regular or occasional customers as defined in sections 4.1 and 4.1, a copy of all documents used to identify and verify the identity of those customers. The same shall apply to documents used for identification purposes in accordance with section 5.

	The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after the implementation of operations, copies of registrations, account books, commercial correspondence and other documents relating to transactions to permit their precise reconstitution. They shall record operations carried out so as to be able to reply to the requests for information specified in section 23, within the time limit specified in this section. SICCFIN may request an extension to the retention period in specific cases. The bodies and persons specified in sections 1 and 2 are required to operate systems to enable them to reply rapidly and in full to any request for information from SICCFIN to enable it to determine whether they are maintaining or have maintained over the previous five years a business relationship with a specific individual or legal person and the nature of this relationship.
(Other) changes since the last evaluation	
Recommendation 10 (Record keeping) II. Regarding DNFBP[4]	
Recommendation of the MONEYVAL Report	*Other DNFBP (in particular real estate agents, dealers in precious metals and precious stones, notaries, legal and tax advisers and other independent accounting professions) should be required to keep customer identification and transaction records in accordance with FATF Recommendation 10.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to make the other designated non-financial businesses and professions subject to the relevant requirements. Section 10 of the draft legislation makes the obligation to maintain documents used to identify clients and customers, and their operations, applicable to the persons specified in sections 1 and 2, including estate agents, dealers in precious metals and stones, notaries, legal and tax advisers and the other independent accounting professions, in accordance with FATF recommendation 10. **Draft legislation, section 10** The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after ending relationships with regular or occasional customers as defined in sections 4.1 and 4.1, a copy of all documents used to identify and verify the identity of those customers. The same shall apply to documents used for identification purposes in accordance with section 5. The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after the implementation of operations, copies of registrations, account books, commercial correspondence and other documents relating to transactions to permit their precise reconstitution. They shall record operations carried out so as to be able to reply to the

[4] i.e. part of Recommendation 12.

	requests for information specified in section 23, within the time limit specified in this section. SICCFIN may request an extension to the retention period in specific cases. The bodies and persons specified in sections 1 and 2 are required to operate systems to enable them to reply rapidly and in full to any request for information from SICCFIN to enable it to determine whether they are maintaining or have maintained over the previous five years a business relationship with a specific individual or legal person and the nature of this relationship.
(Other) changes since the last evaluation	

Recommendation 13 (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Monegasque legal framework should be completed so that all designated categories of offences, as defined by the FATF, can apply in all circumstances, whether or not they result from organised criminal activity.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures that bring the scope of reports of suspicions into line with Article 218 of the Criminal Code by removing the reference to organised crime. **Draft legislation, section 3** For the purposes of this legislation, money laundering shall be taken to mean the offences specified in Article 218 of the Criminal Code. For the purposes of this legislation, terrorism financing has the same meaning as in article 2 of sovereign order 15.320 of 8 April 2002 on the suppression of terrorism financing and covers all the sums and all the operations relating to sums that might be linked to terrorism, terrorist acts or terrorist organisations or intended to finance them. For the purposes of this legislation, corruption shall be taken to mean the offences specified in paragraph IV, section II, chapter III, book III of the Criminal Code. The bodies and persons specified in sections 1 and 2 shall contribute fully to the application of this legislation by identifying all acts of money laundering, terrorism financing and corruption. **Draft legislation, section 16§1** 1. The bodies and persons specified in sections 1 and 2.3 are required to report to SICCFIN any sums recorded in their books and any operations that might be linked to money laundering, terrorism financing or corruption.

	These reports must be in writing and must specify the facts which the bodies and persons specified in sections 1 and 2.3 consider to be evidence in support of their suspicions. Reports must be submitted before operations are carried out and should indicate, where appropriate, the time limit within which the operation must take place. If circumstances require, reports may initially be sent by fax. Any information received after reports have been submitted and likely to alter their effect must be communicated to SICCFIN as rapidly as possible. SICCFIN will acknowledge receipt of such reports when it receives them. 2. If SICCFIN considers it necessary, on account of the seriousness or the urgency of the case, it may block the execution of any operation on behalf of the customer who is the subject of a report. This decision is notified by fax or, failing that, any other written means, before expiry of the time limit specified in §1.3. Such decisions shall prevent the execution of any operations for a maximum period of three working days from notification. In the absence of any notification to bodies and persons specified in sections 1 and 2.3 within the time limit specified in §1.3, they are free to carry out the operation. 3. The measure specified in §2 may be extended in an order, giving reasons, issued by the president of the court of first instance or a judge to whom he or she has delegated that responsibility. Funds, securities and other objects concerned by reports of suspicions may be placed under sequestration on an order, giving reasons, issued by the president of the court of first instance or a judge to whom he or she has delegated that responsibility, for the purposes of its protection or, on the order of the state prosecutor, its seizure by SICCFIN, pursuant to section 15. Sequestration shall be lifted in accordance with the normal rules of law. Such orders are applicable immediately on their registration, or even before this formality has been completed if the judge makes such an exceptional order, on grounds of urgency. Bodies or persons specified in section 1 holding funds, securities and other objects concerned by such protective measures are responsible for their guardianship.

	4. When operations have not been blocked pursuant to §2 and in the absence of any collusion with the owners of sums or those effecting operations, the managers and staff of financial undertakings may not be prosecuted on the charges specified in the Drugs Act, no 890 of 1 July 1970, and articles 218-2 and 339 of the Criminal Code.
Recommendation of the MONEYVAL Report	*It should furthermore be adapted so that the reporting requirement in Monegasque legislation does not cover all suspicious transactions, such as attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend the reporting obligation in Monegasque law to all suspect transactions, including attempted transactions that failed other than because the financial undertaking refused to carry out the operation. **Draft legislation, section 18** Apart from the cases specified in sections 16 and 17, when the bodies and persons specified in sections 1 and 2.3 have knowledge of a fact that could be evidence of money laundering, terrorism financing or corruption they shall inform SICCFIN immediately in writing. These facts include operations that have been refused or that could not be implemented though the customer's own fault. These reports must be in writing and must specify the facts which the bodies and persons specified in sections 1 and 2.3 consider to be evidence in support of their suspicions. Any information received after reports have been submitted and likely to alter their effect must be communicated to SICCFIN as rapidly as possible. SICCFIN will acknowledge receipt of such reports when it receives them.
(Other) changes since the last evaluation	
Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP[5]	
Recommendation of the MONEYVAL Report	• *The applicable framework should be modified so that the reporting requirement covers all theunderlying offences referred to in FATF Recommendation No. 1, independently of the commission or not by a criminal organisation.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend the reporting obligation in Monegasque law to all predicate offences specified in Article 218 of the Criminal Code, irrespective of whether or not they were committed by a criminal organisation. **Draft legislation, section 3** For the purposes of this legislation, money laundering shall be taken to

[5] i.e. part of Recommendation 16.

	mean the offences specified in Article 218 of the Criminal Code. For the purposes of this legislation, terrorism financing has the same meaning as in article 2 of sovereign order 15.320 of 8 April 2002 on the suppression of terrorism financing and covers all the sums and all the operations relating to sums that might be linked to terrorism, terrorist acts or terrorist organisations or intended to finance them. For the purposes of this legislation, corruption shall be taken to mean the offences specified in paragraph IV, section II, chapter III, book III of the Criminal Code. The bodies and persons specified in articles 1 and 2 shall contribute fully to the application of this legislation by identifying all acts of money laundering, terrorism financing and corruption. **Draft legislation, section 16§1** 1. The bodies and persons specified in sections 1 and 2.3 are required to report to SICCFIN any sums recorded in their books and any operations that might be linked to money laundering, terrorism financing or corruption. These reports must be in writing and must specify the facts which the bodies and persons specified in sections 1 and 2.3 consider to be evidence in support of their suspicions. Reports must be submitted before operations are carried out and should indicate, where appropriate, the time limit within which the operation must take place. If circumstances require, reports may initially be sent by fax. Any information received after reports have been submitted and likely to alter their effect must be communicated to SICCFIN as rapidly as possible. SICCFIN will acknowledge receipt of such reports when it receives them. 2. If SICCFIN considers it necessary, on account of the seriousness or the urgency of the case, it may block the execution of any operation on behalf of the customer who is the subject of a report. This decision is notified by fax or, failing that, any other written means, before expiry of the time limit specified in §1.3. Such decisions shall prevent the execution of any operations for a maximum period of three working days from notification. In the absence of any notification to bodies and persons specified in sections 1 and 2.3 within the time limit specified in §1.3, they are free to carry out the operation.

	3. The measure specified in §2 may be extended in an order, giving reasons, issued by the president of the court of first instance or a judge to whom he or she has delegated that responsibility. Funds, securities and other objects concerned by reports of suspicions may be placed under sequestration on an order, giving reasons, issued by the president of the court of first instance or a judge to whom he or she has delegated that responsibility, for the purposes of its protection or, on the order of the state prosecutor, its seizure by SICCFIN, pursuant to section 15. Sequestration shall be lifted in accordance with the normal rules of law. Such orders are applicable immediately on their registration, or even before this formality has been completed if the judge makes such an exceptional order, on grounds of urgency. Bodies or persons specified in section 1 holding funds, securities and other objects concerned by such protective measures are responsible for their guardianship. 4. When operations have not been blocked pursuant to §2 and in the absence of any collusion with the owners of sums or those effecting operations, the managers and staff of financial undertakings may not be prosecuted on the charges specified in the Drugs Act, no 890 of 1 July 1970, and articles 218-2 and 339 of the Criminal Code.
Recommendation of the MONEYVAL Report	• *The applicable framework should be modified so that the undertaking or business in the framework of which the suspicious transaction has been carried out can be liable for an administrative penalty for the failure to report the transaction, even though the statutory conditions for imposing the criminal sanction provide for in Article 32 of the law have not been satisfied, or where the facts are not sufficiently serious to warrant such a criminal sanction.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation changes to the administrative penalties that can be imposed irrespective of criminal penalties and have introduced fines. **Draft legislation, section 38** Without prejudice to any criminal penalties, SICCFIN may issue a warning to persons specified in sections 1 and 2.3 who fail to comply with their obligations under this legislation. In the event of serious fault, SICCFIN may request the Minister of State to reprimand the person concerned, bar him from effecting certain operations or suspend or revoke his administrative authorisation. These penalties, apart from the warning, may be accompanied by a fine not exceeding € 1.5 million and publication in the official journal.

	Before any decision is taken to impose penalties the person concerned must be informed, in writing, of the complaints levelled against him and be given the opportunity to explain or be asked to provide such explanations. The explanations shall be recorded in a report signed by the person concerned. At the hearing, the person may be assisted by legal counsel. The penalties specified in this section are also applicable when SICCFIN officials record a breach of the obligations in the legislation or of the measures taken to apply them by the persons specified in sections 1 and 2.3.
Recommendation of the MONEYVAL Report	• *The Monegasque authorities should have recourse to binding and enforceable measures to lay down special vigilance measures regarding business relationships or transactions with counterparties having links with countries which fail to apply or insufficiently apply the FATF Recommendations*
Measures taken to implement the Recommendation of the Report	The measures specified in this section shall also apply to transactions involving a consideration with links to a state or territory whose legislation is recognised to be inadequate or whose practices are considered to be an obstacle to combating money laundering, terrorism financing or corruption. **Draft legislation, section 11** The bodies and persons covered by sections 1 and 2 are required to pay especially close attention to any transactions particularly likely, because of their complex or unusual character, having regard to the customer's activities or the lack of any financial or apparently legal justification, to be linked to money laundering or terrorism financing. The bodies and persons concerned shall prepare a written report on the result of this examination concerning the origin and destination of the sums involved and the object of the transaction and its beneficiary. The report and all documents pertaining to the transaction shall be submitted by the persons specified in section 13 for retention for the period specified in section 10 and shall be made available if required to SICCFIN. The measures specified in this section shall also apply to transactions involving a consideration with links to a state or territory whose legislation is recognised to be inadequate or whose practices are considered to be an obstacle to combating money laundering, terrorism financing or corruption. The states or territories and the minimum amount of the transactions concerned shall be specified in a ministerial order.

Recommendation of the MONEYVAL Report	*Regarding CSPs and trustees:* • *The applicable framework should be modified so that the reporting requirement laid down in Monaco legislation can cover attempted transactions which have not taken place for any reason other than a refusal by the financial undertaking to carry out the transaction, including cancellation of the transaction by the requester himself or herself.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend the reporting requirement to attempted operations that failed other than because the financial undertaking refused to carry them out, above all because after requesting such operations the would-be perpetrators themselves decided not to continue with them. This measure is of general application, and applies equally to company service providers and trustees. **Draft legislation, section 18** Apart from the cases specified in sections 16 and 17, when the bodies and persons specified in sections 1 and 2.3 have knowledge of a fact that could be evidence of money laundering, terrorism financing or corruption they shall inform SICCFIN immediately in writing. These facts include operations that have been refused or that could not be implemented though the customer's own fault. These reports must be in writing and must specify the facts which the bodies and persons specified in sections 1 and 2.3 consider to be evidence in support of their suspicions. Any information received after reports have been submitted and likely to alter their effect must be communicated to SICCFIN as rapidly as possible. SICCFIN will acknowledge receipt of such reports when it receives them.
Recommendation of the MONEYVAL Report	*Regarding CSPs, trustees and casinos:* • *All the above mentioned recommended actions in 3.8 should be put in place.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to make all the points recommended in section 3.8 applicable to company service providers (CSPs), trustees and casinos. **Draft legislation, section 13** The bodies and persons specified in section 1 shall designate one of more persons to be responsible for applying this legislation in their organisation and shall inform SICCFIN of their identity. These persons, based in the Principality, shall be mainly responsible for preparing internal control procedures, communicating and centralising information in order to prevent, identify and stop the commission of operations linked to money laundering, terrorism financing or corruption. The internal control procedures shall take specific account of the increased risk of money laundering, terrorism financing or corruption in the case of non-face to face transactions, as specified in section 9. A copy of these procedures in

	French shall be submitted to SICCFIN. The bodies and persons specified in section 2 shall also be responsible for preparing internal control procedures, communicating and centralising information in order to prevent, identify and stop the commission of operations linked to money laundering, terrorism financing or corruption. A copy of these procedures in French shall be submitted to SICCFIN. The arrangements for applying this obligation shall be laid down in a sovereign order. **Draft legislation, section 22** 1. Any financial undertaking whose registered office is in the Principality and which has subsidiaries or branch offices abroad shall ensure that the latter take measures at least the equivalent of those specified in this legislation. It shall communicate to them relevant measures and procedures. If the relevant country's legislation prevents their application SICCFIN must be informed of this situation. 2. The persons specified in section 1 may not open a branch or representative office that is domiciled, registered or established in a state or territory designated by ministerial order in accordance with section 20. They may not acquire or create, directly or indirectly, a branch operating as a credit institution, investment undertaking or insurance institution that is domiciled, registered or established in one of these states or territories. **Draft sovereign order, article 32** The relevant undertakings shall inform their officials who are in direct contact with customers, in writing, of the appropriate criteria for identifying atypical transactions to which they must give special attention and which must be the subject of a written report, as specified in section 11.2 of the legislation. Any examination of such transactions shall consider, in particular, their apparent financial justification and legitimacy. The relevant undertakings shall also inform their officials who are in direct contact with customers, in writing, of the required procedure for submitting written reports to the official responsible for preventing money laundering and terrorism financing specified in section 13, including the time limits for submitting them. **Draft sovereign order, article 33** The persons specified in sections 1.1 to 1.7 shall introduce a surveillance system to identify atypical transactions. Such systems must: - cover all customers' accounts and their transactions; - be based on precise and relevant criteria, that are fixed by each undertaking in the light of, in particular, the characteristics of the services and products they offer and those of the customers whom they target and

	sufficiently discriminating to permit the identification of atypical transactions; - permit these transactions to be identified rapidly; - produce written reports describing the atypical transactions identified and the criteria on which the judgment that they were atypical was based. These reports shall be submitted to the official responsible for preventing money laundering and terrorism financing specified in section 13; - be computerised, unless the undertaking can demonstrate that the nature and volume of transactions to be monitored does not require an automated surveillance system; - have their relevance checked by an initial validation procedure and regular re-examinations, with a view to adjusting them, if necessary, to changes in activities, customers or the environment. The criteria referred to in the previous paragraph shall take account of the special risk of money laundering, terrorism financing or corruption that may be linked to transactions: - carried out by individual customers who are not physically present at the time of the transaction; - carried out by customers whose acceptance was subject to stricter rules under the policy on accepting customers specified in chapter 4; - concerning unusual sums in absolute terms or having regard to the customer's normal behaviour in the context of his relationship with the undertaking. For the purposes of this section, a transfer of funds received for a customer's benefit where the precise and relevant information on the payer specified in section 5.5 of the legislation is lacking shall constitute an atypical transaction. **Draft sovereign order, article 35** 1. The official or officials responsible for preventing money laundering and terrorism financing specified in section 13 shall be appointed by the undertaking's effective governing body after it has established that the person or persons concerned have the necessary professional integrity to undertake these duties correctly. 2. Those concerned shall have the necessary professional experience, hierarchical authority and powers within their employing establishment to perform their duties effectively and autonomously. 3. Those concerned shall ensure that the undertaking as a whole complies with all its obligations for preventing money laundering, terrorism financing or corruption, including the establishment of an appropriate administrative organisation and internal control system. They shall have the power to make any recommendations they consider appropriate or necessary to the undertaking's management or governing body. In particular, they shall establish and implement, under their own authority, procedures for analysing the written reports drawn up under section 11.2 of the legislation and the SICCFIN report under sections 16 to 18.

	They shall train and familiarise staff in accordance with section 12 of the legislation and article 36 of this sovereign order. They shall be the main contacts of SICCFIN for all matters relating to money laundering, terrorism financing or corruption. 4. Those concerned shall prepare at least once a year a report to the undertaking's governing body. The report will assess the number of attempts at money laundering, terrorism financing or corruption that have been identified and make a general appraisal of the suitability of the existing administrative organisation and internal controls and of the contribution of the undertaking's various departments to prevention. A copy of the annual report shall automatically be sent to SICCFIN and, if appropriate, to the undertaking's official auditors.
Recommendation of the MONEYVAL Report	*Regarding casinos and other DNFBPs:* • *The applicable legislation or regulations should be modified so that these businesses and professions can be subject to the obligation to report a suspicious transaction, whether when the professional in question has refused to carry out the transaction, or in the case of a transaction which does not go ahead for whatever reason, including cancellation by the individual concerned.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend the reporting requirement to attempted operations that failed other than because the financial undertaking refused to carry them out, above all because after requesting such operations the would-be perpetrators themselves decided not to continue with them. **Draft legislation, section 18** Apart from the cases specified in sections 16 and 17, when the bodies and persons specified in sections 1 and 2.3 have knowledge of a fact that could be evidence of money laundering, terrorism financing or corruption they shall inform SICCFIN immediately in writing. These facts include operations that have been refused or that could not be implemented though the customer's own fault. These reports must be in writing and must specify the facts which the bodies and persons specified in sections 1 and 2.3 consider to be evidence in support of their suspicions. Any information received after reports have been submitted and likely to alter their effect must be communicated to SICCFIN as rapidly as possible. SICCFIN will acknowledge receipt of such reports when it receives them.
Recommendation of the MONEYVAL Report	*The applicable legislation or regulation should be modified so that SICCFIN can be kept informed about suspicious transaction reports filed by the notaries with the Principal State Prosecutor and of the subject matter of such reports.*
Measures taken to implement the	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure that SICCFIN is informed of reports of

Recommendation of the Report	suspicious transactions made by notaries to the state prosecutor and of the content of these reports. See below, section 19.3. **Draft legislation, section 19§3** 1. The persons specified in sections 2.1 and 2.2 who, in the exercise of their profession, have knowledge of facts that they know or suspect to be linked to money laundering, terrorism financing or corruption must immediately report this to the state prosecutor. 2. The persons specified in section 24 who, in the exercise of the activities listed in this provision, have knowledge of facts that they know or suspect to be linked to money laundering, terrorism financing or corruption must immediately report this to the state prosecutor. However, they shall not transmit this information if it has been received from one of their customers when examining that customer's legal situation, or when defending or representing the customer in or in connection with judicial proceedings, including advice on how to respond to or avoid such proceedings, whether the information is received or obtained before, during or after the proceedings. 3. The state prosecutor shall advise SICCFIN of reports made to it under these provisions.
Changes since the last evaluation	

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*The authorities should review the TF definition and clarify its legal framework so that the TF offences can apply to any person who, by any means, directly or indirectly, unlawfully and wilfully provides or collects funds, with the intention that they should be used or in the knowledge that they are to be used, in full or in part by a terrorist organisation or an individual terrorist.*
Measures taken to implement the Recommendation of the Report	With reference to order 15.320 of 8 April 2002, Article 391-7 of the Criminal Code defines terrorism financing as using by any means, direct or indirect, to supply, collect or administer funds for the purpose of using them, or knowing that they will be used, to commit one of the terrorist acts specified in the New York Convention for the Suppression of the Financing of Terrorism. With regard to other offences, Article 391-6 makes it an offence to supply subsidies and means of existence, which encompasses all types of funds, to the perpetrators of terrorist acts, including those who directly finance terrorist acts and their accomplices, which means that all those who indirectly finance terrorist acts are covered. Nevertheless, and although this has no effect on prosecutions, the Government plans to amend article 2 of sovereign order 15.320 to

	incorporate the exact terms used in the relevant international conventions.
Recommendation of the MONEYVAL Report	*The offences should not require that the funds are linked to one or several specific terrorist acts.*
Measures taken to implement the Recommendation of the Report	Terrorism financing does not require prior recognition of a link with the commission of a proved terrorist act. The very fact of providing funding for terrorism purposes is as much of a terrorist offence as an act of terrorism, even if no terrorist act has been committed. Nevertheless, this will be made explicit in a forthcoming modification to sovereign order 15.320.
Recommendation of the MONEYVAL Report	*The law should permit the intentional element to be inferred from objective factual circumstances.*
Measures taken to implement the Recommendation of the Report	The courts have full discretion to determine whether the offence was committed with intent. In the absence of a confession or irrefutable evidence, the courts may conclude from the objective facts that an offence has been committed. It should be noted that the notion that an offence may be inferred from objective factual circumstances has been introduced into the draft legislation to amend the AML/CFT law.
Recommendation of the MONEYVAL Report	*Art. 391-6 of the Criminal Code should be reviewed to ensure that the family members of a terrorist are liable in case of implication.*
Measures taken to implement the Recommendation of the Report	Immunity from prosecution does not imply total impunity. For example, if it emerges from a criminal investigation that the persons concerned by this provision have contributed to the commission of the predicate offence, they may be charged with complicity or criminal conspiracy. The Government plans to propose the lifting of immunity for the families of terrorists as part of a reform of the articles of the Criminal Code relating to terrorism financing.
(Other) changes since the last evaluation	

Special Recommendation IV (Suspicious transaction reporting) I. Regarding Financial Institutions	
Rating: Largely compliant	
Recommendation of the MONEYVAL Report	*The Monegasque law should be completed so that the reporting requirement also extends to attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction, in particular because customers themselves decide not to continue with a transaction after first having requested it.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend the reporting requirement to attempted operations that failed other than because the financial undertaking refused to carry them out, above all because after requesting such operations the would-be perpetrators themselves decided not to continue with them. **Draft legislation, section 18** Apart from the cases specified in sections 16 and 17, when the bodies and

	persons specified in sections 1 and 2.3 have knowledge of a fact that could be evidence of money laundering, terrorism financing or corruption they shall inform SICCFIN immediately in writing. These facts include operations that have been refused or that could not be implemented though the customer's own fault. These reports must be in writing and must specify the facts which the bodies and persons specified in sections 1 and 2.3 consider to be evidence in support of their suspicions. Any information received after reports have been submitted and likely to alter their effect must be communicated to SICCFIN as rapidly as possible. SICCFIN will acknowledge receipt of such reports when it receives them.
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
(Other) changes since the last evaluation	

3. Other Recommendations

In the last report the following FATF recommendations were rated as "partially compliant" (PC) or "non compliant" (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 2 (Offence of ML-intentional element and criminal liability of legal persons)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The law should permit the intentional element of the offence of ML to be inferred from objective factual circumstances.*
Measures taken to implement the Recommendation of the Report	Currently, the courts have full discretion to determine whether the offence was committed with intent. The Monegasque authorities have included in the draft legislation to be tabled shortly measures to make it possible for the offence of money laundering to be inferred from objective factual circumstances. (see section 42) **Draft legislation, section 42** Article 218.1 of the Criminal Code is repealed and replaced by the following: 1. The following shall be liable to five to ten years' imprisonment and the fine provided for at Article 4, the maximum amount of which may be

	increased tenfold: - any persons who knowingly contribute to the conversion or transfer of assets that they know to be assets or capital of illicit origin, for the purpose of concealing or disguising their origin or to assist any persons involved in the commission of the predicate offence to escape the legal consequences of these acts; - any persons who knowingly participate in concealing or disguising the real nature, origin, placement, disposition, movement or ownership of funds or related rights whose perpetrator knows that they are assets or capital of illicit origin; - any persons who knowingly acquire, hold or use assets or capital that they know, at the time they receive them, to be of illicit origin, without prejudice to the provisions relating to handling stolen goods; - any persons who knowingly participate in one of the offences specified in this article or in any other association, agreement, attempt to commit an offence or complicity by providing assistance and advice concerning its commission. The intentional element of an offence specified above may be inferred from objective factual circumstances.
Recommendation of the MONEYVAL Report	*The authorities should accelerate the internal process and extend the criminal liability to legal persons in the Criminal Code*.
Measures taken to implement the Recommendation of the Report	Act 1.349 of 25 June 2008 introduced criminal liability for legal persons into the Criminal Code. **Act 1.349 of 25 June 2008** Article 1 Articles 4-1 to 4-4 shall be added to book 1 of the Criminal Code, preliminary provisions, as follows: Article 4-1: Nobody may be held criminally responsible for acts in which they have not personally engaged. Article 4-2: Intention is required for an offence to be committed, other than cases where the law provides for lesser offences of negligence or failure of the duty to exercise care and diligence. There can be no lesser or minor offence in the event of *force majeure*. Article 4-3: The perpetrator of an offence is the persons who: 1. commits the offence 2. attempts to commit it, in the circumstances specified in articles 2 and 3. Article 4.4: Any legal person, other than the state, the municipality and public establishments, shall be criminally liable as the perpetrator or accomplice, according to the distinctions laid down in Articles 29-1 to 29-6, for any offence committed on its behalf by one of its bodies or representatives. Action shall be taken against the legal person in the person of its legal representative. The criminal liability of a legal person does not exclude that, as co-perpetrators or accomplices, of the persons representing it at the time of

	the offence. In such cases and in the event of a conflict of interests, these persons may apply to the president of the court of first instance for the appointment of an *ad hoc* agent to represent the legal person. Article 2 A chapter IIIbis in inserted after chapter III of the single part of the first book of the Criminal Code, entitled "serious and lesser criminal offences concerning legal persons". It comprises articles 29-1 to 29-8. Article 29-1: The serious and lesser criminal penalties to which legal persons are liable are: 1. fines, as specified in Article 29-2; 2. one or more of the penalties specified in articles 29-3 and 29-4. Article 29-2: The fines applicable to legal persons shall be: - for serious offences, those specified in Article 26.4, the maximum amount of which may be increased tenfold; - for lesser offences, that specified for individuals committing the offence in question, the maximum amount of which may be increased fivefold. Article 29-3: The Court hearing the case may order the legal person to be dissolved: - if it was established to commit the relevant offence, - if it was misused to commit the relevant offence, and the relevant penalty was a criminal sentence or, in the case of a lesser offence, at least three years' imprisonment. Article 29-4: The other penalties to which legal persons are liable are: 1. permanent or up to five years' disqualification from the direct or indirect exercise of one or more professional or social activities in, or in connection with, the exercise of which the offence was committed; 2. up to five years' court supervision; 3. permanent or up to five years' closure of the establishments, or one or more of the establishments, of the undertaking used in the commission of the offence; 4. permanent or up to five years' exclusion from public procurement contracts; 5. permanent or up to five years' ban on receiving public funding; 6. up to five years' ban on issuing cheques other than ones permitting the drawer to obtain funds from the drawee or certified cheques, or using payment cards; 7. confiscation of objects used or intended for use in committing the offence, or objects that are its proceeds; 8. publicising for up to three months of the decision taken or its dissemination for the same period by any means of communication. One or more of the penalties specified in 4 to 8 may be imposed at the same time as one of the penalties in 1 to 3. Article 29-5: The penalties specified in Article 29-3 and 1 to 6 of Article 29-4 are not applicable to associations or public interest groupings, professional and occupational associations and trade unions, or health or social insurance organisations. Article 29-6: The minor criminal penalties to which legal persons are liable are: 1. the fine specified in Article 29.3, the maximum amount of which may be increased tenfold;

	2. the penalties or one of the penalties specified in 2 and 8 of Article 29-4. Article 29-7: A decision to dissolve a legal person shall lead to a winding up procedure. On the application of the state prosecutor or of any other interested party, the court of first instance shall immediately appoint a receiver.Article 29-8: Following a decision to place a legal person under court supervision, as specified in Article 29-4, the relevant court shall appoint an agent, whose terms of reference it will lay down. These terms of reference may be extended on that agent's request, giving reasons. At least once every six months, the agent shall report to the execution of sentences judge. In the light of such reports, the latter may apply to the court that ordered the court supervision, which in turn may order a new penalty, or lift the court supervision order. Article 3 A revised Article 392-1 is added to the first chapter of part III of book III of the Criminal Code: Article 392-1: Fines imposed on legal persons found guilty of offences but with extenuating circumstances may be reduced, subject to the following minimum amounts: - for serious criminal offences, the minimum of Article 26.2; - for lesser offences, the minimum of Article 26.1; - for minor offences, the minimum of Article 29.1. This article shall apply to all sentences laid down, even ones specified in separate criminal legislation. Article 4 Article 392-1 of the Criminal Code becomes Article 392-2. Its provisions remain unchanged. Article 5 Articles 83-6 and 83-7 of the Criminal Code and any other provisions incompatible with this legislation are repealed.
(Other) changes since the last evaluation	
Recommendation 3 (Confiscation and provisional measures)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should authorize in internal law the confiscation of property of corresponding value that belongs to the launderers assets if the proceed of crime or its reuse are no longer possible.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to authorise the courts to order the confiscation of assets of equivalent value belonging to a money launderer when the proceeds of the offence are no longer available. **Draft legislation, section 43**

	Article 219 of the Criminal Code is repealed and replaced by the following: The court shall order the confiscation of assets and funds of unlawful origin or assets and funds whose value corresponds to that of the assets and funds of unlawful origin. It may order the confiscation of movables or real property acquired using such funds. If assets and funds of unlawful origin have been mingled with lawfully acquired assets, such assets may be confiscated up to the estimated value of the proceeds mingled therewith. If the assets and funds of unlawful origin cannot, or can no longer, be identified as such in the convicted person's property, the court may order the confiscation of assets and funds of equivalent value to that of the assets and funds of unlawful origin. Assets and funds of unlawful origin may also be confiscated when they are held by a third party who is or should be aware of their unlawful origin. Confiscation may be ordered without prejudice to the rights of third parties. The State Prosecutor shall carry out the necessary formalities for registration and public notice.
Recommendation of the MONEYVAL Report	*The authorities should consider the possibility to establish in internal law an independent confiscation procedure to permit in national law, after investigation, the confiscation of legacy values separate from the prosecution of an offender or a foreign confiscation judgment.*
Measures taken to implement the Recommendation of the Report	Although the Director of Legal Services supports an examination of this issue and the principle of autonomous confiscation, such an innovation remains difficult to envisage in so far as the confiscation still entails the transfer of property to the state. While such a penalty might be applied to persons who are being prosecuted or have been convicted, it is difficult to imagine its application to third parties who are neither perpetrators or accomplices. Confiscation unrelated to any criminal offence would be an unjustified infringement of the right of property. Establishing the origin of assets is the responsibility of the prosecution, in accordance with basic principles, since cases must be investigated impartially, with a view to establishing the truth. Nevertheless, the court of appeal has found that in laundering cases the accused must show that assets were acquired lawfully and considers that, in the absence of such proof, the funds concerned must be deemed to be of unlawful origin. Although there is no case-law on terrorism financing, it is to be assumed that the courts would apply the same reasoning. The higher legal studies committee has been asked to issue an opinion on the possibility of establishing an autonomous confiscation procedure in Monegasque law.
Recommendation of the MONEYVAL Report	*The authorities should consider the possibility to establish mechanisms in internal law to reverse the burden of proof at least for seized values that are susceptible to belong to a criminal organisation or to be controlled by them.*

Measures taken to implement the Recommendation of the Report	Reversing the burden of proof must be approached with great caution since it is incompatible with the basic legal principles on which Monegasque law is based. That said, in practice decisions to freeze funds temporarily are often justified by their holders' inability to justify their origin, which amounts to requiring them to prove that they were lawfully acquired.
(Other) changes since the last evaluation	

Recommendation 7 (Correspondent banking Relationships)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Monegasque authorities should complete the applicable provisions on correspondent banking to allow, in particular, that:* o *the obligation to collect sufficient covers checks on whether the institution concerned has been investigated or the subject of action by the AML/CFT supervisory body;*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be issued shortly measures to ensure that, in connection with correspondent banking relationships, the obligation to assemble adequate information includes checks on whether the correspondent institution has been the subject of inquiries or action by the money laundering and terrorism financing supervisory authority. **Draft sovereign order to amend sovereign order 11.160, article 5** Article 9 of sovereign order 11.160 of 24 January 1994 is repealed and replaced by the following: When customers are credit or financial institutions incorporated under foreign law, other than ones established in countries whose legislation establishes similar obligations to those laid down in Monegasque anti-money laundering and terrorism financing legislation and equivalent measures to ensure that they are fully applied, the acceptance policy must: 1. base decisions to establish business relationships or undertake intended occasional transactions on: a. full identification of the credit or financial institution incorporated under foreign law, including a description of the nature of its activities; b. the information which the undertaking has used to ensure that the relevant establishment or institution is not covered by article 10; c. any relevant publicly available information that the undertaking can use to assess the reputation of the establishment or institution, including information on any inquiries or measures initiated by the competent local authorities in connection with any breaches by the establishment or institution of anti-money laundering and terrorism financing measures; d. any relevant publicly available information on the extent to which the relevant laws, regulations and enforcement machinery of the country in which the establishment or institution is located comply with internationally recognised anti-money laundering and terrorism financing recommendations;

	2. only authorise relations with corresponding banks if: a. the purpose and nature of the planned relationship and the respective responsibilities of the undertaking and the credit or financial institution incorporated under foreign law as part of this relationship are the subject of a prior written agreement; b. any decision to establish a business relationship that, on account of its purpose and nature, could expose the undertaking to special risks of money laundering or terrorism financing is based on a satisfactory assessment of the controls put in place by the relevant establishment or institution to prevent money laundering or terrorism financing; c. when payable-through accounts are to be opened with the relevant establishment or institution, the latter has guaranteed in advance in writing that it has verified the identity of, and taken the necessary due diligence measures in respect of, customers with direct access to these accounts, and that it is able to supply immediately and on request relevant information on the identity of these customers. The establishment or institution concerned must undertake to supply this information; 3.3. ensure that authority to approve a business relationship or planned occasional transactions with a credit or financial institution incorporated under foreign law is at a sufficiently high level of the organisation. Undertakings that maintain business relationships with establishments or institutions specified in the previous paragraph must carry out: - regular reviews, taking account of the level of risk and, if relevant, any changes in the information on which the decision to establish a business relationship was reached; - a fresh examination of the relationship if new information is forthcoming that casts doubt on the level of compliance of the anti-money laundering and terrorism financing laws and regulations of the country of the client financial establishment or the effectiveness of its relevant enforcement machinery; - regular tests and checks, taking account of the level of risk, on the establishment's compliance with its undertakings, particularly concerning the immediate supply, on request, of relevant information on the identity of customers with direct access to any payable-through accounts. • The Monegasque authorities have also included in the draft legislation to be tabled shortly measures to ensure that, in connection with correspondent banking relationships, the obligation to assemble adequate information includes checks on whether the correspondent institution has been the subject of inquiries or action by the money laundering and terrorism financing supervisory authority. **Draft sovereign order, article 28** 1. When customers are credit or financial institutions incorporated under foreign law other than ones specified in section 8 of the legislation, the acceptance policy must: 1. exclude business relationships or occasional transactions with such an establishment or institution: a. that is not really established in the country where its registered office is

	located and is not affiliated to a financial group that is subject to regulations that comply with internationally recognised anti-money laundering and terrorism financing regulations or to effective consolidated supervision; b. or that might establish business relationships or undertake transactions with establishments or institutions specified in a. 2. base decisions to establish business relationships or undertake intended occasional transactions on: a. the full identification of the credit or financial institution incorporated under foreign law, including a description of the nature of its activities; b. the information which the undertaking has used to ensure that the relevant establishment or institution is not covered by section 1 of this paragraph; c. any relevant publicly available information that the undertaking can use to assess the reputation of the establishment or institution, including information on any inquiries or measures initiated by the competent local authorities in connection with any breaches by the establishment or institution of anti-money laundering and terrorism financing measures; d. any relevant publicly available information on the extent to which the relevant laws, regulations and enforcement machinery of the country in which the establishment or institution is established comply with internationally recognised anti-money laundering and terrorism financing recommendations; 3. only authorise relations with corresponding banks if: b. the purpose and nature of the planned relationship and the respective responsibilities of the undertaking and the credit or financial institution incorporated under foreign law as part of this relationship are the subject of a prior written agreement; b. any decision to establish a business relationship that, on account of its purpose and nature, could expose the undertaking to special risks of money laundering or terrorism financing is based on a satisfactory assessment of the controls put in place by the relevant establishment or institution to prevent money laundering or terrorism financing; c. when payable-through accounts are to be opened with the relevant establishment or institution, the latter has guaranteed in advance in writing that it has verified the identity of, and taken the necessary due diligence measures in respect of, customers with direct access to these accounts, and that it is able to supply immediately and on request relevant information on the identity of these customers. The establishment or institution concerned must undertake to supply this information; 4. ensure that authority to approve a business relationship or planned occasional transactions with a credit or financial institution incorporated under foreign law is at a sufficiently high level of the organisation. Undertakings that maintain business relationships with establishments or institutions specified in the previous paragraph must carry out: - regular reviews, taking account of the level of risk and, if relevant, any changes in the information on which the decision to establish a business

	relationship was reached; - a fresh examination of the relationship if new information is forthcoming that casts doubt on the level of compliance of the anti-money laundering and terrorism financing laws and regulations of the country of the client financial establishment or the effectiveness of its relevant enforcement machinery; - regular tests and checks, taking account of the level of risk, on the establishment's compliance with its undertakings, particularly concerning the immediate supply, on request, of relevant information on the identity of customers with direct access to any payable-through accounts.
Recommendation of the MONEYVAL Report	o *the conclusion of correspondent banking relationships requires financial establishments to assess client institutions' and reference to checks on their suitability or efficacy;*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in a draft sovereign order to be issued shortly measures to ensure that correspondent banking relationships require an assessment of the correspondent institution's monitoring arrangements, including their relevance and effectiveness. They have also included this requirement in the proposed changes to the legislation. **See above, paragraph 1-2-b and paragraph 2**
Recommendation of the MONEYVAL Report	o *the approval from senior management is required before establishing new correspondent banking relationships.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in a draft sovereign order to be issued shortly the requirement that correspondent banking relationships are authorised by senior management. They have also included this requirement in the proposed changes to the legislation. **See above paragraph 1-4.**
Recommendation of the MONEYVAL Report	o *the respective AML/CFT responsibilities of the Monegasque and client institutions have to be set down in writing within the framework of banking representation relationships;*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in a draft sovereign order to be issued shortly the requirement that the respective AML/CFT responsibilities of the Monegasque financial institution and its correspondent institution must be specified in writing.. They have also included this requirement in the proposed changes to the legislation. **See above paragraph 1-3-a.**

Recommendation of the MONEYVAL Report	*The competent Monegasque authorities should establish guidelines or recommendations for the Monegasque financial institutions concerning the appreciation of the equivalence of the legislation and of the controls that are applicable on AML/CFT issues in the country where the foreign institution is established.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in a draft sovereign order to be issued shortly clarification on how to assess the equivalence of the AML/CFT legislation and monitoring arrangements applicable in the country where the foreign institution is established. **Draft sovereign order to amend sovereign order 11.160, article 7** A new article 12 bis of sovereign order 11.160 of 24 January 1994 reads as follows: In determining whether a country has AML/CFT legislation that can be considered to impose equivalent obligations to those of Monegasque legislation, the following should be taken into account: - the existence of a supervisory system to monitor compliance with AML/CFT legislation; - whether the country is a member of an international body whose terms of reference require it to monitor the application of AML/CFT standards by its members; - statements and reports from international organisations, international consultative and co-ordinating bodies and public sources specialising in combating money laundering and terrorism financing; - any relevant publicly available information on the extent to which the relevant laws, regulations and enforcement machinery of this country comply with internationally recognised AML/CFT recommendations. • The Monegasque authorities have also included in the draft legislation to be tabled shortly clarification on how to assess the equivalence of the AML/CFT legislation and monitoring arrangements applicable in the country where the foreign institution is established. **Draft legislation, section 8** The bodies and persons specified in sections 1 and 2 are not subject to the obligations in sections 4, 4bis and 5 if the customer is: - a body or person specified in sections 1.1 and 1.2; - a credit or financial institution established in a country whose legislation imposes obligations equivalent to those specified in this legislation and compliance with which is subject to equivalent oversight; - a national public authority. In the aforementioned cases, the bodies and persons specified in sections 1 and 2 shall in all circumstances collect sufficient information to determine whether the customer fulfils all the required conditions to benefit from the exception in this section. This exception does not apply in cases where money laundering, terrorism financing or corruption are suspected.

	Draft sovereign order, article 20§3 3. For the purposes of sections 4 bis §3 and 8 of the legislation and article 28 of this order, in determining whether a country has legislation that can be considered to impose equivalent obligations to those specified in this legislation, the following should be taken into account: • the existence of a supervisory system to monitor compliance with AML/CFT legislation; • whether the country is a member of an international body whose terms of reference require it to monitor the application of AML/CFT standards by its members; • statements and reports from international organisations, international consultative and co-ordinating bodies and public sources specialising in combating money laundering, terrorism financing or corruption; any relevant publicly available information on the extent to which the relevant laws, regulations and enforcement machinery of this country comply with internationally recognised AML/CFT recommendations.
(Other) changes since the last evaluation	

Recommendation 9 (Third parties and introducers)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*An enforceable legal rule should be established, requiring Monegasque financial institutions to ensure that third party business generators have satisfied all the due diligence requirements in FATF recommendation 5.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be issued shortly measures to make it obligatory for Monegasque financial institutions to ensure that intermediaries have fulfilled the due diligence requirements in respect of customers they have introduced, in accordance with FATF recommendation 5. **Draft sovereign order to amend sovereign order 11.160, article 2** Article 1.8 of sovereign order 11.160 of 24 January 1994 is amended as follows: This information may be collected by intermediaries or third parties on condition that the following criteria are respected: - financial institutions that use third parties must ensure that the latter themselves have taken the required due diligence measures and obtain copies of the identification data and other relevant documentation necessary for exercising this due diligence when customers open accounts; - financial institutions must ensure that third parties are subject to Act 1.162 of 7 July 1993, as amended, or to AML/CFT obligations compatible with internationally recognised recommendations, particularly concerning customer identification, and that their compliance with these obligations is monitored. • The Monegasque authorities have also included in the draft

	legislation to be tabled shortly measures to make it obligatory for Monegasque financial institutions to ensure that intermediaries have fulfilled the due diligence requirements in respect of customers they have introduced, in accordance with FATF recommendation 5. **Draft sovereign order, article 20** 1. The intervention of intermediaries in accordance with is subject to the following conditions: a. the undertaking shall verify in advance, and retain the relevant documentation, that the third party meets the conditions in sections 4bis § 3 and 4 of the legislation; b. the third party shall undertake, in writing prior to entering into the relationship, to provide the undertaking with the information used to identify customers and the identity of any beneficial owners, and the documents used for this purpose; c. the third party must have identified the customer face to face; d. the undertaking must be able to make the reports specified in sections 16 to 18 of the legislation and respond to requests from SICCFIN under section 23; e. there must be no contractual externalisation or agency agreement between the undertaking and the third party, in which case the supplier of the externalised service or the agent shall be considered to be a part of the undertaking. 2. When the managers of unit trusts and other collective investment undertakings receive subscription and redemption orders they must identify the holders of shares in these bodies in accordance with section 4. 2. When the managers of unit trusts and other collective investment undertakings do not receive the subscription and redemption orders they shall ensure that the depositary credit or financial institution that receives these orders complies with the conditions laid down in section 4bis §3 of the legislation. Persons managing unit trusts and other collective investment undertakings shall retain the documentation used to verify that these conditions are fulfilled. 3. For the purposes of sections 4 bis §3 and 8 of the legislation and article 28 of this order, in determining whether a country has legislation that can be considered to impose equivalent obligations to those specified in this legislation, the following should be taken into account: • the existence of a supervisory system to monitor compliance with AML/CFT legislation; • whether the country is a member of an international body whose terms of reference require it to monitor the application of AML/CFT standards by its members; • statements and reports from international organisations, international consultative and co-ordinating bodies and public sources specialising in combating money laundering, terrorism financing or corruption;

	any relevant publicly available information on the extent to which the relevant laws, regulations and enforcement machinery of this country comply with internationally recognised AML/CFT recommendations.
Recommendation of the MONEYVAL Report	*The competent authorities should issue instructions or recommendations on how to assess the equivalence of AML/CFT legislation and controls to be applied in countries where foreign client institutions are based (see R.7).*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly clarification on how to assess the equivalence of the AML/CFT legislation and monitoring arrangements applicable in the country where the intermediary is established. **Draft legislation, section 8** The bodies and persons specified in sections 1 and 2 are not subject to the obligations in sections 4, 4bis and 5 if the customer is: - a body or person specified in sections 1.1 and 1.2; - a credit or financial institution established in a country whose legislation imposes obligations equivalent to those specified in this legislation and compliance with which is subject to equivalent oversight; - a national public authority. In the aforementioned cases, the bodies and persons specified in sections 1 and 2 shall in all circumstances collect sufficient information to determine whether the customer fulfils all the required conditions to benefit from the exception in this section. This exception does not apply in cases where money laundering, terrorism financing or corruption are suspected. **Draft sovereign order, article 20§3** 3. For the purposes of sections 4 bis §3 and 8 of the legislation and article 28 of this order, in determining whether a country has legislation that can be considered to impose equivalent obligations to those specified in this legislation, the following should be taken into account: • the existence of a supervisory system to monitor compliance with AML/CFT legislation; • whether the country is a member of an international body whose terms of reference require it to monitor the application of AML/CFT standards by its members; • statements and reports from international organisations, international consultative and co-ordinating bodies and public sources specialising in combating money laundering, terrorism financing or corruption; any relevant publicly available information on the extent to which the relevant laws, regulations and enforcement machinery of this country comply with internationally recognised AML/CFT recommendations.
(Other) changes since the last evaluation	

Recommendation 11 (Unusual transactions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The legal framework should be reviewed so that the size of transactions and their complexity or abnormality should be alternative rather than cumulative criteria for determining whether financial institutions should be required to show increased diligence, also the Monegasque authorities.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have revised the arrangements concerning complex or unusual transactions by abolishing the cumulative conditions requirement. The lower limit of € 100 000 has also been abolished. **Draft legislation, section 11** The bodies and persons covered by sections 1 and 2 are required to pay especially close attention to any transactions particularly likely, because of their complex or unusual character, having regard to the customer's activities or the lack of any financial or apparently legal justification, to be linked to money laundering or terrorism financing. The bodies and persons concerned shall prepare a written report on the result of this examination concerning the origin and destination of the sums involved and the object of the transaction and its beneficiary. The report and all documents pertaining to the transaction shall be submitted by the persons specified in section 13 for retention for the period specified in section 10 and shall be made available if required to SICCFIN. The measures specified in this section shall also apply to transactions involving a consideration with links to a state or territory whose legislation is recognised to be inadequate or whose practices are considered to be an obstacle to combating money laundering, terrorism financing or corruption. The states or territories and the minimum amount of the transactions concerned shall be specified in a ministerial order.
Recommendation of the MONEYVAL Report	*The scope of enhanced due diligence obligations, the obligation to keep findings in writing and to keep findings for at least 5 years seem to be consign in writing their results and the obligation to record this report for a period of 5 years seem to be consistent with the FATF recommendations. Nevertheless it would be necessary to review the existing provisions in order to formalize the current practice.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation a formal requirement that reports based on increased vigilance be retained for five years. **Draft legislation, section 11** The bodies and persons covered by sections 1 and 2 are required to pay especially close attention to any transactions particularly likely, because of their complex or unusual character, having regard to the customer's activities or the lack of any financial or apparently legal justification, to

	be linked to money laundering or terrorism financing. The bodies and persons concerned shall prepare a written report on the result of this examination concerning the origin and destination of the sums involved and the object of the transaction and its beneficiary. The report and all documents pertaining to the transaction shall be submitted by the persons specified in section 13 for retention for the period specified in section 10 and shall be made available if required to SICCFIN. The measures specified in this section shall also apply to transactions involving a consideration with links to a state or territory whose legislation is recognised to be inadequate or whose practices are considered to be an obstacle to combating money laundering, terrorism financing or corruption. The states or territories and the minimum amount of the transactions concerned shall be specified in a ministerial order. **Draft legislation, section 10** The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after ending relationships with regular or occasional customers as defined in sections 4.1 and 4.1, a copy of all documents used to identify and verify the identity of those customers. The same shall apply to documents used for identification purposes in accordance with section 5. The bodies and persons specified in sections 1 and 2 shall maintain for at least five years after the implementation of operations, copies of registrations, account books, commercial correspondence and other documents relating to transactions to permit their precise reconstitution. They shall record operations carried out so as to be able to reply to the requests for information specified in section 23, within the time limit specified in this section. SICCFIN may request an extension to the retention period in specific cases. The bodies and persons specified in sections 1 and 2 are required to operate systems to enable them to reply rapidly and in full to any request for information from SICCFIN to enable it to determine whether they are maintaining or have maintained over the previous five years a business relationship with a specific individual or legal person and the nature of this relationship.
(Other) changes since the last evaluation	

Recommendation 12 (DNFBP)	
Rating: Non compliant	
Recommendation of the MONEYVAL	*The legal framework applicable to the casinos should be completed so that they are required to determine which of their customers are PEPS*

Report	*and to submit their relationships with such customers to enhanced monitoring.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation measures to ensure that, like all the undertakings specified in section 1, casinos are required to identify those of their customers who are politically exposed persons and to exercise greater vigilance in their dealings with these customers. ***Draft legislation, section 5*** 1. The bodies and persons specified in sections 1 and 2 must identify and take all reasonable measures to verify the identity of persons for whose benefit operations or transactions are effected: a. if there is any doubt as to whether customers specified in section 4§1 are acting on their own account or it is certain that they are not acting on their own account; b. when the customer is a legal person, a legal entity or a trust. When the customer is a legal person, a legal entity or a trust, the measures include the identification of the individual or individuals who actually own or control the customer. 2. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the transaction. **Draft sovereign order, article 26** 1. Particular consideration should be given before accepting as customers politically exposed persons who wish to establish business relationships with undertakings or ask them to carry out occasional transactions. The decision should be taken at an appropriate level of the hierarchy. 2. Before such persons are accepted as customers, all appropriate steps should be taken to establish the source of the funds that are or will be committed to the business relationship or the intended occasional transaction. 3. The following persons who perform or have performed in the last five years important public duties in a foreign country are considered to be politically exposed, in particular: - heads of state, - members of government, - members of parliament, - members of supreme courts, constitutional courts or other high courts against whose decisions there is no appeal other than in exceptional circumstances, - senior officials of political parties, - members of courts of auditors and the governing bodies of central banks, - ambassadors, chargés d'affaires and senior officers of the armed forces, - members of the boards, senior management and supervisory bodies of

	public enterprises, - senior political and administrative officials of international or supranational organisations. 4. The spouses and direct descendants and ascendants of the persons specified in §3 must be treated as if they themselves were politically exposed persons. Persons known to be closely associated with persons specified in §3 must also be considered to be politically exposed, particularly: - any individual known, jointly with a person specified in §3, to be the real beneficial owner of a legal person or entity or to maintain any other close business relationship with such a person; - any individual who is the sole beneficial owner of a legal person or entity known to have been created, in practice, for the benefit of someone specified in §3. 5. The policy on accepting customers shall specify the criteria and methods to be used to determine whether customers are politically exposed persons. 6. Undertakings maintaining a business relationship with politically exposed persons are required to subject this to increased and continuous supervision. Such diligence measures also apply when it subsequently appears that an existing customer is or is becoming politically exposed. These diligence measures apply whether the politically exposed persons are customers, beneficial owners or agents.
Recommendation of the MONEYVAL Report	*Other DNFBP (in particular real estate agents, dealers in precious metals and precious stones, notaries, legal and tax advisers and other independent accounting professions) should be required to be subject to due diligence with regard to customers and their transactions in accordance with FATF Recommendations 6, 8, 9 and 11.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to make other designated non-financial businesses and professions, in particular estate agents, dealers in precious metals and stones, notaries, legal and tax advisers and other independent accounting professions, subject to due diligence requirements with respect to their customers and their transactions, in accordance with FATF recommendations 6, 8, 9 and 11. Sections 1.10 (estate agents), 1.12 (legal advisers), 1.14 (dealers in precious metals) and 2 (notaries and accounting professions) make those concerned subject to the same obligations as financial institutions. **Draft legislation, section 4** Bodies and persons covered by sections 1 and 2 must identify their customers and their agents and check their identity, based on documentary proof, of which a copy shall be retained: 1. for regular customers, before establishing a business relationship; 2. for occasional customers, when they wish to effect:

	a. a transfer of funds b. a transaction whose value equals or exceeds an amount specified in a sovereign order, whether this is effected in one operation or several operations between which there appears to be a link; or c. a transaction, even below the value specified in the sovereign order, where there is suspected money laundering, terrorism financing or corruption; or 3. when the bodies and persons specified in sections 1 and 2 have doubts about the veracity or accuracy of the information concerning the identity of an existing customer. In the case of individuals, the identification and verification shall include the family and first names and the address. In the case of legal persons, other legal entities and trusts, they shall cover the business name and registered office, the list of directors and the provisions governing the power to commit the body concerned, without prejudice to the measures stipulated in section 5.1. The identification shall also concern the planned purpose and nature of the business relationship. The arrangements for applying this section shall be laid down in a sovereign order. **Draft legislation, section 4bis** 1. The bodies and persons specified in sections 1 and 2 must exercise constant vigilance with regard to business relationships, particularly by examining operations and transactions concluded throughout the duration of a business relationship and, if necessary, the origin of funds, to verify that these operations and transactions are consistent with what is known about these customers, their social and financial backgrounds, their commercial activities and their risk profile, and by keeping the relevant documents, data and information up to date by paying close attention to operations and transactions effected. 2. If the bodies and persons specified in sections 1 and 2 are unable to satisfy the obligations in section 4 and §1 above, they may not establish or maintain a business relationship. They should decide whether SICCFIN should be informed of this, in accordance with sections 16 to 20. 3. The bodies and persons specified in §§ 1 to 5 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that has itself carried out these due diligence procedures and is established in a state whose legislation imposes obligations equivalent to those in sections 4, 4bis and 5, compliance with which is monitored. 4. The bodies and persons specified in §§ 6 to 15 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that

	has itself carried out these due diligence procedures. 5. The bodies and persons specified in sections 1 and 2 whose activities include money transfers are required to include in these operations and the accompanying messages, precise and useful information on the customers making the order. These bodies shall also retain all information and transmit it when they act as intermediaries in a payment chain. Specific measures may be taken for cross-border batch transfers and permanent transfers of salaries and pensions that do not create an increased risk of money laundering, terrorism financing or corruption. The conditions in which this information must be retained or made available to the authorities or other financial institutions shall be specified in a sovereign order. 6. The bodies specified in the 7th paragraph of section 1 must identify their customers and verify their identity, based on documentary proof, of which a copy shall be retained, when they purchase or exchange gambling chips for amounts equal to or in excess of the amount specified in a sovereign order and when they wish to effect any other operation relating to gaming, without prejudice to the measures specified in section 5. 7. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the transaction. **Draft legislation, section 5** 1. The bodies and persons specified in sections 1 and 2 must identify and take all reasonable measures to verify the identity of persons for whose benefit operations or transactions are effected: a. if there is any doubt as to whether customers specified in section 4§1 are acting on their own account or it is certain that they are not acting on their own account; b. when the customer is a legal person, a legal entity or a trust. When the customer is a legal person, a legal entity or a trust, the measures include the identification of the individual or individuals who actually own or control the customer. 2. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the transaction.
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance and audit)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The legal framework should be completed (at least concerning the financial institutions others than banks) so that:* o *The officer or employee in charge of suspicious transaction*

	reporting does not have overall responsibility by law for the organisation and internal control of AML/CFT measures within the financial undertaking;
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure that managers or staff members authorised to report suspicious transactions have an overall legal responsibility for organising and internally monitoring AML/CFT arrangements within their financial undertaking. An annual report must be prepared, with a copy to SICCFIN (see article 35.4 of the sovereign order). **Draft legislation, section 13** The bodies and persons specified in section 1 shall designate one of more persons to be responsible for applying this legislation in their organisation and shall inform SICCFIN of their identity. These persons, based in the Principality, shall be mainly responsible for preparing internal control procedures, communicating and centralising information in order to prevent, identify and stop the commission of operations linked to money laundering, terrorism financing or corruption. The internal control procedures shall take specific account of the increased risk of money laundering, terrorism financing or corruption in the case of non-face to face transactions, as specified in section 9. A copy of these procedures in French shall be submitted to SICCFIN. The bodies and persons specified in section 2 shall also be responsible for preparing internal control procedures, communicating and centralising information in order to prevent, identify and stop the commission of operations linked to money laundering, terrorism financing or corruption. A copy of these procedures in French shall be submitted to SICCFIN. The arrangements for applying this obligation shall be laid down in a sovereign order. **Draft sovereign order, article 32** The relevant undertakings shall inform their officials who are in direct contact with customers, in writing, of the appropriate criteria for identifying atypical transactions to which they must give special attention and which must be the subject of a written report, as specified in section 11.2 of the legislation. Any examination of such transactions shall consider, in particular, their apparent financial justification and legitimacy. The relevant undertakings shall also inform their officials who are in direct contact with customers, in writing, of the required procedure for submitting written reports to the official responsible for preventing money laundering and terrorism financing specified in section 13, including the time limits for submitting them. **Draft sovereign order, article 33** The persons specified in sections 1.1 to 1.7 shall introduce a surveillance system to identify atypical transactions.

	Such systems must: - cover all customers' accounts and their transactions; - be based on precise and relevant criteria, that are fixed by each undertaking in the light of, in particular, the characteristics of the services and products they offer and those of the customers whom they target and sufficiently discriminating to permit the identification of atypical transactions; - permit these transactions to be identified rapidly; - produce written reports describing the atypical transactions identified and the criteria on which the judgment that they were atypical was based. These reports shall be submitted to the official responsible for preventing money laundering and terrorism financing specified in section 13; - be computerised, unless the undertaking can demonstrate that the nature and volume of transactions to be monitored does not require an automated surveillance system; - have their relevance checked by an initial validation procedure and regular re-examinations, with a view to adjusting them, if necessary, to changes in activities, customers or the environment. The criteria referred to in the previous paragraph shall take account of the special risk of money laundering, terrorism financing or corruption that may be linked to transactions: - carried out by individual customers who are not physically present at the time of the transaction; - carried out by customers whose acceptance was subject to stricter rules under the policy on accepting customers specified in chapter 4; - concerning unusual sums in absolute terms or having regard to the customer's normal behaviour in the context of his relationship with the undertaking. For the purposes of this section, a transfer of funds received for a customer's benefit where the precise and relevant information on the payer specified in section 5.5 of the legislation is lacking shall constitute an atypical transaction. **Draft sovereign order, article 35** 1. The official or officials responsible for preventing money laundering and terrorism financing specified in section 13 shall be appointed by the undertaking's effective governing body after it has established that the person or persons concerned have the necessary professional integrity to undertake these duties correctly. 2. Those concerned shall have the necessary professional experience, hierarchical authority and powers within their employing establishment to perform their duties effectively and autonomously. 3. Those concerned shall ensure that the undertaking as a whole complies with all its obligations for preventing money laundering, terrorism financing or corruption, including the establishment of an appropriate administrative organisation and internal control system. They shall have

	the power to make any recommendations they consider appropriate or necessary to the undertaking's management or governing body. In particular, they shall establish and implement, under their own authority, procedures for analysing the written reports drawn up under section 11.2 of the legislation and the SICCFIN report under sections 16 to 18. They shall train and familiarise staff in accordance with section 12 of the legislation and article 36 of this sovereign order. They shall be the main contacts of SICCFIN for all matters relating to money laundering, terrorism financing or corruption. 4. Those concerned shall prepare at least once a year a report to the undertaking's governing body. The report will assess the number of attempts at money laundering, terrorism financing or corruption that have been identified and make a general appraisal of the suitability of the existing administrative organisation and internal controls and of the contribution of the undertaking's various departments to prevention. A copy of the annual report shall automatically be sent to SICCFIN and, if appropriate, to the undertaking's official auditors.
Recommendation of the MONEYVAL Report	o *It is required that the financial institution gives him the status and powers to enable him to fulfil his duties;*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures requiring financial undertakings to grant these persons the requisite status and powers to carry out fully their duties, particularly those in articles 35.2 and 3 of the sovereign order. **see above**
Recommendation of the MONEYVAL Report	o *The law or regulations give him an access to all necessary information.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure that the managers or staff members concerned have access to all the necessary information. See above, section 13 of the draft legislation and application measures
Recommendation of the MONEYVAL Report	o *These financial institutions be explicitly required to maintain an independent internal control function, endowed with sufficient resources, entailing sanctions for non-compliance.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures requiring financial undertakings to establish independent internal monitoring arrangements with sufficient resources. **see above**
Recommendation of the MONEYVAL Report	*Apart from the criteria for issuing work permits, the existing device should be modified to enable the financial institutions to verify the honesty of candidates for employment before they are hired.*
Measures taken to implement the Recommendation of the Report	The Monegasque banking association (AMAF) has recommended that steps be taken to ensure the integrity candidates for recruitment. Work permits are not issued if the police advise against this and the prospective employer is informed of the reasons.

(Other) changes since the last evaluation	

Recommendation 16 (DNFBP)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Regarding other DNFBPs:* • *the applicable legislation or regulations should be modified so that organisational or internal control measures are put in place, following criterion 16.1, in accordance with FATF R. 15.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures requiring DNFBPs to establish organisational and internal monitoring arrangements in accordance with FATF recommendation 15. **Draft legislation, section 9** The bodies and persons specified in sections 1 and 2 shall make special and adequate arrangements to deal with the increased risk of money laundering, terrorism financing or corruption when they establish business relationships or effect transactions with customers who are not physically present for identification purposes, particularly in connection with the use of new technologies. The arrangements for applying this obligation shall be laid down in a sovereign order. **Draft legislation, section 12** The bodies and persons concerned shall take appropriate measures to train staff and familiarise them with the provisions of this legislation. These measures include the participation of their staff in special programmes to help them recognise transactions and actions that may be linked to money laundering, terrorism financing or corruption and instruct them on how to proceed in such cases. **Draft legislation, section 13** The bodies and persons specified in section 1 shall designate one of more persons to be responsible for applying this legislation in their organisation and shall inform SICCFIN of their identity. These persons, based in the Principality, shall be mainly responsible for preparing internal control procedures, communicating and centralising information in order to prevent, identify and stop the commission of operations linked to money laundering, terrorism financing or corruption. The internal control procedures shall take specific account of the increased risk of money laundering, terrorism financing or corruption in the case of non-face to face transactions, as specified in section 9. A copy of these procedures in French shall be submitted to SICCFIN. The bodies and persons specified in section 2 shall also be responsible for preparing internal control procedures, communicating and centralising information in order to prevent, identify and stop the commission of operations linked to money laundering, terrorism financing or corruption.

	A copy of these procedures in French shall be submitted to SICCFIN. The arrangements for applying this obligation shall be laid down in a sovereign order. **Draft sovereign order, article 35** 1. The official or officials responsible for preventing money laundering and terrorism financing specified in section 13 shall be appointed by the undertaking's effective governing body after it has established that the person or persons concerned have the necessary professional integrity to undertake these duties correctly. 2. Those concerned shall have the necessary professional experience, hierarchical authority and powers within their employing establishment to perform their duties effectively and autonomously. 3. Those concerned shall ensure that the undertaking as a whole complies with all its obligations for preventing money laundering, terrorism financing or corruption, including the establishment of an appropriate administrative organisation and internal control system. They shall have the power to make any recommendations they consider appropriate or necessary to the undertaking's management or governing body. In particular, they shall establish and implement, under their own authority, procedures for analysing the written reports drawn up under section 11.2 of the legislation and the SICCFIN report under sections 16 to 18. They shall train and familiarise staff in accordance with section 12 of the legislation and article 36 of this sovereign order. They shall be the main contacts of SICCFIN for all matters relating to money laundering, terrorism financing or corruption. 4. Those concerned shall prepare at least once a year a report to the undertaking's governing body. The report will assess the number of attempts at money laundering, terrorism financing or corruption that have been identified and make a general appraisal of the suitability of the existing administrative organisation and internal controls and of the contribution of the undertaking's various departments to prevention. A copy of the annual report shall automatically be sent to SICCFIN and, if appropriate, to the undertaking's official auditors.
(Other) changes since the last evaluation	

Recommendation 17 (Sanctions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Monegasque authorities should consider completing the range of administrative sanctions (notably by establishing the possibility of administrative fine) to improve its progressiveness and to allow a more proportionate application of the sanctions to the seriousness of the violation identified.*

Measures taken to implement the Recommendation of the Report	The Monegasque authorities have adopted measures to supplement the range of administrative sanctions, in particular by authorising administrative fines and publication of penalties imposed in the official journal. **Draft legislation, section 38** Without prejudice to any criminal penalties, SICCFIN may issue a warning to persons specified in sections 1 and 2.3 who fail to comply with their obligations under this legislation. In the event of serious fault, SICCFIN may request the Minister of State to reprimand the person concerned, bar him from effecting certain operations or suspend or revoke his administrative authorisation. These penalties, apart from the warning, may be accompanied by a fine not exceeding € 1.5 million and publication in the official journal. Before any decision is taken to impose penalties the person concerned must be informed, in writing, of the complaints levelled against him and be given the opportunity to explain or be asked to provide such explanations. The explanations shall be recorded in a report signed by the person concerned. At the hearing, the person may be assisted by legal counsel. The penalties specified in this section are also applicable when SICCFIN officials record a breach of the obligations in the legislation or of the measures taken to apply them by the persons specified in sections 1 and 2.3.
Recommendation of the MONEYVAL Report	*The Monegasque authorities should consider modifying the system of applicable sanctions so that, beyond the criminal penalties provided for in Articles 32 and 33 of the law, sanctions can be imposed on senior managers and employees of financial undertakings for violations of LAB/CFT obligations*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly provision for sanctions to be imposed on the managers of financial institutions not just for criminal offences prescribed in law but also for breach of all the legal obligations to prevent money laundering and terrorism financing. **see above**
Recommendation of the MONEYVAL Report	*In the case of casinos and other businesses and professions covered by article 2 of the law, the legislation and regulations should be completed so that the violation of the obligations here above mentioned can be subject to sanctions, and so that these sanctions can be imposed not only to the natural person or person who can be held liable for the criminal offence but also to the gaming house or business itself.*

Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to supplement the penalties to which casinos and other DNFBPs may be liable. Section 38 is applicable to casinos and other DNFBPs. In addition, Act 1349 of 25/06/2008 establishes the liability of individuals and legal persons, on whom fines may now be imposed (see recommendation 2). **see above**
Recommendation of the MONEYVAL Report	*In the case of casinos, the applicable framework should be completed so that breaches of requirements in matters of customer due diligence or organisation and implementation of preventive procedures can constitute grounds for imposing an enforcement measure or sanction, except where it can be proved that the breaches resulted in a failure to report suspicious transactions, liable to criminal penalties.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to supplement the penalties to which casinos and other DNFBPs may be liable. All undertakings, including casinos, are now subject to the same rules. **see above**
(Other) changes since the last evaluation	

Recommendation 21 (Special attention for higher risk countries)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Monegasque authorities should provide for enforceable measures requiring increased diligence in connection with business relationships or transactions with counterpart institutions with links to countries that do not properly apply the FATF Recommendations.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly binding measures, breach of which is punishable, requiring special vigilance in the case of business relationships or transactions with persons having links with countries that do not apply FATF recommendations, or apply them insufficiently (penultimate paragraph of section 11 below). **Draft legislation, section 11** The bodies and persons covered by sections 1 and 2 are required to pay especially close attention to any transactions particularly likely, because of their complex or unusual character, having regard to the customer's activities or the lack of any financial or apparently legal justification, to be linked to money laundering or terrorism financing. The bodies and persons concerned shall prepare a written report on the result of this examination concerning the origin and destination of the sums involved and the object of the transaction and its beneficiary. The report and all documents pertaining to the transaction shall be submitted

	by the persons specified in section 13 for retention for the period specified in section 10 and shall be made available if required to SICCFIN. The measures specified in this section shall also apply to transactions involving a consideration with links to a state or territory whose legislation is recognised to be inadequate or whose practices are considered to be an obstacle to combating money laundering, terrorism financing or corruption. The states or territories and the minimum amount of the transactions concerned shall be specified in a ministerial order.
(Other) changes since the last evaluation	

Recommendation 22 (Subsidiaries and foreign branches)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	*Article 13 of Law No. 1.162 of 7 July 1993 should be modified to extend all of Monaco's legislation and regulations on prevention to subsidiaries and branches located abroad, and require from those to pay special attention to compliance with the relevant principles in the case of subsidiaries and branches located in countries which do not or which insufficiently apply the FATF Recommendations.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend all the Monegasque preventive legislation and regulations to the foreign branches and subsidiaries of Monegasque financial institutions and require the latter to take particular care to ensure that this applies to countries that do not apply FATF recommendations, or apply them insufficiently. **Draft legislation, section 22** 1. Any financial undertaking whose registered office is in the Principality and which has subsidiaries or branch offices abroad shall ensure that the latter take measures at least the equivalent of those specified in this legislation. It shall communicate to them relevant measures and procedures. If the relevant country's legislation prevents their application SICCFIN must be informed of this situation. 2. The persons specified in section 1 may not open a branch or representative office that is domiciled, registered or established in a state or territory designated by ministerial order in accordance with section 20. They may not acquire or create, directly or indirectly, a branch operating as a credit institution, investment undertaking or insurance institution that is domiciled, registered or established in one of these states or territories.

Recommendation of the MONEYVAL Report	*The legislation and regulations should also require that where the minimum standards applicable in Monaco differ from those of the country where a branch or subsidiary is located, the most stringent legislation should then be applied.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure that where minimum Monegasque standards and those of the countries where branches and subsidiaries of financial undertakings are established differ, the stricter standards must be applied. See above section 22-1.
Recommendation of the MONEYVAL Report	*Monaco's law should also require financial undertakings to inform the SICCFIN if the local legislation or regulations applicable to their subsidiaries or branches does not authorise the application of the preventive measures in force in Monaco as a whole*.
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly the requirement that financial undertakings inform SICCFIN when the local legislation and regulations applicable to their branches or subsidiaries do not permit the application of Monegasque preventive provisions in their entirety. See above section 22-2.
(Other) changes since the last evaluation	

Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should establish an action plan to reinforce significantly and the sooner the exercise of the control function on financial institutions.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have greatly increased the number of checks carried out on financial undertakings. In 2008, the National Council approved the Government's recruitment plan, which initially meant two additional persons, the first in early 2008 and the second in early 2009. Both have been assigned to this activity. An outside expert was also employed in 2008 to carry out on-the-spot inspections. This has continued in 2009 with the employment of an additional external person. On-the-spot inspections therefore increased in 2008 and the trend is continuing in 2009.

Number of on-the-spot inspections

	2008	**to 20.02.09**
Banks	8	8

	Management companies	4	1
	Company service providers	11	-
	TOTAL	**23**	**9**

A number of subject-based on-the-spot visits have been carried out to all financial undertakings. These are concerned with compliance with obligations concerning the identification of customers giving orders, wire transfers (banks only), politically exposed persons and the procedures established by all categories of undertaking for freezing funds.

Subject-based checks: Number of undertakings concerned in 2008 Banks	40
Management companies	32
Company service providers	42
TOTAL	**114**

In addition to these numerous on-the-spot checks and visits, more than 75 documentary checks have been carried out since January 2008.

Recommendation of the MONEYVAL Report	*The Monegasque preventive framework should be extended to mutual fund management companies.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend the AML/CFT arrangements to collective investment undertakings specified in Section 1.2. **Draft legislation, section 1** The following bodies and persons are subject to the provisions of this legislation: 1. Persons who carry on banking or bank intermediation business on a regular basis; **2. Persons undertaking activities specified in section 1 of Act 1.338 of 7 September 2007 on financial activities;** 3. Insurance companies referred to at Article 3 of Order 4.178 of 12 December 1968 instituting state supervision of insurance and guaranteed investment undertakings of all types and organising the insurance industry, insurance intermediaries, agents and brokers established in the Principality in connection with life insurance and insurance linked to investments; 4. Persons appearing in the list in section 3 of Act 214 of 27 February 1936, as amended; 5. Persons referred to in section 3 of Act xxx carrying out operations relating to the establishment, management and control of legal persons, legal entities or trusts, and as such providing some or all of the following

	services to third parties: • acting as agent in the constitution of a legal person, legal entity or trust; • acting, or making the necessary arrangements for someone else to act, as director or secretary general of a company, as partner in a partnership or private limited company, or in a similar function for other legal persons or entities; • providing a registered office, commercial address or premises, or an administrative or postal address for a company, partnership or any other legal person or entity; • acting, or making the necessary arrangements for someone else to act, as the administrator of a trust; • acting, or making the necessary arrangements for someone else to act, as a shareholder on behalf of another person. 7. Gaming houses; 8. Bureaux de change as specified in section 1 of Act XXX; 8. Money transmitters as specified in section 2 of Act XXX; 10. Estate agents specified in Act 1.252 of 12 July 2002 on activities relating to certain operations connected with real estate and businesses; 11. retailers; 12. Business, legal and tax advisers; 13. Services concerned with guarding, protecting and transporting currency; 14. Dealers in precious objects, such as precious stones, precious materials, antiques, works of art and other valuable objects; 15. Pawnbrokers; 16. Other persons who, in the conduct of their business, carry out, control or advise on transactions entailing movements of funds. Bodies and persons undertaking financial activities that meet the following criteria are not subject to the provisions of this legislation: - the turnover generated by the financial activity must not exceed a maximum figure laid down in a sovereign order; - transactions associated with the activity must not exceed a maximum amount by customer and by transaction laid down in a sovereign order, whether the transaction takes the form of a single operation or several apparently linked operations; - the financial activity is not the principal activity and the turnover it generates must not exceed a percentage of the total turnover of the body or person concerned laid down in a sovereign order; - the financial activity is appurtenant and direct linked to the principal activity; - the principal activity is not specified in the first sub-paragraph of this section; The financial activity is performed solely for the customers of the principal activity and is not generally offered to the public. **Financial Activities Act, no. 1.338 of 7 September 2007, Section 1** This law is applicable to those who exercise, regularly or professionally, the following activities:

	1. managing, on behalf of third parties, securities or futures portfolios; 2. managing unit trusts and other collective investment undertakings under Monegasque law; 3. receiving and transmitting orders concerning securities and futures on the financial markets on behalf of third parties; 4. advising and assisting in areas specified in 1 to 3; 5. executing orders on behalf of third parties; 6. managing collective investment undertakings under foreign law; 7. Dealing on own account. This law is not applicable to undertakings exercising the activities in 1 to 6 solely on behalf of legal persons that control them, directly or indirectly, and legal persons that these latter control.
Recommendation of the MONEYVAL Report	*The Monegasque framework should also be modified so that the insurance intermediaries (brokers and agents) shall be explicitly subject to it.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to extend the AML/CFT arrangements to insurance intermediaries (brokers and agents). **See above section 1-3.**
(Other) changes since the last evaluation	
Recommendation 24 (DNFBP- Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Regarding the CSPs and the trustees, additional means should be put at the disposal of the SICCFIN to allow it to increase significantly the frequency of the on-site controls.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have greatly increased the number of checks carried out on company service providers (CSPs) and trustees.. Eleven CSPs received on-the-spot inspections in 2008. Some that also acted as trustees as a purely ancillary activity were also checked on that account. See statistics on inspections in 2008. Two additional persons were recruited in 2008 and 2009 for this purpose. An outside expert was also employed in 2008 to carry out on-the-spot inspections. This has continued in 2009 with the employment of an additional external person.
Recommendation of the MONEYVAL Report	*Additional means should also be allocated to SICCFIN, jointly with the enlargement of the preventive obligations of DNFBPs, to allow this authority to exercise effectively its on-site control missions and of the respect of the obligations of these businesses and professions*.
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have greatly increased the number of checks carried out. This will continue in 2009. See above The Monegasque authorities have also included in the draft legislation to be tabled shortly measures to strengthen the monitoring process. Auditors will draw up annual reports on the arrangements for monitoring AML/CFT measures.

	Draft legislation, section 31 The undertakings specified in 3 to 6 and 8 to 14 of section 1 are required to have an annual report drawn up by an auditor registered under Act 1.231 of 12 July 2000 to assess the application of this law and the measures taken to implement it. Copies of the reports shall be sent to SICCFIN and the management of the undertakings concerned.
(Other) changes since the last evaluation	In 2008, AMPA, which represents companies in Monaco involved in the administration of foreign entities, organised a session with SICCFIN and an outside speaker on the obligations that were the subject of SICCFIN's on-the-spot inspections.

Recommendation 25 (Guidelines and Feedback)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The competent Monegasque authorities should complete the instructions and recommendations they have addressed to the financial institutions to assist them more systematically on all the main issues that the application of preventive measures is likely to raise in practice.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be issued shortly measures to provide financial undertakings with more systematic assistance on all the main issues that the practical application of preventive measures is likely to raise. **Draft sovereign order to amend sovereign order 11 246, article 1** A new article 2 bis of sovereign order 11 246 of 24 January 1994 reads as follows: The department may issue any instructions or recommendations it considers necessary to help persons covered by Act 1.162 of 7 July 1993 to apply and comply with the obligations it establishes, particularly regarding the form and content of the reporting procedure specified in sections 3, 19 and 25. It shall maintain detailed statistics and publish an annual report. It shall also provide general feedback to the persons specified in the previous sub-paragraph. • The Monegasque authorities have also included in the draft legislation to be tabled shortly measures to provide financial undertakings with more systematic assistance on all the main issues that the practical application of preventive measures is likely to raise. **Draft sovereign order, article 38** SICCFIN may propose any changes to legislation or regulations it deems necessary to combat money laundering, terrorism financing or corruption. SICCFIN may issue any instructions or recommendations it considers necessary concerning the application of the legislation and this sovereign

	order. In 2008, SICCFIN issued directives on PEPs (savings plans), names of convenience, the procedure for reporting suspicions and risk levels.
Recommendation of the MONEYVAL Report	*The authorities should ensure the implementation of mechanisms guaranteeing the organisations and individuals concerned by this information ready and rapid access to information regarding methods and trends of ML and the evolution of the phenomena (especially through the dissemination of the results of the liaison committee's activities).*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be issued shortly measures to ensure that the bodies and persons concerned have ready access to information on money laundering methods and techniques and changes in the phenomenon, in particular by making available the findings of the "liaison committee". **Draft sovereign order to amend sovereign order 16 652, article 1** Article 2 of sovereign order 16 652 of 24 January 1994 is amended as follows: The committee's purpose is to ensure a two-way flow of information between the government departments involved in combating money laundering and terrorism financing and the undertakings specified in Act 1.162 of 7 July 1993, as amended, and to consider matters of common interest with a view to improving the effectiveness of the current arrangements, particularly through exchanges of information on trends and changes in money laundering and terrorism financing methods and techniques. **Draft sovereign order to amend sovereign order 16 652, article 4** The final sub-paragraph of article 1 is repealed and replaced by the following: The committee may co-opt, as necessary, any qualified person active in the field of combating money laundering and terrorism financing. The representatives of each category of undertaking specified in the first sub-paragraph shall be responsible for disseminating information supplied at the committee's meetings to the undertakings they represent. • The Monegasque authorities have also included in the draft legislation to be tabled shortly measures to ensure that the bodies and persons concerned have ready access to information on money laundering methods and techniques and changes in the phenomenon, in particular by making available the findings of the "liaison committee". **Draft sovereign order, article 43** 1. A liaison committee to combat money laundering and terrorism financing shall be established under the authority of the Minister of State or his representative. 2. The committee's purpose is to ensure a two-way flow of information between the government departments involved in combating money laundering and terrorism financing and relevant undertakings, and to

	consider matters of common interest with a view to improving the effectiveness of the current arrangements, particularly through exchanges of information on trends and changes in money laundering and terrorism financing methods and techniques. 3. The committee shall be chaired by the Government counsellor responsible for finance and economy, assisted by the director of SICCFIN and will be composed of 15 permanent members, appointed as follows: - two representatives of the judicial service; - two representatives of the interior department, including one representative of the police department specifically responsible for these matters; - a representative of the budget and treasury directorate responsible for receiving information on the freezing of funds to combat terrorism or to implement economic sanctions; - a representative of SICCFIN; - representatives of each category of undertaking specified in the legislation, appointed for three years: * two representatives of credit institutions specified in section 1.1; * one representative of companies specified in section 1.2; * one representative of persons appearing in the list in section 3 of Act 214 of 27 February 1936, as amended; * one representative of persons carrying out operations relating to the management and control of foreign companies specified in section 1.5; * one representative of money transmitters; * one representative of insurance undertakings and intermediaries, agents and brokers established in Monaco; * one representative of gaming establishments; * one representative of bureaux de change; * one representative of estate agents specified in Act 1.252 of 12 July 2002 on activities relating to certain operations connected with real estate and businesses; * one representative of persons coming within the scope of Act 1.231 on the various professions of auditors; * one representative of dealers in precious objects, such as precious stones, precious materials, antiques, works of art and other valuable objects. SICCFIN shall provide the secretariat. The committee may co-opt, as necessary, any qualified person active in the field of combating money laundering and terrorism financing. The representatives of each category of undertaking specified in the first sub-paragraph shall be responsible for disseminating information supplied at the committee's meetings to the undertakings they represent. 4. The liaison committee shall meet at least twice a year after being convened by the chair, who shall draw up the agenda. In doing so, he may consult other members. The latter may ask him to convene extraordinary meetings on important

	and urgent matters.
Recommendation of the MONEYVAL Report	*Given the professional confidentiality of SICCFIN staff, it is necessary that the Monegasque authorities examine whether the adoption of specific legal provisions would enable to provide a more comprehensive and systematic specific feedback to financial institutions on action taken on suspicious transactions that they have reported*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure a fuller and more systematic feedback of information to financial undertakings on the action taken on their reports of suspicions. **Draft legislation, section 15§4.2** 2. When SICCFIN refers a case to the state prosecutor under §4.1, he shall inform the undertaking or individual that made the report.
Recommendation of the MONEYVAL Report	*The competent Monegasque authorities should complete the instructions and recommendations they have addressed to the financial institutions to assist them more systematically on all the main issues that the application of preventive measures is likely to raise in practice.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have also included in the draft legislation to be tabled shortly measures to provide financial undertakings with more systematic assistance on all the main issues that the practical application of preventive measures is likely to raise. **Draft sovereign order, article 38** SICCFIN may propose any changes to legislation or regulations it deems necessary to combat money laundering, terrorism financing or corruption**.** SICCFIN may issue any instructions or recommendations it considers necessary concerning the application of the legislation and this sovereign order**.** In 2008, SICCFIN issued directives on PEPs (savings plans), names of convenience, the procedure for reporting suspicions and risk levels.
Recommendation of the MONEYVAL Report	*Parallel to the recommended extension of the preventive obligations for the DNFBPs (see 4.1 and 4.2), the competent Monegasque authorities should circulate instructions and recommendations able to provide a systematic assistance on all main issues that the application of preventive measures is likely to raise in practice; more on that issue in 3.10.*
Measures taken to implement the Recommendation of the Report	Section 38 applies to all the undertakings specified in sections 1 and 2, including DNFBPs. **see above**
(Other) changes since the last evaluation	

Recommendation 27 (Prosecution authorities)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*Given that the repressive system is mostly reactive, the evaluators recommend to the authorities to take measures to analyse the reasons of such a practice and to find a solution relevant to the Monegasque context.*
Measures taken to implement the Recommendation of the Report	Under Monegasque criminal procedure, there are just two means of bringing proceedings: by individuals in civil actions and by the state prosecutor in response to reports of offences submitted by the police or SICCFIN. The role of the police is to identify offences, assemble evidence and seek out the perpetrators (Article 1 of the Code of Criminal Procedure). The police may not conduct investigations on their own initiative.
Recommendation of the MONEYVAL Report	*The authorities should consider adopting guidelines to assist the authorities in their investigations*
Measures taken to implement the Recommendation of the Report	Given the limited number of persons and cases, the size of the Principality which enables direct and rapid close contacts, the practice is that the Prosecution follows every case and adapts in real time the instructions given to the investigators on the ground, in order to adapt itself to each specific case. Nevertheless, in February 2009, a meeting was held with interested magistrates and the Directorate of Judicial Services, in order to discuss this problem: hence, the issue is being considered.
Recommendation of the MONEYVAL Report	*In the context of the modification of the Criminal Procedure Code, the authorities should introduce provisions that allow the competent authorities to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering.*
Measures taken to implement the Recommendation of the Report	The Code of Criminal Procedure in both its present and future forms authorises the deferral of an arrest or seizure of funds in the interests of an investigation, so there is no need to introduce new provisions on this subject (Article 91 for the public prosecutor, Article 87 for investigating judges)
Recommendation of the MONEYVAL Report	*The authorities should also ensure that the introduction of special investigative techniques will allow the law enforcement authorities to use the main techniques – such as means of technical control of telecommunication, of internet and mail, and also special investigation means – when they investigate on AML/CFT issues.*
Measures taken to implement the Recommendation of the Report	This is already the case under existing legislation, in particular the Justice and Freedom Act, no. 1.343 of 29 December 2007, with regard to the interception, recording and transcription of tele- or electronic communications. The use of this special investigative technique is governed by sections 106-1 to 106-12. Section 106-1: When the need for information so requires, investigating judges may order the interception, recording and transcription of tele- or electronic communications for more serious offences punishable by at least one year's imprisonment. The decision to intercept shall be in writing. It is not a judicial decision and is not subject to any appeal.

	Operations under the first sub-paragraph shall be carried out on the authority and under the supervision of an investigating judge. Such operations may not exceed two months but can be renewed, subject to certain conditions regarding evidence and duration. A number of new measures will be introduced in the draft reform of the Code of Criminal Procedure, such as anonymous witnesses, genetic fingerprinting, and installing sound recording systems in and video surveillance of specific locations or vehicles. Supervised deliveries and joint investigation teams should be the subject of a proposed amendment. These techniques have already been introduced into domestic law to facilitate co-operation in the field of transnational organised crime (article 20 of sovereign order 605 of 1 August 2006 to implement the United Nations Convention against Transnational Organised Crime and its two additional protocols of 15 November 2000). Apart from cases where the arrangements are governed by a bilateral agreement between Monaco and a party to the aforementioned convention, supervised deliveries and other special investigative techniques, such as electronic and other forms of surveillance and infiltration operations, that are requested by parties to the convention in accordance with its article 20 shall be authorised, if appropriate, by the competent Monegasque judicial authority. Supervised deliveries may include methods such as the interception of goods and authorisation for their carriage to continue, unaltered or after removing or replacing part or all of their contents.
Recommendation of the MONEYVAL Report	*The authorities should ensure that the law enforcement authorities, the FIU and the other competent authorities work jointly and on a regular basis on the methods, techniques and trends of ML and TF in the Principality of Monaco and that the issuing results and analyses circulate between the staff of the law enforcement authorities and the other competent authorities.*
Measures taken to implement the Recommendation of the Report	One of the main tasks of the AML/CFT liaison committee, which meets several times a year under the authority of the Department of Finance and Economic Affairs, is to maintain contacts between the various government departments and areas of business concerned with AML/CFT. As well as SICCFIN, it brings together representatives of the judicial services directorate and the public prosecutor's department, the public security directorate, the budget and treasury department and private undertakings for the purposes of sharing information.
(Other) changes since the last evaluation	

Recommendation 30 (Resources, integrity and training)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The Monegasque authorities should review the resources of the police responsible of financial investigations pointing at violations that generate important proceeds, to reinforce the effectiveness of the confiscation mechanism.*
Measures taken to implement the Recommendation of the Report	In view of the number of cases to be dealt with, the public security directorate does not see a need to increase staffing, but will certainly train additional staff if this becomes necessary.
Recommendation of the MONEYVAL Report	*The resources, notably human, left at the disposal of SICCFIN to fulfil its on-site control mission on the financial institutions should be significantly increased so that the effectiveness of this function can be reinforced.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have greatly increased the number of checks carried out on financial undertakings. Two additional persons were recruited in 2008 and 2009 for this purpose. An outside expert was also employed in 2008 to carry out on-the-spot inspections. This has continued in 2009 with the employment of an additional external person. Further staff are being recruited in 2009, and two external consultants will be employed. See statistics on inspections above.
Recommendation of the MONEYVAL Report	*The authorities should conduct an assessment of the number of staff within the public prosecution service and the investigative judges' offices, taking into account the total number of cases of economic and financial crime, with a view to envisaging an increase in staff numbers if necessary.*
Measures taken to implement the Recommendation of the Report	There is currently no significant statistical evidence of a need to increase the staffing of the prosecution service or the investigating judges, with about a total of 80 cases of all types referred each year for 2.5 investigation offices.
Recommendation of the MONEYVAL Report	*The authorities should ensure that the rotation system of the magistrates does not affect the effectiveness and the continuity of investigations on AML/CFT issues.*
Measures taken to implement the Recommendation of the Report	The Franco-Monegasque Convention of 8 November 2005 to modify and extend administrative co-operation, which has only just come into force after its recent ratification by the two countries, sets a time limit for secondments of three years, renewable once. In certain cases, this period could undoubtedly cause difficulties in this area.
Recommendation of the MONEYVAL Report	*The authorities should review the legal framework to remove all uncertainties or interrogations about the level of independence and autonomy of the investigative and prosecution authorities.*
Measures taken to implement the Recommendation of the Report	See the draft legislation on the status of the judiciary.

(Other) changes since the last evaluation	

Recommendation 34 (Legal arrangements – beneficial owners)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The procedure put in place should allow to record all necessary information concerning ownership and control of trusts (settler, administrator, beneficiary, protector).*
Measures taken to implement the Recommendation of the Report	Information on trusts, such as their founding statutes, modifications, police reports and any striking off the list, is held in their individual files at the Court of Appeal. Apart from this file, any change to their statutes is recorded in a register of official documents of the Court of Appeal, where all the orders issued by its first president that are not part of judicial proceedings are listed.
Recommendation of the MONEYVAL Report	*The information being held should be exact and updated. Thus the provisions concerning the updating of the list kept by the Court of Appeal should be reviewed.*
Measures taken to implement the Recommendation of the Report	Notification of the requirement to re-register is issued every three years and failure to do so within two months leads to their removal from the register. This frequency appears to be sufficient, given the limited number – currently 35 – of trusts registered. Nevertheless a reform is planned whereby any changes concerning the managers, formal and beneficial owners will have to be declared spontaneously, on pain of criminal sanctions.
Recommendation of the MONEYVAL Report	*The authorities should take measures so that the competent authorities can obtain in relevant time adequate, exact and updated information on the beneficial owners and on the control of trusts, in particular on persons who created the trusts, the administrator and the beneficiaries.*
Measures taken to implement the Recommendation of the Report	With its responsibilities for supervision and dealing with reports of suspicion, SICCFIN has a legal right to ask for such declarations.
(Other) changes since the last evaluation	Changes to the legislation on trusts are currently under consideration alongside a reform of that on civil-law partnerships.

Recommendation 35 (Conventions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*It is important that the Principality takes additional measures to carry out effectively the legislation and regulations (incrimination, criminal liability for legal persons, special techniques of investigation) and to take measures to treat the cross-border cash transfer issues (Articles 15,17 and 19 of the Vienna Convention et Article 7.2 of the Palermo Convention);*

Measures taken to implement the Recommendation of the Report	Act 1.347 of 4 July 2008 introduced criminal liability for legal persons. Special investigative techniques are authorised in the proposed legislation to reform the Code of Criminal Procedure (recommendation 27). Section 33 of the draft legislation to reform the AML/CFT arrangements deals with the carriage of cash across borders.
Recommendation of the MONEYVAL Report	*The authorities should furthermore reconsider the reservations that were formulated on the Convention on laundering, search, seizure and confiscation of the proceeds of crime.*
Measures taken to implement the Recommendation of the Report	Since Monaco is considering accession to the new Convention 198, there are no plans to reconsider its application of Convention 141, which would thereby become obsolete.
(Other) changes since the last evaluation	

Recommendation 36 (Mutual Legal Assistance)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should put in place mutual legal assistance mechanisms, notably through internal laws and through bilateral co-operation, allowing the foreign judicial authorities to request the largest co-operation from the Monegasque judicial authorities.*
Measures taken to implement the Recommendation of the Report	Since the last evaluation Monaco has become a party to the following conventions: - Convention on Mutual Assistance in Criminal Matters of 20 April 1959 (entered into force in Monaco on 17 June 2007); - Agreement between Monaco and the United States of 24 March 2007 regarding the sharing of confiscated proceeds of crime or property (entered into force in Monaco on 1 July 2007); - European Convention on the Suppression of Terrorism of 27 January 1977 (entered into force on 1 January 2008); - Franco-Monegasque Convention of 8 November 2005 on Mutual Assistance in Criminal Matters (entered into force in Monaco on 1 November 2008); - European Convention on Extradition of 13 December 1957 and its two additional protocols of 15 October 1975 and 17 March 1978 (entry into force scheduled for May 2009).
Recommendation of the MONEYVAL Report	*The authorities should develop the network of bilateral and multilateral international co-operation treaties to facilitate the execution of the active international assistance in the national procedures in order to obtain proves that are abroad.*
Measures taken to implement the Recommendation of the Report	The instruments of ratification of the Convention on Mutual Assistance in Criminal Matters, adopted in Strasbourg on 20 April 1959, were lodged with the Council of Europe Secretary General on 19 March 2007. The Convention was brought into effect by sovereign order 1.088 of 4 May

	2007, and entered into force on 17 June 2007. More specifically, the bilateral Franco-Monegasque Convention on Mutual Assistance in Criminal Matters, signed in Paris le 8 November 2005, was brought into effect by sovereign order 1.828 of 18 September 2008, and entered into force on 1 November 2008. Article 1 of the Convention states that mutual legal assistance granted under it may be requested to provide any type of assistance compatible with the domestic law of the requested party, in particular: The provision of legal documents and files, administrative, banking and commercial documents and company documents relating to the individual or legal person who is the subject of the request, including a list of bank accounts that he holds or controls in the territory of the requested party and of banking transactions effected on the accounts specified in the request, and the issuing or receiving accounts. This information shall be supplied to the requesting party even in the case of accounts held by entities acting in the form of or on behalf of trust funds or any other instrument of management of special purpose funds.
(Other) changes since the last evaluation	Turning to extradition, the following were signed on 30 January 2009: ➢ The European Convention on Extradition (CETS 24), opened for signature in Paris on 13 December 1957; ➢ The additional protocol to the European Convention on Extradition (CETS 86), opened for signature for states that have signed the Convention, in Strasbourg on 15 October 1975; ➢ The second additional protocol to the European Convention on Extradition (CETS 98), opened for signature for states that have signed the Convention, in Strasbourg on 17 March 1978; When it joined the Council of Europe in October 2004, Monaco also undertook to sign and ratify the Criminal Law Convention on Corruption within two years. In accordance with this undertaking, on 1 July 2007 Monaco became the 46th member state of the Group of States against Corruption (GRECO), following its signature and ratification on 19 March 2007 of the Criminal Law Convention (CETS 173), opened for signature in Strasbourg on 27 January 1999.

Recommendation 38 (Mutual Legal Assistance on confiscation and freezing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should remove the pre-condition of prepaid expense by the requesting state to freeze the funds.*
Measures taken to implement the Recommendation of the Report	The legal services directorate would have no objection to repealing the requirement for the advance of costs in article 9 of sovereign order 15.457 of 8 August 2002, particularly as, in practice, the Monegasque state advances the costs of seizures.

Recommendation of the MONEYVAL Report	*The authorities should consider creating a special fund to receive the confiscated assets based on foreign judgements that are not restored or shared.*
Measures taken to implement the Recommendation of the Report	This matter is under consideration in connection with the signature of Convention CETS 198.
(Other) changes since the last evaluation	

Recommendation 40 (Other forms of co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should modify Article 31 of the Law No. 1.162 not to limit the scope of information exchanges and ensure that it is possible in relation with money laundering and predicate offences.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure that information can be exchanged on money laundering and predicate offences, having particular regard to the extension of the scope of reports of suspicions (see Article 218 of the Criminal Code). **Draft legislation, section 15§3** 1. A Financial Information and Monitoring Department (SICCFIN) shall act as the national central authority responsible for gathering, analysing and transmitting information in connection with money laundering, terrorism financing or corruption. The department's powers and responsibilities shall be laid down in a sovereign order. 2. The authority shall receive, analyse and process reports submitted by bodies and persons specified in sections 1 and 2.3, in accordance with sections 16 to 18. 3. Subject to reciprocity, it shall reply to requests for information from foreign agencies with similar powers. 4.1 SICCFIN shall examine reports under §2 and requests from foreign agencies under §3. If such an examination reveals serious evidence of money laundering, terrorism financing or corruption, SICCFIN shall submit a report to the state prosecutor, together with any relevant documentation other than the report of suspicion itself, which must not appear in the case file. 4.2. When SICCFIN refers a case to the state prosecutor under §4.1, he shall inform the undertaking or individual that made the report.

	5. It shall maintain detailed statistics and publish an annual report. **Draft legislation, section 25** 1. Subject to reciprocity and on condition that no criminal proceedings have been instituted in Monaco based on the same facts, SICCFIN may communicate to national central authorities responsible for combating money laundering, terrorism financing and corruption information on transactions that appear to relate to these offences. No information may be supplied if the authorities concerned are not subject to similar obligations of confidentiality in carrying out their duties to those applicable to SICCFIN. 2. When SICCFIN receives a report under section 15.2, it may ask for any additional information it requires from foreign agencies with comparable powers.
Recommendation of the MONEYVAL Report	*The authorities should modify Article 31 to explicitly implement the possibility of spontaneous communications with other FIUs.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to authorise explicitly spontaneous communications with other financial intelligence units. See above draft legislation, section 25.1.
Recommendation of the MONEYVAL Report	*The authorities should review the legislation and regulations on exchange with the foreign control authorities in order to allow a wide international co-operation.*
Measures taken to implement the Recommendation of the Report	• The Monegasque authorities have included in a draft sovereign order to be issued shortly measures to widen the scope of information exchanges with foreign supervisory authorities to the maximum possible extent. **Draft sovereign order to amend sovereign order 11 246, article 2** Article 3 of sovereign order 11 246 of 24 January 1994 is amended as follows: Subject to reciprocity, the department may receive from and communicate to foreign supervisory authorities information gathered from financial undertakings established in Monaco, on condition that the agencies concerned are bound by professional confidentiality and have similar safeguards to those that the Monegasque department affords to financial undertakings. • The Monegasque authorities have also included in the draft legislation to be tabled shortly measures to widen the scope of information exchanges with foreign supervisory authorities to the maximum possible extent. **Draft legislation, section 32** SICCFIN may collaborate or exchange information with foreign

	departments or national agencies responsible for supervisory duties. This co-operation is only permitted on the basis of reciprocity and if these bodies are subject to similar obligations of confidentiality in carrying out their duties to those applicable to SICCFIN. SICCFIN has contacted a number of foreign supervisory authorities to establish agreements similar to the one with France.
(Other) changes since the last evaluation	

Special Recommendation III (Freezing and confiscating terrorist assets)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The evaluators recommend to the Monegasque authorities to review the existing legal framework and to take all complementary measures:* • *to ensure that the freezing of assets and other values belonging to persons and entities defined, the Sanctions Committee (S/RES/1267 – 1999) can intervene without further notice;*
Measures taken to implement the Recommendation of the Report	Sovereign order 15.321 of 8 April 2002 has been amended by sovereign order 1.674 of 10 June 2008 to strengthen the provisions for freezing assets in order to combat terrorism financing. Monaco has also issued sovereign order 1.675 of 10 June 2008, which extends the scope of asset freezing to acts incompatible with human rights and democracy, or that pose a threat to peace and international security. The extension of the scope of freezing makes it easier for Monaco to respond to decisions of the United Nations' sanctions committee and of the European Union. The Principality has continued to update the lists appended to Order 2002-434 of 16 July 2002. It has also issued the following ministerial orders freezing assets: • Ministerial order 2008-400 of 30 July 2008 concerning Zimbabwe, amended by ministerial order 2008-520 of 23 September 2008; • Ministerial order 2008-401 of 30 July 2008 concerning the illegal authorities of the island of Anjouan, repealed by ministerial order 2008-518 of 23 September 2008; • Ministerial order 2008-402 of 30 July 2008 concerning Belarus; • Ministerial order 2008-403 of 30 July 2008 concerning Burma/Myanmar; • Ministerial order 2008-404 of 30 July 2008 concerning the Democratic Republic of Congo; • Ministerial order 2008-405 of 30 July 2008 concerning Ivory Coast, amended by ministerial order ; • Ministerial order 2008-406 of 30 July 2008 concerning the former Iraqi regime; • Ministerial order 2008-407 of 30 July 2008 concerning Iran;

	• Ministerial order 2008-408 of 30 July 2008 concerning Liberia, amended by ministerial order 2008-748 of 6 November 2008; • Ministerial order 2008-409 of 30 July 2008 concerning Mr Milosevic and his entourage; • Ministerial order 2008-410 of 30 July 2008 concerning the conflict in the Darfur region and Sudan; Ministerial order 2008-411 of 30 July 2008 to implement the mandate of the International Criminal Tribunal for the former Yugoslavia, as amended by ministerial orders 2008-519 of 23 September 2008 and 2008-740 of 3 November 2008.
Recommendation of the MONEYVAL Report	• *to give the Principality efficient rules and procedures to examine the initiatives taken on behalf of freezing mechanisms of foreign countries et make them effective if the need arises.*
Measures taken to implement the Recommendation of the Report	Monaco systematically and immediately implements measures taken by the European Union under the CFSP, as shown by the ministerial orders issued in accordance with sovereign orders 15.321 and 1.675. Monaco is linked to the European Union both geographically and by numerous agreements, particularly the monetary agreement, so it seems appropriate to make relevant European decisions applicable in the Principality.
Recommendation of the MONEYVAL Report	• *to review the communication system to financial sector of measures taken on behalf of freezing mechanisms (see the best international practice on the freezing of terrorists assets) and its efficiency.*
Measures taken to implement the Recommendation of the Report	Sovereign orders 1.674 and 1.675 of 10 June 2008 have been published in the official journal, as have the ministerial orders implementing sovereign orders 15.321 and 1.675. The official journal can be consulted when it appears, on the Government internet site, and on the SICCFIN site. The Monegasque financial activities association has also been informed that the lists of bodies and persons whose assets must be frozen under Monegasque legislation have the same status as that of the European Union (memorandum DBT of 8 January 2009). Monegasque financial undertakings can therefore make use of the EU's communication system. Finally, it has been proposed that the subjects of asset freezing orders should be placed on the agenda of the anti-AML/CFT liaison committee, established by sovereign order 16.552 of 20 December 2004, to ensure that the relevant undertakings are fully informed of the situation.
Recommendation of the MONEYVAL Report	• *to give clear instructions to the financial institutions et other persons or entities susceptible to detain funds or other values.*
Measures taken to implement the Recommendation of the Report	Sovereign order 1.674 of 10 June 2008 has extended and clarified the arrangements for freezing assets specified in sovereign order 15.321. A second sub-paragraph has been added to article 2 of sovereign order 15.321 to define the freezing of economic assets. Similarly, the economic assets and resources that may be subjected to freezing orders are the subject of a new article 6.2. There similar provisions in sovereign order 1.675. As part of its supervisory responsibilities, SICCFIN carries out on-the-spot checks on the application of freezing orders (see also the subject based on-the-spot checks in 2008).

Recommendation of the MONEYVAL Report	• *to ensure that the procedures on listing/delisting and freezing/defreezing are known by the people.*
Measures taken to implement the Recommendation of the Report	Decisions on listing and delisting taken by Monaco are the same as ones taken by the European Union. Any decision taken by the latter to list or delist persons or undertakings is followed by an identical decision in Monaco, taken by ministerial order. Sovereign order 1.674 adds an article 5 to sovereign order 15.321, establishing a procedure for unblocking assets and resources that have been the subject of a freezing order. This also appears in article 5 of sovereign order 1.675. These orders have been published in the official journal, which can be consulted on the government and SICCFIN internet sites.
Recommendation of the MONEYVAL Report	• *to detail the measures concerning the access to the funds to ensure they cover the basic and extraordinary expenses in the sense of the resolution S/RES/1542(2002).*
Measures taken to implement the Recommendation of the Report	Article 5 of sovereign order 15.321 as amended, and article 5 of sovereign order 1.675, specify the grounds on which assets may be unblocked. They are similar to the ones in Resolution S/RES/1452 (2002).
Recommendation of the MONEYVAL Report	• *to pursue actively the recognition of the requirements of the Security Council and of the SRIII, and to proceed to an efficient follow-up of the respect of these requirements.*
Measures taken to implement the Recommendation of the Report	SICCFIN monitors Monegasque credit institutions' compliance with the lists published under sovereign orders 15.321 and 1.675
(Other) changes since the last evaluation	

Special Recommendation V (International Co-operation)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should introduce a legal basis and rules of procedures to allow the use of special techniques of investigation in the framework of the international co-operation*
Measures taken to implement the Recommendation of the Report	This is covered in: - Sovereign order 605 of 1 August 2006 to implement the United Nations Convention against Transnational Organised Crime and its first two additional protocols; - Franco-Monegasque Convention of 8 November 2005 on Mutual Assistance in Criminal Matters (entered into force in Monaco on 1 November 2008).
Recommendation of the MONEYVAL Report	*It is important that the Principality ensures the possibility to give assistance concerning the financing of a terrorist organisation or of a terrorist.*
Measures taken to implement the Recommendation of the Report	Since current legislation and agreements authorise prosecutions for the financing of terrorism organisations or terrorists, mutual assistance would be granted in respect of such cases.

Recommendation of the MONEYVAL Report	*It is important that the Principality ensures the possibility to extradite for all financing of terrorism violations.*
Measures taken to implement the Recommendation of the Report	Extradition of the perpetrators of terrorism financing is possible under the extradition Act, no 1.222 of 28 December 1999, which states that: Extradition may be approved for serious and lesser offences in the Principality and the applicant state: - for prosecutions where the maximum punishment is at least one year's imprisonment; - for convicted offenders, where the offender has at least four months' imprisonment to serve or remaining to serve. Terrorism financing offences fall fully into this category. Extradition is also possible on the basis of: - Article 3 of the European Convention on the Suppression of Terrorism; - Article 11.2 of the International Convention for the Suppression of the Financing of Terrorism of 9 December 1999, which stipulates that "When a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2".
(Other) changes since the last evaluation	

Special Recommendation VII (Wire transfer rules)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The existing provisions should be completed to specify the arrangements for verifying the identity of occasional customers who seek the services of a Monegasque financial institution to carry out a wire transfer valued at under € 15 000.*
Measures taken to implement the Recommendation of the Report	Sovereign order 1.630 of 30 April 2008 specifies the arrangements for checking the identity of occasional customers who request a financial undertaking to effect an occasional transfer of funds, whatever the amount. Sovereign Order 1.630 of 30 April 2008 amending Sovereign Order 631 of 10 August 2006, published in the official journal of 9 May 2008. Article 1 A paragraph is added to Article 1 of our Order 631 of 10 August 2006 aforesaid, reading as follows: "They are required to verify the identity of occasional clients requesting a wire transfer or fund transfer, whatever the amount."

	Article 2 Article 4.2 of sovereign order 631 of 24 January 1994 is repealed and replaced by the following: If appropriate, and after establishing that they do not create an increased risk of money laundering or terrorism financing, batch transfers and permanent transfers of salaries and pensions, even non-grouped ones, may be effected according to the rules specified in this article. In such cases, complete information on the customer giving the order must be supplied with the first transfer, and must be updated if there are any significant changes to the nature of the transaction. Article 3 An article 5 is added to Article 1 of order 631 of 10 August 2006 aforesaid, reading as follows: This article shall apply when the financial undertaking of the person giving the order is located abroad and the financial undertaking acting as intermediary is located in Monaco. Unless the intermediary payment service provider becomes aware, when receiving a transfer of funds, that information on the payer required under this order is missing or incomplete, it may use a payment system with technical limitations which prevents information on the payer from accompanying the transfer of funds to send transfers of funds to the payment service provider of the payee. Where the intermediary payment service provider becomes aware, when receiving a transfer of funds, that information on the payer required under this order is missing or incomplete, it shall only use a payment system with technical limitations if it is able to inform the payment service provider of the payee thereof, either within a messaging or payment system that provides for communication of this fact or through another procedure, provided that the manner of communication is accepted by, or agreed between, both payment service providers. Where the intermediary payment service provider uses a payment system with technical limitations, the intermediary payment service provider shall, upon request from the payment service provider of the payee, make available to that payment service provider all the information on the payer which it has received, irrespective of whether it is complete or not, within three working days of receiving that request. In the cases referred to in paragraphs 2 and 3, the intermediary payment service provider shall for five years keep records of all information received. Article 4 Article 6 of sovereign order 631 of 10 August 2006 is repealed and replaced by the following: When a financial institution receives wire transfers or funds transfers containing incomplete information and when additional checks carried out by the institution have not proved satisfactory, it must refuse the funds. Such lack of information may constitute evidence of the suspicious nature

	of the transactions and hence generate a suspicious transaction report pursuant to Article 3 of Act 1.162 of 7 July 1993 as amended. When a financial institution fails regularly to provide information on the person giving an order, the beneficiary's financial institution shall take steps that may initially include the issuing of warnings and the setting of deadlines, before either rejecting all new transfers of funds from this financial institution or deciding whether it should restrict or bring to an end its business relationship with this financial institution. The beneficiary's financial institution shall report this fact to the department established under section 3 of Act 1.162 of 7 July 1993, as amended. Article 5 A second sub-paragraph is added to Article 8 of our Order 631 of 10 August 2006 aforesaid, reading as follows: The term "Système Interbancaire de Télécompensation (SIT)" refers to the procedure established in France by the Groupement pour un Système Interbancaire de Télécompensation, which handles relationships between its participants and organises, on a regular basis, the making of payments.
Recommendation of the MONEYVAL Report	*The Monegasque framework should be completed to submit the application of simplified communication measures of information concerning the ordering party within the framework of routine international transfers that are not batched (exception not provided in SRVII) to additional binding conditions guaranteeing sufficiently no misuse of this exception.*
Measures taken to implement the Recommendation of the Report	Sovereign order 1.630 of 30 April 2008 now imposes additional binding conditions on the application of simplified measures to ensure that this exception cannot be misused. **See above section 2.**
(Other) changes since the last evaluation	

Special Recommendation VIII (Non-profit organisations)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should consider reviewing the adequacy of their laws and regulations and include a formal assessment of risks potential misuse of these institutions for terrorist financing purposes.*
Measures taken to implement the Recommendation of the Report	Act 1.355 of 23 December 2008 on associations and federations of associations requires them to declare their existence, which make it possible to check on their organisation, and certain associations in the general interest require administrative authorisation and are obliged to submit an annual report to the authorities, making it easier to monitor their activities. The Minister of State may now order the administrative dissolution of associations. Sovereign order 1706 of 2 July 2008 and ministerial order 2008-337 of

	the same day provide for the financial oversight of private law bodies that receive public funding. These orders strengthen transparency and the monitoring of associations, particularly ones that receive public funding, which are required to sign an agreement with the authorities specifying how the grants must be used and how major procurements should be effected.
Recommendation of the MONEYVAL Report	*Taking into consideration the actual process of revisal of the whole legislation concerning associations and foundations, the authorities should ensure that the draft laws contain the measures of the best international practices concerning SR VIII, in particular regarding transparency and control.*
Measures taken to implement the Recommendation of the Report	*Idem*
Recommendation of the MONEYVAL Report	*The authorities should review the actual legal framework to ensure that comprehensive information on activities, size and other aspects relevant to this sector are up to date and available.*
Measures taken to implement the Recommendation of the Report	*Idem*
Recommendation of the MONEYVAL Report	*The authorities should consider reinforcing the staff taking care of the issues concerning this sector.*
Measures taken to implement the Recommendation of the Report	Two persons in the interior department monitor associations, including a police officer seconded from the public security directorate. They are responsible for enforcing Act 590 of 21 June 1954 on public collections making charitable fund-raising collections subject to prior approval, which requires those concerned to specify the purpose of the event and how the funds collected will be allocated, and to report how much income is earned.
Recommendation of the MONEYVAL Report	*The authorities should take measures to sensitize the NPOs to the terrorist financing issues.*
Measures taken to implement the Recommendation of the Report	The interior department intends to send circulars to those concerned.
(Other) changes since the last evaluation	

Special Recommendation IX (Cross border declaration and disclosure)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	*The authorities should set up procedures of systematic transmission of the data concerning the official reports on violation of the cross-border transportation of currency, or bearer negotiable instruments on the Monegasque or French territory susceptible of interesting the SICCFIN or the judicial authorities of the Principality, and on the results of the declarations and the controls that have been made.*
Measures taken to implement the Recommendation of the Report	The Monegasque authorities have written to the regional director of customs in Nice and then to the national director in Paris. The Monegasque authorities have included in the draft legislation to be tabled shortly measures to respond to all the points in SR IX. **Draft legislation, section 33** Any individual entering or leaving the country in possession of currency and bearer negotiable instruments whose total value is in excess of an amount specified in a sovereign order must, at the request of the designated supervisory authority, make a declaration on the relevant form. For the purposes of this law, the following are considered to be bearer instruments: - bearer negotiable instruments such as travellers' cheques; - other negotiable instruments (including cheques, promissory notes and money orders) that are: o endorsed without restriction, or o made out to a fictitious payee, or otherwise in such form that title thereto passes upon delivery; - incomplete instruments (including cheques, promissory notes and money orders) signed, but with the payee's name omitted. The supervisory authority specified in the first sub-paragraph and the content of the relevant form shall be laid down in a sovereign order. **Draft legislation, section 34** The supervisory authority specified in section 33 shall submit the declarations referred to in this section to SICCFIN, which will register and process them. The authority shall prepare statistics on the application of the measures specified in this chapter. The officials of this authority shall examine declarations. If there is reason to believe that a declaration may be fraudulent or that the currency or bearer instruments declared may be related to money laundering, terrorism financing or corruption, the officials of the

	designated supervisory authority may require the presentation of documentation establishing the identity of the individuals concerned for inspection, together with their luggage and means of transport. **Draft legislation, section 35** Where a declaration is false or the declaration requirement has been satisfied but there is reason to believe that the currency or bearer instruments declared may be related to money laundering, terrorism financing or corruption, the currency or instruments shall be retained by the authority, which shall submit a report for the competent judicial authorities, with a copy to SICCFIN. The period of retention may not exceed 14 calendar days. At the end of this period, the currency or instruments shall be returned to the individual transporting them, without prejudice to the possibility of a subsequent seizure by or on the orders of the competent judicial authorities. **Draft legislation, section 36** Declarations received by officials of the authority specified in section 33 may not be used by them for any purpose other than those specified in this law, on pain of the penalties in Article 308 of the Criminal Code.
Recommendation of the MONEYVAL Report	*The authorities should set up a system to collect statistical data in order to be able to control the effectiveness of the system, considering that this is implemented by the competent French authorities*
Measures taken to implement the Recommendation of the Report	**see above**
Recommendation of the MONEYVAL Report	*Lastly, the authorities should review the setting up of the SRIX in its entirety and to take measures, if the need arises in co-operation with the French authorities, to ensure its setting up having regard to all the essential criteria.*
Measures taken to implement the Recommendation of the Report	**see above**
(Other) changes since the last evaluation	

4. Specific Questions

1. What measures have been taken to ensure full compliance with the provisions on politically exposed persons?
A subject-based monitoring exercise was carried out in 2008 covering all financial undertakings, CSPs and portfolio management undertakings.
2. How have the competent authorities ensured that the amended sovereign order 11.160 of 24 January 1994 (supplemented by sovereign order 632 of 10 August 2006) is fully applied ?
Monitoring compliance with amended sovereign order 11.160 is one of SICCFIN's supervisory responsibilities. See Recommendation 7.
3. What practical steps have been taken to familiarise and associate DNFBPs with AML/CFT activities?
Numerous meetings with DNFBPs, as part of the consultations on the proposed changes to the legislation, and participation of their representatives in meetings of the liaison committee have provided the opportunity to familiarise and associate them with AML/CFT activities
4. Have the authorities introduced, as recommended in the report, supervisory arrangements for company service providers by requiring them to obtain, check and retain adequate, precise and up-to-date documentation on the beneficial owners and management structure of legal persons?
An examination has been carried out of CSP internal procedures. Moreover, numerous on-the-spot checks have shown that the statutory measures to identify and verify the identity of beneficial owners are being correctly applied.
5. Since the adoption of the third report, have the supervisory authorities imposed any sanctions for breaches of AML/CFT legislation by financial institutions or DNFBPs? If so, what were the main types of violation identified by the supervisory authorities?
In 2008, the following sanctions were imposed following monitoring visits: - a bank was reprimanded for: • inadequate surveillance of transactions likely to be covered by section 13 of amended Act 1.162; • failure to provide all staff with AML/CFT training; • lack of a special register for recording dealings in precious metals, in breach of amended Act 1.162; • inadequate knowledge of and formalities concerning customers who are legal persons. - a CSP was reprimanded for: • failure to report a suspicion in connection with a refusal to enter into a business relationship; • late transmission of the lists required by ministerial order 2004-221 of 27 April 2004; • inadequate surveillance of transactions likely to be covered by section 13 of amended Act 1.162; • lack of diligence regarding inadequate knowledge of and formalities concerning customers. Another bank received a severe warning following a monitoring visit concerning the information that should accompany wire transfers.

6. Have there been any changes to the legislation or regulations concerning SICCFIN: ***a. requiring it to advise financial institutions and other reporting undertakings on how to draw up reports, particularly by preparing reporting forms and specifying the procedures to follow when making reports;*** b. ***making explicit in the legislation the means of ensuring that SICCFIN has full discretion to decide itself on what inquiries to conduct and cases to forward and of eliminating any possible challenges to its autonomy.***
These changes have been included in the draft legislation to be tabled shortly and, more explicitly, in article 38 of the draft sovereign order.

5. Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)[6]

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	The draft legislation to be tabled shortly in the National Council takes account of the measures in the two directives.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive[7] (please also provide the legal text with your reply)	Beneficial owners are defined in articles 14, 15 and 16 of the draft sovereign order. **Draft sovereign order, article 14** 1. The identification of beneficial owners pursuant to section 5 of the legislation shall require: • for individuals: o name o first name o date of birth o address • for legal persons and entities, and trusts: o company or entity name o registered office o list of directors o provisions governing the power to commit the legal person or entity or trust 2. Undertakings shall take all reasonable measures to verify the identity of

1. [6] *For relevant legal texts from the EU standards see Appendix II*

[7] Please see Article 3(6) of the 3rd Directive reproduced in Appendix II

	beneficial owners through the documents specified in article 6. When persons' identity cannot be established, undertakings may not enter into or maintain business relationships with the customers concerned. The undertakings shall then decide whether they should inform SICCFIN pursuant to sections 16-20 of the legislation. **Draft sovereign order, article 15** §1. When the customer is a legal person, the beneficial owners shall be understood to be: - individuals who, in the last resort, directly or indirectly control more than 25% of the shares or the voting rights of the legal person; - individuals who otherwise exercise control over the management of the legal person. When the customer or the holder of a controlling share is a company that is stock exchange listed or can invite investment from the public, is located in a state that complies with and applies the internationally recognised recommendations on combating money laundering and terrorism financing and is subject to reporting requirements, it is not necessary to identify the company's shareholders or to verify their identity. This exception does not apply in cases where money laundering or terrorism financing are suspected. §2. Financial undertakings shall take all reasonable measures to verify the list of real beneficial owners specified in §1.1, based on any documents likely to provide supporting evidence under the legislation applicable to the legal person. **Draft sovereign order, article 16** When the customer is a legal entity or trust, the economic beneficiaries shall be understood to be: 1. when the future beneficiaries have already been named, the person or persons who are beneficiaries of at least 25% of the assets of the legal entity or trust; 2. when the individual beneficiaries of the legal entity or trust have not yet been named, the group of persons in whose principal interest the legal entity or trust has been established or produces its effects; 3. the individual or individuals who exercise control over at least 25% of the assets of the legal entity or trust; 4. the constituent or constituents of the legal entity or trust. The undertakings concerned shall take all reasonable measures to verify the list of real economic beneficiaries in paragraph 1.1. and 1.4., based on the instrument creating the legal entity or trust or any other documents likely to provide supporting evidence; They shall take all reasonable measures to establish the list of real economic beneficiaries specified in paragraphs 1, 2 and 3, based on any available information that can reasonably be relied on.

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	The Monegasque authorities have included in the draft legislation to be tabled shortly measures to ensure that the risk associated with customers is taken into account. **Draft legislation, section 4bis §7** 1. The bodies and persons specified in sections 1 and 2 must exercise constant vigilance with regard to business relationships, particularly by examining operations and transactions concluded throughout the duration of a business relationship and, if necessary, the origin of funds, to verify that these operations and transactions are consistent with what is known about these customers, their social and financial backgrounds, their commercial activities and their risk profile, and by keeping the relevant documents, data and information up to date by paying close attention to operations and transactions effected. 2. If the bodies and persons specified in sections 1 and 2 are unable to satisfy the obligations in section 4 and §1 above, they may not establish or maintain a business relationship. They should decide whether SICCFIN should be informed of this, in accordance with sections 16 to 20. 3. The bodies and persons specified in §§ 1 to 5 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that has itself carried out these due diligence procedures and is established in a state whose legislation imposes obligations equivalent to those in sections 4, 4bis and 5, compliance with which is monitored. 4. The bodies and persons specified in §§ 6 to 15 of section 1 are authorised to use a third party to carry out the obligations specified in section 4 and §1 above, if the latter is a credit or financial institution that has itself carried out these due diligence procedures. 5. The bodies and persons specified in sections 1 and 2 whose activities include money transfers are required to include in these operations and the accompanying messages, precise and useful information on the customers making the order. These bodies shall also retain all information and transmit it when they act as intermediaries in a payment chain. Specific measures may be taken for cross-border batch transfers and permanent transfers of salaries and pensions that do not create an increased risk of money laundering, terrorism financing or corruption. The conditions in which this information must be retained or made available to the authorities or other financial institutions shall be specified in a sovereign order. 6. The bodies specified in the 7th paragraph of section 1 must identify their customers and verify their identity, based on documentary proof, of which a copy shall be retained, when they purchase or exchange gambling chips for amounts equal to or in excess of the amount specified in a sovereign order and when they wish to effect any other operation relating

	to gaming, without prejudice to the measures specified in section 5. 7. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the operation. **Draft legislation, section 5§2** 1. The bodies and persons specified in sections 1 and 2 must identify and take all reasonable measures to verify the identity of persons for whose benefit operations or transactions are effected: a. if there is any doubt as to whether customers specified in section 4§1 are acting on their own account or it is certain that they are not acting on their own account; b. when the customer is a legal person, a legal entity or a trust. When the customer is a legal person, a legal entity or a trust, the measures include the identification of the individual or individuals who actually own or control the customer. 2. The rules for implementing the obligations listed above shall be specified in a sovereign order according to the risk presented by the customer, the business relationship or the operation. **Draft sovereign order, article 25** The professionals concerned shall draw up and implement a policy and procedures appropriate to their area of activity to be applied before any business relationship is established, to enable them to contribute fully to preventing money laundering, terrorism financing and corruption by taking cognisance and carrying out an appropriate examination of the characteristics of new customers and/or the services or operations for which their assistance is requested, particularly with regard to the risk of money laundering, terrorism financing or corruption. The relevant policy and procedures shall establish distinctions between and the requirements of different levels of risk according to objective criteria set by each professional, taking into account the services and products he offers and those of the customers at whom he aims, in order to determine an appropriate scale of risk. Professionals must be able to show that the scale of the measures they are taking is appropriate to the risk of money laundering, terrorism financing or corruption.

Politically Exposed Persons	
Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the	• The Monegasque authorities have included in a draft sovereign order to be issued shortly measures to clarify and extend the notion of politically exposed person. **Draft sovereign order to amend sovereign order 11 160, article 6** Article 12 of sovereign order 11.160 of 24 January 1994 is repealed and

Implementation Directive[8] are provided for in your domestic legislation (please also provide the legal text with your reply).	replaced by the following: 1. Particular consideration should be given before accepting as customers politically exposed persons who wish to establish business relationships with undertakings or ask them to carry out occasional transactions. The decision should be taken at an appropriate level of the hierarchy. 2. Before such persons are accepted as customers, all appropriate steps should be taken to establish the source of the funds that are or will be committed to the business relationship or the intended occasional transaction. The following persons who exercise or have exercised important public duties in a foreign country are considered to be politically exposed, whether they be customers, real beneficial owners or agents: - heads of state, - members of government, - members of parliament, - members of supreme courts, constitutional courts or other high courts against whose decisions there is no appeal other than in exceptional circumstances, - senior officials of political parties, - members of courts of auditors and the governing bodies of central banks, - ambassadors, chargés d'affaires and senior officers of the armed forces, - members of the boards, senior management and supervisory bodies of public enterprises, - senior political and administrative officials of international or supranational organisations. The spouses and direct descendants and ascendants of the politically exposed persons must be treated as if they themselves were politically exposed persons. Persons known to be closely associated with politically exposed persons must also be considered to be politically exposed, particularly: - any individual known, jointly with one of them, to be the real beneficial owner of a legal person or entity or to maintain any other close business relationship with such a person; - any individual who is the sole beneficial owner of a legal person or entity known to have been created, in practice, for the benefit of a politically exposed person. The policy on accepting customers shall specify the criteria and methods to be used to determine whether customers are politically exposed persons. Undertakings maintaining a business relationship with politically exposed persons are required to subject this to increased and continuous supervision. Such diligence measures also apply when it subsequently appears that an existing customer is or is becoming politically exposed. • The criteria for identifying politically exposed persons are also

[8] Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	laid down in article 26 of the draft sovereign order. **Draft sovereign order, article 26** 1. Particular consideration should be given before accepting as customers politically exposed persons who wish to establish business relationships with undertakings or ask them to carry out occasional transactions. The decision should be taken at an appropriate level of the hierarchy. 2. Before such persons are accepted as customers, all appropriate steps should be taken to establish the source of the funds that are or will be committed to the business relationship or the intended occasional transaction. 3. The following persons who perform or have performed in the last five years important public duties in a foreign country are considered to be politically exposed, in particular: - heads of state, - members of government, - members of parliament, - members of supreme courts, constitutional courts or other high courts against whose decisions there is no appeal other than in exceptional circumstances, - senior officials of political parties, - members of courts of auditors and the governing bodies of central banks, - ambassadors, chargés d'affaires and senior officers of the armed forces, - members of the boards, senior management and supervisory bodies of public enterprises, - senior political and administrative officials of international or supranational organisations. 4. The spouses and direct descendants and ascendants of the persons specified in §3 must be treated as if they themselves were politically exposed persons. Persons known to be closely associated with persons specified in §3 must also be considered to be politically exposed, particularly: - any individual known, jointly with a person specified in §3, to be the real beneficial owner of a legal person or entity or to maintain any other close business relationship with such a person; - any individual who is the sole beneficial owner of a legal person or entity known to have been created, in practice, for the benefit of someone specified in §3. 5. The policy on accepting customers shall specify the criteria and methods to be used to determine whether customers are politically exposed persons. 6. Undertakings maintaining a business relationship with politically exposed persons are required to subject this to increased and continuous

	supervision. Such diligence measures also apply when it subsequently appears that an existing customer is or is becoming politically exposed. These diligence measures apply whether the politically exposed persons are customers, beneficial owners or agents.

"Tipping off"	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or TF investigations.	This ban, which appears in section 41 of the draft legislation, has been extended beyond reports of suspicion. **Draft legislation, section 41** The persons specified in sections 1 and 2 who: - deliberately inform the owner of the sums concerned, the person effecting one of the transactions or a third party of the existence of the report made under 16 to 20 or of the transmission of information pursuant to section 23§1; - discloses to anyone, information on the action taken on the report; shall be punishable by the fine specified in Article 26§4 of the Criminal Code.
With respect to the prohibition of "tipping off" please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	There are no circumstances in which the ban on informing customers may be lifted.

"Corporate liability"	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	Act 1.349 of 25 June 2008 introduced criminal liability for legal persons into the Criminal Code. The new article 4-4 of the Criminal Code states: Any legal person, other than the state, the municipality and public establishments, shall be criminally liable as the perpetrator or accomplice, according to the distinctions laid down in Articles 29-1 to 29-6, for any offence committed on its behalf by one of its bodies or representatives. Action shall be taken against the legal person in the person of its legal representative. The criminal liability of a legal person does not exclude that, as co-perpetrators or accomplices, of the persons representing it at the time of the offence. In such cases and in the event of a conflict of interests, these persons may apply to the president of the court of first instance for the appointment of an *ad hoc* agent to represent the legal person. Criminal liability for legal persons in connection with terrorism financing has already existed since Act 1.318 of 29 June 2006.
Can corporate liability be applied where the	Yes, see Act 1349 of 25/06/2008

infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	In the draft legislation to be tabled shortly, the Monegasque authorities will prohibit traders from being paid in cash for articles whose total value is equal to or more than € 15 000 (draft legislation, section 14).

6. Statistics

a. Please complete - to the extent possible - the following tables:

2005												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
BC	14	24	4	5	0	0	0	0	3	1.121.783	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
ML	15	32	0	0	1	1	0	0	3	11.736.653 + 1 immeuble	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

2007												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
ML	14	24	2	2	0	0	5	3.774.045	2	457.037	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

2008												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
ML	19	34	2	2	0	0	3	142.023.918	2	1.886.810	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

2009												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	persons
ML	4	6	0	0	0	0	1	12.708.798	0	0	0	0
FT	0	0	0	0	0	0	0	0	0	0	0	0

b. STR/CTR

Explanatory note:
The statistics under this section should provide an overview of the work of the FIU.
The list of entities under the heading "*monitoring entities*" is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.
The information requested under the heading "*Judicial proceedings*" refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.
"C*ases opened*" refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term "cases open" is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

2005															
Statistical Information on reports received by the FIU								Judicial proceedings							
Monitoring entities, e.g.	reports about transactions above threshold	reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions			
		ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
								cases	persons	cases	persons	cases	persons	cases	persons
Commercial banks	n/a	202	0	375	0	13	0	3	4	0	0	0	0	0	0
Insurance companies	n/a	0	0												
Notaries **	n/a	n/a	n/a												

Currency exchange	n/a	2	0												
Broker companies *	n/a	n/a	n/a												
Securities' registrars/ SGP	n/a	5	0												
Lawyers/ Legal advisers **	n/a	n/a	n/a												
Accountants/auditors	n/a	5	0												
Company service providers	n/a	19	0												
Money remitters	n/a	79	0												
Casinos	n/a	58	0												
Real estate agents	n/a	1	0												
Jewellers	n/a	4	0												
Total	n/a	**375**	**0**												

* These activities cannot be provided in the Principality.
** According to Monegasque legislation, notaries and lawyers are required to send their reports directly to the Prosecutor's Office.

2006															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial banks	n/a	201	0												
Insurance companies	n/a	2	0												
Notaries **	n/a	n/a	n/a												
Currency exchange	n/a	0	0												
Broker companies *	n/a	n/a	n/a												
Securities' registrars/ SGP	n/a	4	0												
Lawyers/ Legal advisers **	n/a	n/a	n/a	395	0	17	0	0	0	0	0	1	1	0	0
Accountants/auditors	n/a	11	0												
Company service providers	n/a	18	0												
Money remitters	n/a	100	0												
Casinos	n/a	56	0												
Real estate agents	n/a	1	0												
Jewellers	n/a	2	0												
Total	n/a	**395**	**0**												

* These activities cannot be provided in the Principality.
** According to Monegasque legislation, notaries and lawyers are required to send their reports directly to the Prosecutor's Office.

2007																
Statistical Information on reports received by the FIU								**Judicial proceedings**								
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	
Commercial banks	n/a	213	0	381	0	13	0	2	2	0	0	0	0	0	0	
Insurance companies	n/a	1	0													
Notaries **	n/a	n/a	n/a													
Currency exchange	n/a	0	0													
Broker companies *	n/a	n/a	n/a													
Securities' registrars/ SGP	n/a	6	0													
Lawyers/ Legal advisers **	n/a	n/a	n/a													
Accountants/auditors	n/a	7	0													
Company service providers	n/a	9	0													
Money remitters	n/a	90	0													
Casinos	n/a	50	0													
Real estate agents	n/a	4	0													
Jewellers	n/a	1	0													
Total	n/a	**381**	**0**													

* These activities cannot be provided in the Principality.
** According to Monegasque legislation, notaries and lawyers are required to send their reports directly to the Prosecutor's Office.

2008																
Statistical Information on reports received by the FIU								**Judicial proceedings**								
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**				
								ML		**FT**		**ML**		**FT**		
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	
Commercial banks	n/a	305	0	478	0	18	0	2	2	0	0	0	0	0	0	
Insurance companies	n/a	0	0													
Notaries **	n/a	n/a	n/a													
Currency exchange	n/a	0	0													
Broker companies *	n/a	n/a	n/a													

Securities' registrars/ SGP	n/a	1	0												
Lawyers/ Legal advisers **	n/a	n/a	n/a												
Accountants/auditors	n/a	10	0												
Company service providers	n/a	30	0												
Money remitters	n/a	70	0												
Casinos	n/a	40	0												
Dealers in high value goods	n/a	1	0												
Dealers in antiques	n/a	1	0												
National co-operation	n/a	18	0												
Jewellers	n/a	2	0												
Total	n/a	**478**	**0**												

* These activities cannot be provided in the Principality.
** According to Monegasque legislation, notaries and lawyers are required to send their reports directly to the Prosecutor's Office.

19/02/2009															
Statistical Information on reports received by the FIU								**Judicial proceedings**							
Monitoring entities, e.g.	**reports about transactions above threshold**	**reports about suspicious transactions**		**cases opened by FIU**		**notifications to law enforcement/ prosecutors**		**indictments**				**convictions**			
								ML		**FT**		**ML**		**FT**	
		ML	**FT**	**ML**	**FT**	**ML**	**FT**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**	**cases**	**persons**
Commercial banks	n/a	47	0												
Insurance companies	n/a	0	0												
Notaries **	n/a	n/a	n/a												
Currency exchange	n/a	0	0												
Broker companies *	n/a	n/a	n/a												
Securities' registrars/ SGP	n/a	1	0												
Lawyers/ Legal advisers **	n/a	n/a	n/a	82	0	4	0	0	0	0	0	0	0	0	0
Accountants/auditors	n/a	0	0												
Company service providers	n/a	3	0												
Money remitters	n/a	22	0												
Casinos	n/a	6	0												
National co-operation	n/a	3	0												
Total	n/a	**82**	**0**												

* These activities cannot be provided in the Principality.
** According to Monegasque legislation, notaries and lawyers are required to send their reports directly to the Prosecutor's Office.

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

FATF 40+9 Recommendations	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalisation of Money Laundering (R.1 and 2)	• Although the change to article 218-3 appears to satisfy international standards, the Monegasque Authorities should consider revising it with regard to the lower limit required by the European regulation. • The authorities should ensure that all designated categories of offence are covered, including the financing of terrorism within the overall meaning of the recommendations and the interpretative note. • The authorities should clarify the level of proof in the predicate offence. • The law should permit the intentional element of the offence of ML to be inferred from objective factual circumstances. • To facilitate the setting up of the new provision, the authorities should consider issuing a manual presenting the AML/CFT law and information on the laundering offence (definition, typology, material elements, intentional element, level of proof required etc.). • The authorities should accelerate the internal process and extend the criminal liability to legal persons in the Criminal Code.
2.2 Criminalisation of Terrorist Financing **(SR.II)**	• The authorities should review the TF definition and clarify its legal framework so that the TF offences can apply to any person who, by any means, directly or indirectly, unlawfully and wilfully provides or collects funds, with the intention that they should be used or in the knowledge that they are to be used, in full or in part by a terrorist organisation or an individual terrorist. • The offences should not require that the funds are linked to one or several specific terrorist acts. • The law should permit the intentional element to be inferred from objective factual circumstances. • Art. 391-6 of the Criminal Code should be reviewed to ensure that the family members of a terrorist are liable in case of implication.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	• The authorities should authorize in internal law the confiscation of property of corresponding value that belongs to the launderers assets if the proceed of crime or its reuse are no longer possible. • The authorities should consider the possibility to establish in internal law an independent confiscation procedure to permit in national law, after investigation, the confiscation of legacy values separate from the prosecution of an offender or a foreign

	confiscation judgment. • The authorities should consider the possibility to establish mechanisms in internal law to reverse the burden of proof at least for seized values that are susceptible to belong to a criminal organisation or to be controlled by them.
2.4 Freezing of funds used for terrorist financing (SR.III)	The evaluators recommend to the Monegasque authorities to review the existing legal framework and to take all complementary measures: • To ensure that the freezing of assets and other values belonging to persons and entities defined, the *Comité des Sanctions* (S/RES/1267 – 1999) can intervene without further notice; • To give the Principality efficient rules and procedures to examine the initiatives taken on behalf of freezing mechanisms of foreign countries et make them effective if the need arises. • To review the communication system to financial sector of measures taken on behalf of freezing mechanisms (see the best international practice on the freezing of terrorists assets) and its efficiency. • To give clear instructions to the financial institutions et other persons or entities susceptible to detain funds or other values. •To ensure that the procedures on listing/delisting and freezing/defreezing are known by the people. • To detail the measures concerning the access to the funds to ensure they cover the basic and extraordinary expenses in the sense of the resolution S/RES/1542(2002). •To pursue actively the recognition of the requirements of the Security Council and of the SRIII, and to proceed to an efficient follow-up of the respect of these requirements.
2.5 The Financial Intelligence Unit and its functions (R.26 & 30)	• The authorities should adapt the law n°1.162 to put it in accordance with the new art. 218 of the Criminal Code and make the SICCFIN able to introduce the DOS with regard to all the predicate offences that have been established by the new regulation. • An explicit legislative or normative enactment should be established concerning the SICCFIN or other competent authorities in order to require from the financial institutions or other declaring entities advice on how the declarations should be made. This includes the specification of the forms of the declarations and the procedures to follow if a declaration is made. • The authorities should review the access of the SICCFIN to the information on administrative matters in due time, particularly

	regarding the information kept by the French customs. • The authorities should consider taking measures regarding the legal and normative framework of the SICCFIN to explicitly formalise within the legislation the set up process that allows it to decide independently on investigation and transmission issues and to suppress every potential interrogation on its autonomy. • The SICCFIN should complete its annual report and include more information on methods, trends and typologies.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & 28)	• Given that the repressive system is mostly reactive, the evaluators recommend to the authorities to take measures to analyse the reasons of such a practice and to find a solution relevant to the Monegasque context. • The authorities should consider adopting guidelines to assist the authorities in their investigations. • In the context of the modification of the Criminal Procedure Code, the authorities should introduce provisions that allow the competent authorities to postpone or waive the arrest of suspected persons and/or the seizure of the money for the purpose of identifying persons involved in such activities or for evidence gathering. • The authorities should also ensure that the introduction of special investigative techniques will allow the law enforcement authorities to use the main techniques – such as means of technical control of telecommunication, of internet and mail, and also special investigation means – when they investigate on AML/CFT issues. • The authorities should ensure that the law enforcement authorities, the FIU and the other competent authorities work jointly and on a regular basis on the methods, techniques and trends of ML and TF in the Principality of Monaco and that the issuing results and analyses circulate between the staff of the law enforcement authorities and the other competent authorities.
2.7 SR. IX Cross border declaration and disclosure	• The authorities should set up procedures of systematic transmission of the data concerning the official reports on violation of the cross-border transportation of currency, or bearer negotiable instruments on the Monegasque or French territory susceptible of interesting the SICCFIN or the judicial authorities of the Principality, and on the results of the declarations and the controls that have been made. • The authorities should set up a system to collect statistical data in order to be able to control the effectiveness of the system, considering that this is implemented by the competent French authorities • Lastly, the authorities should review the setting up of the SRIX in its entirety and to take measures, if the need arises in co-operation with the French authorities, to ensure its setting up having regard to all the essential criteria.

3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	No action recommended
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to 8)	***Recommendation 5*** • Additional measures should be introduced by the Monegasque authorities to prevent any anonymous financial transactions using bearer treasury and other short term bonds (though their use is very limited). • The Monegasque authorities should modify the formulation of the obligation to identify the usual customers, so that this disposition applies explicitly and with certainty to every person with whom business relationships are entered into, independently of the opening of an account. • The verification modalities of the identity of occasional customers wishing to make a wire transfer valued at under € 15 000 should be clearly defined by binding provisions. • The elements on which the identification of trusts is based should be more accurate and should indicate more clearly for the concerned entities who has to be identified during a trust identification. • The Monegasque provisions should be adapted to include, as beneficial owners, the persons who have no share of the capital but still provide the leadership of or "brains behind" a company and persons who have established trusts. • Without reconsidering the fact that every financial institution, as far as it is concerned, is obliged to define the most appropriated concrete modalities of identification of high risk situations that require an increased vigilance, and jointly with the threshold of € 100 000 above which the vigilance regarding the clients operations needs to be reinforced, the Monegasque authorities should define what conditions these individual systems should satisfy to be considered as adequate. The Monegasque authorities should publish in particular guidelines concerning the setting up of the risk-based approach referred to in art. 5, al.2, 4th and 5th dash of the OS. • The provisions that are in force concerning the increased vigilance should be completed to specify the additional responsibilities to which the entities are bound, beyond the obligation to proceed to a new customer identification. • Though the Monegasque authorities maintain that the financial institutions are not allowed, other than in situations specified in law, to exercise simplified diligence in situations that they themselves have identified as low risk, the wording of the regulations does not unambiguously exclude this possibility. • The provisions authorising a lower level of diligence for customers that are public companies do not require them to be

	subject to the laws of countries that comply with and apply the FATF recommendations. • The provisions authorising a lower level of diligence for customers that are financial institutions subject to the legislation or public companies do not stipulate exceptions when there are suspicions of money laundering or terrorist financing. ***Recommendation 6*** • The authorities should complete the notion of PEP by presenting recommendations inspired of the glossary definition of the 40 recommendations of the FATF to indicate more precisely the specified functions. ***Recommendation 7*** • The Monegasque authorities should complete the applicable provisions on correspondent banking to allow, in particular, that: o the obligation to collect sufficient covers checks on whether the institution concerned has been investigated or the subject of action by the AML/CFT supervisory body; o the conclusion of correspondent banking relationships requires financial establishments to assess client institutions' and reference to checks on their suitability or efficacy; o the approval from senior management is required before establishing new correspondent banking relationships; o the respective AML/CFT responsibilities of the Monegasque and client institutions have to be set down in writing within the framework of banking representation relationships; • The competent Monegasque authorities should establish guidelines or recommendations for the Monegasque financial institutions concerning the appreciation of the equivalence of the legislation and of the controls that are applicable on AML/CFT issues in the country where the foreign institution is established. ***Recommendation 8*** • The existing measures should be completed to include the obligation for financial institutions to establish policies or procedures to deal with the misuse of new technologies for

	money laundering or terrorist financing purposes. This point could seem of particular relevance on the supposition that the restrictions to which the financial institutions are submitted regarding the use of new technologies to transactional purposes should be relaxed.
3.3 Third parties and introducers (R.9)	• An enforceable legal rule should be established, requiring Monegasque financial institutions to ensure that third party business generators have satisfied all the due diligence requirements in FATF recommendation 5. • The competent authorities should issue instructions or recommendations on how to assess the equivalence of AML/CFT legislation and controls to be applied in countries where foreign client institutions are based (see R.7).
3.4 Secrecy laws consistent with the Recommendations (R.4)	
3.5 Record keeping and wire transfer rules (R.10 & SR. VII)	***Recommendation 10*** • The Monegasque authorities should complete the provisions concerning the data and record keeping to explicitly provide for the required period for the retention of documents relating to transactions to be extended of requested by the competent authority in specific cases, if it is necessary to carry out their responsibilities. The same applies to the retention in writing of identification information, accounting documentation and commercial correspondence. • The law or regulation should as well be complemented in order to specify that data and documents must be maintained in a form that makes it possible to reconstruct individual transactions and provide evidence in the case of prosecution. ***Special Recommendation VII*** • The existing provisions should be completed to specify the arrangements for verifying the identity of occasional customers who seek the services of a Monegasque financial institution to carry out a wire transfer valued at under € 15 000. • The Monegasque framework should be completed to submit the application of simplified communication measures of information concerning the ordering party within the framework of routine international transfers that are not batched (exception not provided in SRVII) to additional binding conditions guaranteeing sufficiently no misuse of this exception.
3.6 Monitoring of transactions and relationships (R.11 & 21)	***Recommendation 11*** • The legal framework should be reviewed so that the size of transactions and their complexity or abnormality should be alternative rather than cumulative criteria for determining whether financial institutions should be required to show increased diligence, also the Monegasque authorities.

	Recommendation 21 • The Monegasque authorities should provide for enforceable measures requiring increased diligence in connection with business relationships or transactions with counterpart institutions with links to countries that do not properly apply the FATF Recommendations.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & **SR IV)**	***Recommendation 13*** • The Monegasque legal framework should be completed so that all designated categories of offences, as defined by the FATF, can apply in all circumstances, whether or not they result from organised criminal activity. • It should furthermore be adapted so that the reporting requirement in Monegasque legislation does not cover all suspicious transactions, such as attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction. ***Recommendation 14*** No action recommended ***Recommendation 19*** No action recommended ***Recommendation 25*** • The competent Monegasque authorities should complete the instructions and recommendations they have addressed to the financial institutions to assist them more systematically on all the main issues that the application of preventive measures is likely to raise in practice. • The authorities should ensure the implementation of mechanisms guaranteeing the organisations and individuals concerned by this information ready and rapid access to information regarding methods and trends of ML and the evolution of the phenomena (especially through the dissemination of the results of the liaison committee's activities). • Given the professional confidentiality of SICCFIN staff, it is necessary that the Monegasque authorities examine whether the adoption of specific legal provisions would enable to provide a more comprehensive and systematic specific feedback to financial institutions on action taken on suspicious transactions that they have reported. ***Special Recommendation IV*** • The Monegasque law should be completed so that the reporting requirement also extends to attempted operations that have failed for reasons other than that the financial institution has refused to carry out the transaction, in particular because customers themselves decide not to continue with a transaction after first having requested it.

3.8 Internal controls, compliance audit and foreign branches (R.15 & 22)	***Recommendation 15*** • The legal framework should be completed (at least concerning the financial institutions others than banks) so that: o The officer or employee in charge of suspicious transaction reporting does not have overall responsibility by law for the organisation and internal control of AML/CFT measures within the financial undertaking; o It is required that the financial institution gives him the status and powers to enable him to fulfil his duties; o The law or regulations give him an access to all necessary information o These financial institutions be explicitly required to maintain an independent internal control function, endowed with sufficient resources, entailing sanctions for non-compliance. • Apart from the criteria for issuing work permits, the existing device should be modified to enable the financial institutions to verify the honesty of candidates for employment before they are hired. ***Recommendation 22*** • Article 13 of Law No. 1.162 of 7 July 1993 should be modified to extend all of Monaco's legislation and regulations on prevention to subsidiaries and branches located abroad, and require from those to pay special attention to compliance with the relevant principles in the case of subsidiaries and branches located in countries which do not or which insufficiently apply the FATF Recommendations. • The legislation and regulations should also require that where the minimum standards applicable in Monaco differ from those of the country where a branch or subsidiary is located, the most stringent legislation should then be applied. • Monaco's law should also require financial undertakings to inform the SICCFIN if the local legislation or regulations applicable to their subsidiaries or branches does not authorise the application of the preventive measures in force in Monaco as a whole.
3.9 shell banks (R.18)	• The evaluators recommend to the authorities to ensure the effectiveness of the new law on this matter.
3.10 The supervisory and oversight system – competent authorities and SYRos. Role, functions, duties and powers (including sanctions) (R.23, 29, 17 & 25)	• The authorities should establish an action plan to reinforce significantly and the sooner the exercise of the control function on financial institutions. ***Recommendation 23*** • The Monegasque preventive framework should be extended to mutual fund management companies. • The Monegasque framework should also be modified so that the insurance intermediaries (brokers and agents) shall be explicitly subject to it.

	Recommendation 29 • The Monegasque authorities should consider completing the range of administrative sanctions (notably by establishing the possibility of administrative fine) to improve its progressiveness and to allow a more proportionate application of the sanctions to the seriousness of the violation identified (cf. R17) ***Recommendation 17*** • The Monegasque authorities should consider completing the range of administrative sanctions (notably by establishing the possibility of administrative fine) to improve its progressiveness and to allow a more proportionate application of the sanctions to the seriousness of the violation identified. • The Monegasque authorities should consider modifying the system of applicable sanctions so that, beyond the criminal penalties provided for in Articles 32 and 33 of the law, sanctions can be imposed on senior managers and employees of financial undertakings for violations of LAB/CFT obligations ***Recommendation 32*** • No action is recommended concerning the control function of the SICCFIN ***Recommendation 25*** • The competent Monegasque authorities should complete the instructions and recommendations they have addressed to the financial institutions to assist them more systematically on all the main issues that the application of preventive measures is likely to raise in practice.
3.11 Money value transfer services (SR.VI)	• Apart from the statutory provisions applying generally to exercise of economic or commercial activities in the Principality, specific provisions should be introduced in Monaco legislation laying down the conditions for the exercise of money transfer services.
4. Preventive Measures – Non Financial Businesses and Professions	
4.1 Customer due diligence and record keeping (R.12)	• The Monegasque authorities should put a stop to the legal uncertainty that comes from the decision of annulation No. 14.466 of 22 April 2000 pronounced by the Supreme Court the 6 March 2001, as it only points out the lawyers. They should ensure that the lawyers are subject to the preventive obligations provided for in the recommendation 12 of the FATF. • The legal framework applicable to the casinos should be completed so that: o They are required to ensure that the customers are acting on their own behalf or on behalf of effective beneficiaries. o They are required to determine which of their customers are PEPS and to submit their

	relationships with such customers to enhanced monitoring. • Other DNFBP (in particular real estate agents, dealers in precious metals and precious stones, notaries, legal and tax advisers and other independent accounting professions) should be required to: o Be subject to due diligence with regard to customers and their transactions in accordance with FATF Recommendations 5, 6, 8, 9 and 11. o Keep customer identification and transaction records in accordance with FATF Recommendation 10. • In the case of casinos and other businesses and professions covered by article 2 of the law, the legislation and regulations should be completed so that the violation of the obligations here above mentioned can be subject to sanctions, and so that these sanctions can be imposed not only to the natural person or person who can be held liable for the criminal offence but also to the gaming house or business itself. • In the case of casinos, the applicable framework should be completed so that breaches of requirements in matters of customer due diligence or organisation and implementation of preventive procedures can constitute grounds for imposing an enforcement measure or sanction, except where it can be proved that the breaches resulted in a failure to report suspicious transactions, liable to criminal penalties. • The limitation of the financial activities of the SFE to those that are in relation with the games provided by the motherhouse (SBM) results from the practice, and is not based on legislation, regulations or statutory rules. The Monegasque authorities should establish this limitation of the activities of the SFE on a certain legal basis.
4.2 Suspicious transaction reporting (R.16)	*Regarding all DNFBPs* • The applicable framework should be modified so that the reporting requirement covers all the underlying offences referred to in FATF Recommendation No. 1, independently of the commission or not by a criminal organisation. • The applicable framework should be modified so that the undertaking or business in the framework of which the suspicious transaction has been carried out can be liable for an administrative penalty for the failure to report the transaction, even though the statutory conditions for imposing the criminal sanction provide for in Article 32 of the law have not been satisfied, or where the facts are not sufficiently serious to warrant such a criminal sanction. • The Monegasque authorities should have recourse to binding and enforceable measures to lay down special vigilance measures regarding business relationships or transactions with

	counterparties having links with countries which fail to apply or insufficiently apply the FATF Recommendations. *Regarding CSPs and trustees* • The applicable framework should be modified so that the reporting requirement laid down in Monaco legislation can cover attempted transactions which have not taken place for any reason other than a refusal by the financial undertaking to carry out the transaction, including cancellation of the transaction by the requester himself or herself. *Regarding CSPs, trustees and casinos (cf. Section 3.8.3)* • all the above mentioned recommended actions in 3.8 should be put in place. *Regarding casinos and other DNFBPs* • the applicable legislation or regulations should be modified so that these businesses and professions can be subject to the obligation to report a suspicious transaction, whether when the professional in question has refused to carry out the transaction, or in the case of a transaction which does not go ahead for whatever reason, including cancellation by the individual concerned. *Regarding other DNFBPs* • the applicable legislation or regulations should be modified so that organisational or internal control measures are put in place, following criterion 16.1, in accordance with FATF R. 15. • The applicable legislation or regulation should be modified so that SICCFIN can be kept informed about suspicious transaction reports filed by the notaries with the Principal State Prosecutor and of the subject matter of such reports.
4.3 Regulation, supervision and monitoring (R.24-25)	***Recommendation 24*** • Regarding the CSPs and the trustees, additional means should be put at the disposal of the SICCFIN to allow it to increase significantly the frequency of the on-site controls. • Additional means should also be allocated to SICCFIN, jointly with the enlargement of the preventive obligations of DNFBPs, to allow this authority to exercise effectively its on-site control missions and of the respect of the obligations of these businesses and professions. **Recommendation 25** • Parallel to the recommended extension of the preventive obligations for the DNFBPs (see 4.1 and 4.2), the competent Monegasque authorities should circulate instructions and recommendations able to provide a systematic assistance on all main issues that the application of preventive measures is likely to raise in practice; more on that issue in 3.10.
4.4 Other non-financial businesses and professions (R.20)	

5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	• The authorities should consider satisfying the recommendations formulated in the report concerning the beneficial owners and the control of legal persons and introduce a surveillance framework of the service providers to the undertakings, imposing them to verify and keep the adequate, exact and updated information concerning the beneficial owners and the structure of control of the legal persons.
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	• The procedure put in place should allow to record all necessary information concerning ownership and control of trusts (settler, administrator, beneficiary, protector) • The information being held should be exact and updated. Thus the provisions concerning the updating of the list kept by the Court of Appeal should be reviewed. • The authorities should take measures so that the competent authorities can obtain in relevant time adequate, exact and updated information on the beneficial owners and on the control of trusts, in particular on persons who created the trusts, the administrator and the beneficiaries.
5.3 Non-profit organisations (SR. VIII)	• The authorities should consider reviewing the adequacy of their laws and regulations and include a formal assessment of risks potential misuse of these institutions for terrorist financing purposes. • Taking into consideration the actual process of revisal of the whole legislation concerning associations and foundations, the authorities should ensure that the draft laws contain the measures of the best international practices concerning SR VIII, in particular regarding transparency and control. • The authorities should review the actual legal framework to ensure that comprehensive information on activities, size and other aspects relevant to this sector are up to date and available. • The authorities should consider reinforcing the staff taking care of the issues concerning this sector. • The authorities should take measures to sensitize the NPOs to the terrorist financing issues.
6. National and International Co-operation	
6.1 National Co-operation and coordination (R.31)	• The Monegasque authorities should reinforce their co-operation and coordination with the French customs at national level. • The authorities should consider taking measures to increase the collaboration with other control authorities.
6.2 The Conventions and UN Resolutions (R.35 & SR.I)	***Recommendation 35*** • It is important that the Principality takes additional measures to

	carry out effectively the legislation and regulations (incrimination, criminal liability for legal persons, special techniques of investigation) and to take measures to treat the cross-border cash transfer issues (Articles 15,17 and 19 of the Vienna Convention et Article 7.2 of the Palermo Convention); ***Special Recommendation I*** • It is important that the Principality ensures the effectiveness of the measures taken related to SR III. • The authorities should furthermore reconsider the reservations that were formulated on the Convention on laundering, search, seizure and confiscation of the proceeds of crime.
6.3 Mutual Legal Assistance (R.36-38, RS.V)	• The authorities should put in place mutual legal assistance mechanisms, notably through internal laws and through bilateral co-operation, allowing the foreign judicial authorities to request the largest co-operation from the Monegasque judicial authorities. • The authorities should develop the network of bilateral and multilateral international co-operation treaties to facilitate the execution of the active international assistance in the national procedures in order to obtain proves that are abroad. • The authorities should introduce a legal basis and rules of procedures to allow the use of special techniques of investigation in the framework of the international co-operation. • The authorities should remove the pre-condition of prepaid expense by the requesting state to freeze the funds. • The authorities should consider creating a special fund to receive the confiscated assets based on foreign judgements that are not restored or shared. • It is important that the Principality ensures the possibility to give assistance concerning the financing of a terrorist organisation or of a terrorist.
6.4 Extradition (R.37 &39, & SR V)	• The Principality should sign and ratify the European Convention on extradition and intensify the network of bilateral conventions. • It is important that the Principality ensures the possibility to extradite for all financing of terrorism violations.
6.5Other Forms of Co-operation (R.40 & SR V)	• The authorities should modify Article 31 of the Law No. 1.162 not to limit the scope of information exchanges and ensure that it is possible in relation with money laundering and predicate offences. • The authorities should modify Article 31 to explicitly implement the possibility of spontaneous communications with other FIUs. • The authorities should review the legislation and regulations on exchange with the foreign control authorities in order to allow a

	wide international co-operation.
7 Other Issues	
7.1 Resources and Statistics (R. 30 &32)	***Recommendation 30*** • The Monegasque authorities should review the resources of the police responsible of financial investigations pointing at violations that generate important proceeds, to reinforce the effectiveness of the confiscation mechanism. • The resources, notably human, left at the disposal of SICCFIN to fulfil its on-site control mission on the financial institutions should be significantly increased so that the effectiveness of this function can be reinforced. • The authorities should conduct an assessment of the number of staff within the public prosecution service and the investigative judges' offices, taking into account the total number of cases of economic and financial crime, with a view to envisaging an increase in staff numbers if necessary • The authorities should ensure that the rotation system of the magistrates does not affect the effectiveness and the continuity of investigations on AML/CFT issues. • The authorities should review the legal framework to remove all uncertainties or interrogations about the level of independence and autonomy of the investigative and prosecution authorities. ***Recommendation 32*** • The authorities should keep comprehensive statistics on investigations and prosecutions (including the reasons of a non-conviction) and convictions, allowing to distinguish the cases of laundering committed by the author of the predicate offence. • The authorities should ensure the effectiveness of the Monegasque confiscation regime. • The competent authorities should keep comprehensive annual statistics on the declarations concerning physical cross-border transportation of currency or bearer negotiable instruments and international wire transfers. • The SICCFIN should implement in its statistics information on the predicate offences and on the closed cases, for a best understanding of the methods, trends and typologies of laundering acts after the coming into force of the new provisions. • The authorities should keep more detailed statistics to demonstrate the effectiveness of the prosecution authorities' action. • The authorities should keep comprehensive statistics concerning the implementation of SR IX. • The statistics concerning the mutual assistance should be completed to allow a more global vision of all requests received by the Director of the Judicial Services relating to money

	laundering, to predicate offences and to terrorist financing, including the nature of the request, whether it was granted or refused and the time required to respond. • The authorities should keep comprehensive statistics on the mutual assistance requests concerning money laundering, predicate offences and terrorist financing. • Comprehensive statistics should be kept by the FIU on the spontaneous sending of information.
7.2 Other measures and relevant subjects on AML/CFT issues	-
7.3 general structure of the AML/CFT system – Elements of structural nature	-

APPENDIX II

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;
(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;
(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;
(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2
Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:
(a) heads of State, heads of government, ministers and deputy or assistant ministers;
(b) members of parliaments;
(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
(d) members of courts of auditors or of the boards of central banks;
(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;
(f) members of the administrative, management or supervisory bodies of State-owned enterprises.
None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.
The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:
(a) the spouse;
(b) any partner considered by national law as equivalent to the spouse;
(c) the children and their spouses or partners;
(d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:
(a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
(b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

4. Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.