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

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Anti-money laundering and counter-terrorist financing measures

Monaco

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

November 2024

Follow-up report

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

The 1st Enhanced Follow-up Report and Technical Compliance Re-Rating on Monaco was adopted by the MONEYVAL Committee through written procedure 4 November 2024.

Monaco: 1st Enhanced Follow-up Report

I. INTRODUCTION

1. The mutual evaluation report (MER) of the Principality of Monaco (Monaco) was adopted in December 2022.[1] Given the results of the MER, Monaco was placed in enhanced follow-up.[2] The report analyses the progress of Monaco in addressing the technical compliance (TC) deficiencies identified in its MER. Re-ratings are given where sufficient progress has been made. Overall, the expectation is that countries will have addressed most if not all TC deficiencies by the end of the third year from the adoption of their MER.

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

- Andorra
- Armenia
- Moldova
- Romania
- San Marino

3. Section II of this report summarises Monaco's progress in improving technical compliance. Section III sets out the conclusion and a table showing which recommendations have been re-rated.

II. OVERVIEW OF PROGRESS TO IMPROVE TECHNICAL COMPLIANCE

4. This section summarises the progress made by Monaco to improve its technical compliance by addressing the technical compliance deficiencies identified in the MER for which the authorities have requested a re-rating (Recommendation (R.) 4, R.6, R.7, R.8, R.12, R.23, R.24, R.25, R.26, R.27, R.28, R.31, R.34, R.35 and R.37)

5. For the rest of the recommendations rated as partially compliant (PC) (R.15) the authorities did not request a re-rating.

6. This report takes into consideration only relevant laws, regulations or other anti-money laundering and combating the financing of terrorism (AML/CFT) measures that are in force and effect at the time that Monaco submitted its country reporting template – at least six months before the follow-up report (FUR) is due to be considered by MONEYVAL.[3]

1. Mutual evaluation report, available at https://rm.coe.int/moneyval-2022-19-eng/1680a9d7d0.
2. Regular follow-up is the default monitoring mechanism for all countries. Enhanced follow-up involves a more intensive process of follow-up.
3. This rule may be relaxed in the exceptional case where legislation is not yet in force at the six-month deadline, but the text will not change and will be in force by the time that written comments are due. In other words, the legislation has been enacted, but it is awaiting the expiry of an implementation or transitional period before it is enforceable. In all other cases the procedural deadlines should be strictly followed to ensure that experts have sufficient time to do their analysis.

II.1 Progress to address technical compliance deficiencies identified in the MER

7. Monaco has made progress to address the technical compliance deficiencies identified in the MER. As a result of this progress, Monaco has been re-rated on R.4, R.6, R.7, R.8, R.12, R.23, R.24, R.25, R.26, R.27, R.28, R.31, R.34, R.35 and R.37.

8. Annex A provides the description of country's compliance with each recommendation that is reassessed, set out by criterion, with all criteria covered. Annex B provides the consolidated list of remaining deficiencies of the re-assessed recommendations.

III. CONCLUSION

9. Overall, in light of the progress made by Monaco since its MER was adopted, its technical compliance with the Financial Action Task Force (FATF) recommendations has been re-rated as follows.

Table 1. Technical compliance with re-ratings, November 2024

R.1	R.2	R.3	R.4	R.5
LC (MER)	LC (MER)	LC (MER)	**LC (FUR1 2024)** ~~PC (MER)~~	LC
R.6	R.7	R.8	R.9	R.10
C (FUR1 2024) ~~PC (MER)~~	**C (FUR1 2024)** ~~PC (MER)~~	**LC (FUR1 2024)** ~~PC (MER)~~	LC (MER)	LC (MER)
R.11	R.12	R.13	R.14	R.15
LC (MER)	**C (FUR1 2024)** ~~PC (MER)~~	LC (MER)	C (MER)	PC (MER)
R.16	R.17	R.18	R.19	R.20
LC (MER)	LC (MER)	LC (MER)	LC (MER)	C (MER)
R.21	R.22	R.23	R.24	R.25
C (MER)	LC (MER)	**LC (FUR1 2024)** ~~PC (MER)~~	**LC (FUR1 2024)** ~~PC (MER)~~	**LC (FUR1 2024)** ~~PC (MER)~~
R.26	R.27	R.28	R.29	R.30
LC(FUR1 2024) ~~PC (MER)~~	**LC (FUR1 2024)** ~~PC (MER)~~	**LC (FUR1 2024)** ~~PC (MER)~~	LC (MER)	C (MER)
R.31	R.32	R.33	R.34	R.35
LC (FUR1 2024) ~~PC (MER)~~	LC (MER)	LC (MER)	**LC (FUR1 2024)** ~~PC (MER)~~	**LC (FUR1 2024)** ~~PC (MER)~~
R.36	R.37	R.38	R.39	R.40
LC (MER)	**LC (FUR1 2024)** ~~PC (MER)~~	LC (MER)	LC (MER)	LC (MER)

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

10. Monaco will remain in enhanced follow-up and will continue to report back to MONEYVAL on progress to strengthen its implementation of AML/CFT measures. Monaco is expected to report back within three years' time.

Annex A: Reassessed Recommendations

Recommendation 4 – Confiscation and provisional measures

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In the 2022 MER, Monaco was rated PC on R.4. Following deficiencies were identified: (i) no confiscation of property held by a third party and property of corresponding value; (ii) the scope of provisional measures did not cover all predicate offences; (iii) no protections of the rights of bona fide third party when applying provisional measures; and (iv) no mechanism in place for the management of frozen, seized and confiscated property.

2. **Criterion 4.1** – Monaco has legislative measures in place that enable their competent authorities to confiscate the property referred to in paragraphs (a) – (c) of this criterion by virtue of provisions of Article 12 of the Criminal Code (CC). Provisions under Article 12 are not restricted to property that is held by criminal defendants.

(a) *Property laundered* – Confiscation of property laundered can be ordered under Article 12 of the CC. The scope of this measure under Article 12 appears to cover all personal and real property ("corpus delicti", "things which are proceeds of or which were procured", "things which were used or intended" for the purpose of committing the offence). The concept of "property" is defined also under Article 12 of CC as all types of assets, tangible or intangible, movable or immovable, as well as legal acts or documents attesting to the ownership of these assets or the rights relating thereto.

(b) *Proceeds of (including income or other benefits derived from such proceeds), or instrumentalities used or intended for use in, Money Laundering (ML) or predicate offences* – The aforementioned Article 12 of the CC has the effect of allowing confiscation of proceeds of ML and predicate offences. Article 12 applies to things used or intended for use in the commission of an offence. This means that confiscation of instrumentalities is permitted.

(c) *Property that is the proceeds of, or used in, or intended or allocated for use in the financing of terrorism, terrorist acts or terrorist organisations*. Confiscation of funds used or intended to be used to commit offences connected with terrorist financing (TF) (including TF, terrorist acts and terrorist organisations – see R.5) and proceeds of these offences is provided for in Article 391-7-5 of the CC. The definition of funds is provided in Article 12 of the CC and corresponds very closely to that of property as defined by the FATF.

(d) *Property of corresponding value* – In case of absence of the instrumentalities and proceeds subject to confiscation, confiscation of corresponding value can be ordered while respecting the rights of bona fide third parties (Article 12, paragraph 4 of the CC). This measure is applicable for the offences punishable by more than one year of imprisonment and the offences from Article 218-3 of the CC.

3. **Criterion 4.2** – Monaco has the following measures which enable the authorities to:

(a) *Identify, trace and evaluate property that is subject to confiscation* – The law enforcement authorities have all of the usual means of identifying, tracing and evaluating property that is subject to confiscation: investigation (surveillance, analysis of bank accounts, lists of telephone calls and digital messages, etc.), general powers of investigating judges including, in particular, searches and seizure of documents, computer data, papers or other items that may help to establish the truth (Article 100 of the Code of Criminal Procedure (CCP)), and telegrams, letters

and other things sent by or to the defendant (Article 102 of the CCP), plus expert analysis (Articles 107 to 124 of the CCP) and examination of witnesses (Articles 125 to 147-6 of the CCP).

(b) *Carry out provisional measures, such as freezing or seizing, to prevent any dealing, transfer or disposal of property subject to confiscation* – Under Article 100 of the CCP, an investigating judge can make an ordinary seizure (i.e. without an order and without both parties being present) of any items that may help to establish the truth at the request of Police Department (DSP) officers in order to meet a particularly pressing need. This article only applies to instrumentalities required for evidentiary purposes. In addition, Article 596-1 of the CCP allows seizure by reasoned decision of an investigating judge with approval from the General Prosecutor's Office (GPO). So, a decision based on the aforementioned article guarantees that a seizure can be ordered with both parties being immediately present, pending a decision by the trial court. The seizure includes property subject to confiscation (instrumentalities, proceeds and property of corresponding value) and can be any tangible or intangible property, including virtual assets if they can be identified as held by the defendants or third party.

The procedure under Articles 37 and 38 of the AML/CFT Law is a "safeguard measure" (Court of Appeal, 26 September 2019). The objection procedure, which can in due course be confirmed by the President of the Court of First Instance, is a safeguard measure intended to prevent a suspicious transaction from taking place. At this stage, no attempt is made to establish whether the funds belong to the person who wishes to carry out the transaction and who is implicated or to a third party. It is implemented as a matter of urgency, for preventive purposes. If ownership of the funds is then disputed or claimed by a third party, these difficulties will be considered when a request to end the seizure is made by the person concerned.

(c) *Take steps that will prevent or void actions that prejudice the country's ability to freeze, seize or recover property that is subject to confiscation* – Fraudulent insolvency is an offence under Articles 368-1 to 368-3 of the CC. Aside from this offence, Article 324 of the CC stipulates a sentence of six months to three years' imprisonment and the fine referred to in section 3 of Article 26 for a person who destroys, misappropriates or attempts to destroy or misappropriate things seized by the courts with jurisdiction. However, this provision concerns property seized or pledged and not confiscation.

(d) *Take any appropriate investigative measures* – The law enforcement authorities have all necessary powers of investigation under the CCP (see c.4.2(a), R.30 and R.31).

4. **Criterion 4.3** – Seizure and confiscation can be ordered without prejudice to the rights of third parties.

5. The third party who is known to be the owner or who has claimed ownership of property subject to confiscation has an opportunity to assert the claimed right and their good faith.

6. The rights of *bona fide* third parties are also protected in the case of application of provisional measures as Article 596-1 of the CCP providing grounds for the application of provisional measures refers to property liable to confiscation, pursuant to Article 12 of the CC, which ensures the protection of the rights of bona fide third party.

7. In addition, Article 7 of Sovereign Ordinance (SO) No. 15.457 of 9 August 2002 on international co-operation in relation to seizure and confiscation for the purposes of tackling money laundering provides that authorisation to implement a confiscation measure ordered by a foreign authority cannot interfere with lawfully created third-party rights.

8. **Criterion 4.4** – In Monaco, two mechanisms for asset management have been established: judicial custodian (Article 596-1-2 of the CCP) and Asset Management Office (Article 268-11 to 268-

15 of the CCP). As provided under Article 596-1-2 of the CCP defines when assets are placed under the custodian management: (i) assets that cannot be entrusted to the Asset Management Office; (ii) complex goods requiring special preservation and handling; and (iii) on the request of the owner. In all other instances the Asset Management Office will be responsible for managing seized and confiscated assets (Article 268-11 of the CCP). There are legal possibilities for the movable property to be disposed of or even destroyed. However, these provisions are mostly related to storage rather than management of seized and confiscated assets.

Weighting and conclusion

9. Monaco has put in place a range of measures to enable property to be confiscated and provisional measures to be used. However, there are minor deficiencies related to the management of seized and confiscated assets (c.4.4). **The Principality of Monaco is re-rated LC with R.4**.

Recommendation 6 – Targeted financial sanctions related to terrorism and terrorist financing

	Year	Rating
MER	2022	PC
FUR1	2024	↑ C (upgrade requested)

1. In the 2022 MER Monaco was rated PC on R.6. Following deficiencies were identified: (i) The target identification process based on the designation criteria set in the United Nations Security Council Resolutions (UNSCRs) was not clearly set out in the existing laws (c.6.1(b)); (ii) The legal framework had no provision for evidence falling short of the standard of proof required for a criminal conviction (c.6.1(c)); (iii) There was no basis in terms of legislation or implementation in practice demonstrating that Monaco follows the procedures or standard forms for listing as adopted by the 1267/1989 or 1988 Committees (c.6.1(d)); (iv) The legal framework did not specifically define "*reasonable grounds to suspect or believe*" as being less than the standard of proof required for a criminal conviction (c.6.2(d)); (v) The national mechanism for transposal introduced in May 2021 provided for the implementation of targeted financial sanctions (TFS) for TF without delay for up to ten working days. However, there was no statutory provision, or any other binding means of guaranteeing that the ministerial decision will be taken before the end of this 10-day period. The application of these measures in Monaco was at the Minister of State's discretion as it was not mandatory. Furthermore, with regard to UNSCR 1373, there was no obligation guaranteeing that this publication would occur without delay where a designation has been made at the national level (c.6.4); (vi) With regard to UNSCRs 1267/1989 and 1988, all natural and legal persons in the country were required to freeze, without delay or prior notice, funds and economic resources of designated persons and entities for a period of 10 days. However, the application of this measure was provisional and had to be confirmed by the publication of a ministerial decision, as the deficiencies identified under c.6.4 had an impact (c.6.5(a)); (vii) There were no warning or feedback mechanisms in relation to the implementation of freezing measures. Moreover, efforts to raise awareness were fragmented and did not appear to cover all categories of regulated entities or target those who find it most difficult to understand their obligations in relation to freezing measures (c.6.5(d)); (viii) There were no publicly known procedures for submitting de-listing requests to the competent United Nations Security Council (UNSC) in the case of persons and entities that, in Monaco's view, do not or no longer meet the criteria for designation (c.6.6(a)); and (ix) There was neither any mechanism to notify all regulated entities of de-listing or unfreezing decisions nor any guidelines for them on this subject (c.6.6(g)).

Identifying and designating

2. **Criterion 6.1** – In relation to designations pursuant to United Nations Security Council sanctions regimes 1267/1989 and 1267/1988;

(a) Since 11 February 2022,[4] the Minister of State has been the authority responsible for proposing the designation of persons or entities to the 1267/1989 and 1988 Committees through Monaco's Permanent Mission to the United Nations.

(b) Since 11 February 2022,[5] Monaco has had a target identification mechanism consisting of a Fund Freezing Advisory Committee which is responsible for, *inter alia*, proposing that the Minister of State takes a decision to propose designation to the competent UNSC committees. This Committee is presided over by the Minister for Finance and the Economy and its members are the DSP, Department of Tax Services (DSF), Department for Foreign Affairs and Co-operation, *Autorité Monégasque de Sécurité Financière* (AMSF), GPO and the Department of Budget and Treasury (DBT). In practice, if a member of the Advisory Committee identifies a person or entity

4. Article 7-1 of SO No. 8.664.
5. Article 7-2 of SO No. 8.664.

who may meet the designation criteria, the Committee meets to decide whether a proposal should be made to the Minister of State to take the decision to propose designation to the UNSC committees. The Advisory Committee's Term of Reference (ToR) sets out the process by which the Committee can make a decision on a proposal to designate.[6] Although the Terms of Reference do not set out in detail how agencies will identify targets for designation, the DSP has the power to collect or require as much information as possible from all relevant sources in order to identify, on reasonable grounds, persons and entities that meet the UNSCR designation criteria. If the DSP identifies a person or entity who/which meets the designation criteria under TF - related UNSCRs, it will immediately share this with the Advisory Committee.

(c) The Minister of State can decide to make a proposal to the competent UNSC committees for designation of persons and entities meeting the designation criteria under resolutions 1267/1989 if he/she believes there is sufficient evidence to consider that they meet one of the designation criteria under UNSCRs 1267/1989 or 1988, without this identification necessarily being conditional on the existence of a criminal proceeding (SO No. 8.664, as amended by SO 10.077 of 31 July 2023, Article 7-1, d)). The standard of proof for determining a designation under the resolutions is "*reasonable grounds to suspect or believe*".[7] The designations are not conditional on the existence of any criminal proceedings.

(d) Because Monaco has not made any proposals for designation to date, it has not had to follow the procedures or standard forms for listing as adopted by the 1267/1989 or 1988 Committees in practice. If the Fund Freezing Advisory Committee were to send a proposal for designation to the Minister of State, the latter would decide whether or not to act on it. Each designation proposal prepared by the Advisory Committee for the Minister of State includes the procedures and standard forms that need to be followed for listing, as adopted by the UNSCR or its Committees.[8]

(e) According to Article 7-2, where the Advisory Committee submits a proposal for designation to the Minister of State, it provides the things that may then be sent by Monaco to the aforementioned UN committees, namely:

- as much relevant information as possible on the proposed name and, in particular, sufficient identifying information to allow for the accurate and positive identification of individuals, groups, undertakings and entities, and to the extent possible, the information required by Interpol to issue a Special Notice;
- a statement of the case which contains as much detail as possible on the basis for the listing, including specific information supporting a determination that the person or entity meets the relevant criteria for designation; the nature of the information; supporting information and documents that can be provided; and details of any connection between the proposed designee and any currently designated person or entity.

3. In the case of proposing designations to the Minister of State for the 1267/1988 Committee, the Advisory Committee shall also inform the Minister of State whether Monegasque's status as a designating country may be made known.[9]

4. **Criterion 6.2** – With regard to designations in relation to UNSCR 1373:

(a) The Minister of State has the authority to propose the designation of persons or entities meeting the specific designation criteria as set forth in UNSCR 1373 of Monaco's own motion or after examining a request from another country and, where appropriate, giving effect to it (SO

6. Paragraphs 23-30 of the Advisory Committee's Term of Reference.
7. Article 7-1 (1) of SO No. 8.664 as amended.
8. Article 7-1(1) of SO No. 8.664 as amended.
9. Article 7-2(3) of SO No. 8.664 and paragraph 26 of the Terms of Reference.

No. 8.664, Article 7). Since February 2022, the requirements of this article have covered all of the specific designation criteria as set forth in UNSCR 1373. The aforementioned Advisory Committee can make a proposal for designation to the Minister of State under the aforementioned Article 7.

(b) The approach described above in relation to criterion 6.1(b) also applies to designations in relation to Resolution 1373. The Advisory Committee's Terms of Reference have a dedicated chapter on the operational process that would be followed for proposing to the Minister of State the designation of a person or entity to the United Nations Security Council or its Committees or the National List (UNSCR 1373) (paragraphs 23-30).

(c) The Advisory Committee on the Freezing of Funds and Economic Resources is responsible "*for promptly expressing an opinion on a request from another country for designation, by decision of the Prime Minister taken as provided in Article 2, of persons or entities meeting one of the criteria set out in letters a) to c) of Article 7*". In practice, Monaco is kept informed of all freezing measures taken by France[10] so that it can take equivalent measures, due to its international commitments, to apply the same fund freezing measures that are ordered by France and the EU.[11] With regard to Monaco's application of the French and European lists, transfers between France and Monaco are treated as domestic transfers following the signing of an agreement between these two countries after derogation[12] was obtained from the European Commission, which is conditional upon, *inter alia*, the publication of EU fund freezing lists. The agreement by exchange of letters of 3 and 12 December 2018 between France and Monaco thus enables transfers of funds between these two countries to be regarded as domestic transfers within the meaning of Regulations Nos 1781/2006 and 2015/847. In their recitals, these Regulations state that they apply without prejudice to European fund freezing rules.

(d) Under Article 7 of SO 8.664, the Minister of State may designate a person/entity under UNSCR 1373 where he/she considers that there are reasonable grounds to suspect that a person/entity meets one of the relevant designation criteria. The designations are not conditional on the existence of any criminal proceedings, and the evidentiary threshold for deciding on a designation pursuant to UNSCR 1373 is reasonable grounds to suspect or believe that the designation criteria under UNSCR 1373 are met.

(e) The Minister of State can decide to ask another state to give effect to a national freezing measure taken in accordance with Article 7 (SO No. 8.664, Article 7-1, section 2). To this end, the Advisory Committee can submit to the Minister of State a proposal for a request to another state to give effect to a national freezing measure pursuant to Article 7-1, section 2°. Within this framework, to facilitate disclosure of the aforementioned to the foreign state, it is stipulated that the Advisory Committee must provide the relevant information about the proposed name and, in particular, sufficient identifying information to enable the persons and entities to be identified precisely and specific information supporting the decision that the person or entity meets the relevant designation criteria.

5. **Criterion 6.3** – The competent authorities have powers[13] to identify persons or entities that may meet designation criteria, use relevant databases and have agreements with foreign competent authorities enabling them to obtain information for identification purposes.

10. Source available at https://geldefonds.gouv.mc/en/documentation/france-publications.
11. Source available at https://geldefonds.gouv.mc/en/documentation/eu-publications.
12. Decision of 4 May 2010 – Derogation allowed by Article 17 of Regulation 1781/2006.
13. Including the powers given to AMSF under Section II of the amended Law 1.362 enabling it to collect or solicit any information it needs to accomplish its tasks and the obligation for professionals to provide the DBT with all information necessary to ensure compliance with Article 8 of SO No. 8.664.

6. The authorities stated that designations are made *ex parte*. There is no statutory or judicial obligation to inform the person or entity in respect of whom/which a designation is being considered.

7. **Criterion 6.4** – With regard to UNSCRs 1267/1989 and 1988, Monaco had, until May 2021, a national mechanism for transposal through the adoption of ministerial orders which were applicable as soon as they were published in the Monaco Gazette. Since the end of May 2021, the new national mechanism has established the principle of automatic application of UN sanctions lists which are immediately applicable to Monaco as soon as they are published on the UNSC website, which gives rise to an implicit freezing decision applicable for up to 10 working days. This implicit decision must be confirmed by the publication of a ministerial asset-freezing decision which enters into force when published in a dedicated space accessible from the website of the Government of Monaco (SO No. 8.664, Articles 2 and 6).

8. Article 1 of SO 8.664 envisages that the Minister of State take measures to freeze the assets and economic resources necessary for the application of the economic sanctions imposed by the United Nations, the European Union, the French Republic, or any other state. Article 2 of SO 8.664 also sets out the publication process for ministerial decisions. These decisions enter into force once published on the Government's website dedicated to freezing assets and economic resources. Any publication occurs without delay and within a period not exceeding 24 hours from the signature of the decision by the Minister of State.

9. **Criterion 6.5** –

(a) With regard to UNSCRs 1267/1989 and 1988, all natural and legal persons in the country are required to freeze, without delay or prior notice, funds and economic resources of designated persons and entities (SO No. 8.664, Articles 3 and 6) for a period of 10 days. As per Article 6 of SO 8.664, publication of any designation by the United Nations Security Council or its competent Committee gives rise to an implicit freezing decision made by the Minister of State. The assets and economic resources must be frozen for a period of ten working days, or, if it occurs before the end of that period, until the date of entry into force of the decision of the Minister of State, which designates the natural or legal persons, groups and entities. In the event that the decision of the Minister of State does not take place within ten working days, the implicit freezing decision under Article 6 remains in force and the assets and economic resources remain frozen until the publication of this decision. Therefore, designations are automatically implemented without delay and without prior notice in Monaco, while waiting for an official ministerial decision in line with the process set out in Article 2.

(b) To address the deficiencies identified in the 4th Round MER, the freezing obligation has been extended under Article 3 of SO No. 8.664 to all funds or other property required by R.6, namely funds[14] belonging to or owned, held or controlled, wholly or jointly, directly or indirectly by designated persons and entities, and also funds and economic resources originating or generated from the aforementioned funds and funds and economic resources controlled by persons acting on their behalf or on their instructions. The provisions of SO No. 8.664 as amended on 11 February 2022 cover all types of funds and property required by c.6.5 b) i) to iv), including virtual assets (SO No. 8.664, Article 14).

(c) Article 4 of SO No. 8.664 prohibits all natural and legal persons from making funds or economic resources available, directly or indirectly, wholly or jointly, in any way whatsoever, to one or more designated persons or entities, entities owned or controlled directly or indirectly by such persons or entities or any person acting on their behalf or at their direction, or from using them

14. According to the authorities of Monaco, the freezing obligation applies irrespective of any connection with a particular terrorist act, plot or threat.

for their benefit. In addition, these persons and entities cannot knowingly carry out or participate in transactions for the purpose or with the effect of directly or indirectly circumventing these provisions. The ban on providing or continuing to provide financial or other related services applies to credit institutions, other financial institutions, insurance companies and any organisation, entity or person. Furthermore, authorisation to unfreeze or use frozen funds can be given under Article 9 of SO No. 8.664 by decision of the Minister of State as decreed by the UN, EU or France.

(d) Designations are published on the website of the Government of Monaco, which has developed an automated notification system dedicated to TFS that ensures timely dissemination of changes to relevant sanctions lists. The feedback mechanism in relation to the implementation of freezing measures can considered effective: financial institutions (FIs) and designated non-financial businesses and professions (DNFBPs) subscribe and receive automatic notifications whenever there is a change (i.e. listing, de-listing, or updates) on a relevant UNSCR. The DBT maintains both the website (https://geldefonds.gouv.mc/en) and the newsletter service which sends out immediate notifications upon a change to the relevant UNSCRs. In addition, it is also the DBT that publishes decisions taken by the Minister of State on the TFS website without delay, as per Article 2 of SO 8.664.

General guidelines concerning obligations in relation to freezing measures have been issued by the Monegasque authorities: SICCIFN (July 2021), the Chairperson of the Monaco Bar Association (October 2021), Advisory Committee issued Guidance for FIs, DNFBPs and the Public (December 2023), Typologies of TF related TFS (March 2023).

(e) Under Article 8 of SO No. 8.664, credit institutions, other financial institutions, insurance companies and other organisations, entities or persons are required to provide the Head of the Budget and Treasury Department with all information necessary to ensure compliance with SO No. 8.664. This obligation supplements the provisions of Article 42 of the AML/CFT Law, which requires regulated persons (including notaries (*notaires*), bailiffs and lawyers) to report transactions and facts, including attempted transactions (Article 36 of the AML/CFT Law), concerning natural or legal persons targeted by fund-freezing measures for the purposes of tackling terrorism or implementing economic sanctions published by ministerial decision.

(f) The rights of *bona fide* third parties are protected (SO No. 8.664, Article 11).

De-listing, unfreezing and providing access to frozen funds and other property

10. **Criterion 6.6** –

(a) A dedicated section of Monaco's website provides public information on how natural or legal persons can submit a delisting request to the respective UN bodies.[15] Article 7- 2(6) of SO 8.664 sets out that where the Advisory Committee considers that the listing criteria are no longer met and that there is sufficient grounds to propose a de-listing to the UN, the Committee shall advise the Minister of State accordingly.

(b) The Advisory Committee on the Freezing of Funds can submit to the Minister of State a proposal to revoke a ministerial decision to freeze funds or, at the Minister of State's request, can give an opinion on a request to revoke a ministerial decision to freeze funds in relation to persons and

15. The public is informed that they may submit a delisting request to the Office of the Ombudsman of the Sanctions Committee in the event that the delisting request relates to United Nations Security Council Resolution 1267, and for other United Nations Security Council resolutions, they may request delisting either by contacting the focal point directly or through the State of Monaco, in accordance with the procedure provided for in United Nations Security Council Resolution 1730 (2006).

entities no longer meeting the designation criteria (SO No. 8.664, Article 7-2, section 6°). After the Advisory Committee has submitted a proposal for revocation or given an opinion on a request for revocation, the Minister of State can, by ministerial decision entering into force when published on the government's website, remove persons and entities from the appendix to Ministerial Decision No. 2021-1 of 4 June 2021.

(c) Decisions of the Minister of State, including those made under UNSCR 1373, can be appealed against by administrative action to the Court of First Instance, within two months after they are published on the government's website (SO No. 8.664, Article 13). Implicit freezing decisions taken by the Minister of State referred to in Article 6 can be appealed against by administrative action to the Court of First Instance within two months after being taken.

(d) and (e) The procedure published on the government's website[16] informs the public that "natural or legal persons on the national list[17] pursuant to UNSC resolution 1267 (1999) (and successor resolutions) may make a de-listing request to the Office of the Ombudsperson to the sanctions committee created by UNSC resolution 1904 (2009). Nationals and residents of Monaco who have been placed on the national list pursuant to another UNSCR may make their de-listing request either directly to the focal point or through the Government of Monaco as per the procedure set forth in UNSC resolution 1730 (2006)". This procedure also forms part of the DBT's internal procedures of 18 February 2022.

(f) A person or entity with a name identical or similar to that of designated persons or entities, who is inadvertently affected by a freezing mechanism can make a written request to the Minister of State. This request will trigger verification by the competent department and, if a mistake has been made, permission to unfreeze would be given by ministerial decision. In this connection, there is an internal procedure dated 18 February 2022 and a publication on the government's website.[18]

(g) Decisions to de-list from the appendix to DME 2021-1 and to unfreeze funds take the form of a ministerial decision which is published on the government's website. Monaco has established an automated notification system to disseminate changes to sanctions lists to FIs and DNFBPs. TFS Guidance on the delisting and unfreezing process have also been disseminated by authorities.

11. **Criterion 6.7** – Procedures are in place to authorise access to frozen funds or other property which have been determined to be necessary for basic expenses, the payment of certain types of expenses, or for extraordinary expenses[19] as per the sanctions regimes listed in Article 1 of DME 2021-1, including resolutions 1267/1989 and 1373 and successor resolutions.

Weighting and conclusion

12. All criteria are met. **The Principality of Monaco is re-rated C with R.6.**

16. Available at https://geldefonds.gouv.mc/en/regulations/procedures.
17. The "national list" as defined in Article 5 of SO No. 8.664 is a consolidated list of all "natural or legal persons or organisations subject to a fund and economic resource freezing measure pursuant to" SO No. 8.664. So, the "national list" includes both designations made of Monaco's own motion or at the request of another state and also designations made by the UNSC or its competent committee, the European Union and France.
18. Available at https://geldefonds.gouv.mc/en/regulations/procedures/procedures-for-unlocking-or-using-frozen-funds-and-economic-resources.
19. Articles 9 and 10 of SO No. 8.664 and Articles 4 and 5 of DME 2021-1.

Recommendation 7 – Targeted financial sanctions related to proliferation

	Year	Rating
MER	2022	PC
FUR1	2024	↑ C (upgrade requested)

1. In the 2022 MER Monaco was rated PC on R.7. The following deficiencies were identified: (i) The national mechanism for transposal introduced in May 2021 provided for the implementation of TFS for proliferation financing (PF) without delay for up to ten working days. However, there was no statutory provision or any other binding means of guaranteeing that the ministerial decision will be taken before the end of this 10-day period. The application of these measures in Monaco was at the Minister of State's discretion as it was not mandatory. Furthermore, with regard to UNSCR 1373, there was no obligation guaranteeing that this publication will occur without delay where a designation has been made at the national level (c.7.1); (ii) All natural and legal persons in the country were under obligation to freeze funds and economic resources of the designated persons and entities without delay and without prior notice for a period of ten days. However, the application of this measure was temporary and had to be confirmed by the publication of a ministerial decision, as the deficiencies identified for c.7.1 had an impact (c.7.2(a)); and (iii) There were no publicly known procedures for submitting de-listing requests to the competent UNSC in the case of persons and entities that, in Monaco's view, do not or no longer meet the criteria for designation (c.7.4(d)).

2. **Criterion 7.1** – TFS related to PF are implemented in Monaco under SO No. 8.664 and DME 2021-1 (see R.6). Article 1 of DME 2021-1 provides that measures to freeze funds and economic resources can be taken in Monaco under UNSCR 1718 (2006) and UNSCR 1737[20] (2006) and subsequent resolutions. In addition, the appendix to this ministerial decision designates the persons and entities listed in this context by the UNSC or its competent committee. Like UNSCRs 1267/1989 and 1988, Article 6 of SO No. 8.664 establishes the principle of automatic adoption of UNSC sanctions lists and implicit (temporary) freezing pending publication of the ministerial decision. This implies the implementation of freezing measures. Article 1 of SO No. 8.664 envisages that the Minister of State takes measures to freeze the assets and economic resources necessary for the application of the economic sanctions imposed by the United Nations, the European Union, the French Republic or any other state. According to Article 2 of SO No. 8.664 freezing of assets and economic resources occur in the form of decisions made by the Minister of State. These decisions enter into force once published on the dedicated Government's website. Any publication occurs without delay and within a period not exceeding 24 hours from the signature of the decision by the Minister of State.

3. **Criterion 7.2** –

(a) All natural and legal persons in the country are under an obligation to freeze funds and economic resources of the designated persons and entities without delay and without prior notice (SO No. 8.664, Articles 3 and 6) for a period of ten days. In the event that the decision of the Minister of State does not take place within this period of ten working days, the implicit decision shall remain in force, and the funds and economic resources shall remain frozen until the publication of this decision. This makes it possible to exclude the risk of the freezing measure being lifted (SO No. 8.664, Article 6).

(b), (c), (d), (e) and (f): The same measures identified above for criteria 6.5(b), 6.5(c), 6.5(d), 6.5(e) and 6.5(f) apply respectively for criteria 7.2(b), 7.2(c), 7.2(d), 7.2(e) and 7.2(f) to UNSCRs 1718

20. Article 1 of DME 2021-1 does not make explicit reference to UNSCR 2231 (2015), which repealed all of the provisions of the UNSCR relating to Iran and proliferation financing, including UNSCRs 1737(2006), 1747(2006), 1803(2008) and 1929(2010), and imposed special restrictions which included TFS. However, in practice, the appendix to the aforementioned DME includes persons listed under the aforementioned resolution.

and 1737 (and subsequent resolutions).

4. **Criterion 7.3** – As mentioned under criteria 6.5(e)/7.2(e), Article 8 of SO No. 8.664 obliges credit institutions, other financial institutions, insurance companies and other organisations, entities or persons to promptly inform the Director of the Budget and the Treasury that freezing measures have been implemented and to give them, to this end, details of the funds and economic resources subject to a freeze. In addition, regulated persons are required to report transactions and facts concerning natural or legal persons subject to freezes on funds and economic resources necessary to implement economic sanctions decreed by the UN, the EU or France, as applicable, AMSF, the GPO or the Chairperson of the Monaco Bar Association (Article 42 of the AML/CFT Law). Since February 2022, Article 7-3 of SO No. 8.664 has provided that the implementation of its provisions by the financial institutions and DNFBPs referred to in Articles 1 and 2 of the AML/CFT Law shall be overseen by AMSF, the GPO or the Chairperson of the Monaco Bar Association, as applicable, as provided by the aforementioned law, including oversight of the reporting obligation under Article 42 of the AML/CFT Law. AMSF and the DBT are members of the Advisory Committee, one of whose duties is "to ensure a two-way flow of information between the government departments involved in the freezing of funds and economic resources, and to consider matters of common interest with a view to improving the effectiveness of the arrangements in place."[21] With regard to the sanctions applicable for breaches please see c.35.1.

5. **Criterion 7.4** –

(a) Persons and entities on the list drawn up pursuant to UNSCR 1718 (2006) and UNSCR 1737 (2006) can submit a de-listing request to the focal point established by UNSCR 1730 (2006). This possibility is mentioned on the government's website.[22]

(b) A person or entity with a name identical or similar to that of designated persons or entities who is inadvertently affected by a freezing mechanism can make a written request to the Minister of State. This request will trigger verification by the competent department and, if a mistake has been made, permission to unfreeze would be given by ministerial decision. In this connection, there is an internal procedure dated 18 February 2022 and a publication on the government's website.[23]

(c) Permission to release or use frozen funds can be given by decision of the Minister of State in accordance with the UNSCRs [24] under Article 9 of SO No. 8.664 and Article 4 of the DME.

(d) Decisions to de-list from the appendix to DME 2021-1 and to unfreeze funds take the form of a ministerial decision which is published on the government's website. Publicly known procedures for submitting de-listing requests to the competent UNSC have been introduced (see Article 7-2(6) of SO 8664). A dedicated website (https://geldefonds.gouv.mc/fr) has been created. DBT is responsible for publishing freeze/unfreeze measures decided by the Minister of State and for sending out automatic e-mail newsletters as soon as a freezing/unfreezing measure is published. Moreover, TFS guidelines, developed by the Advisory Committee on the Freezing of Funds and Economic Resources have been issued.

21. Article 7-2 7°) of SO No. 8.664 as amended.
22. Available at https://geldefonds.gouv.mc/en/regulations/procedures/appeal-against-a-freeze-on-funds-and-economic-resources.
23 Ibid.
24. Available at https://geldefonds.gouv.mc/en/regulations/procedures/procedures-for-unlocking-or-using-frozen-funds-and-economic-resources.

6. **Criterion 7.5** –

(a) Subject to compliance with the requirements of economic sanctions decreed by the UN, the EU or France, interest, other remuneration and payments can be paid to frozen accounts and frozen accounts can be credited, provided that any additional sums credited to such accounts are frozen (Article 10 of SO No. 8.664).

(b) Article 9 of SO No. 8.664 provides that permission to release or use funds shall be given by ministerial decision, subject to compliance with the requirements of UNSCRs (a list of which shall be drawn up by the DME).

Weighting and conclusion

7. All criteria are met. **The Principality of Monaco is re-rated C with R.7**

Recommendation 8 – Non-profit organisations

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In the 2022 MER, Monaco was rated PC on R.8. Following deficiencies were identified: (i) The extent to which the subset of non-profit organisations (NPOs) at risk of TF had been identified was limited (c.8.1); (ii) The measures or arrangements implemented predated the adoption of a formal framework for assessing the sector and, as a result, were not tailored to NPOs posing a higher level of risk (c.8.3); (iii) The supervisory measures were not risk-targeted (c.8.4); and (iv) Co-operation, co-ordination and sharing of information between the competent authorities was developed since the last evaluation, as was underlined in the second national risk assessment (NRA) (c.8.5).

2. **Criterion 8.1** –

(a) Monaco has assessed its NPO sector using all relevant sources of information, in order to identify the features and types of NPOs which by virtue of their activities or characteristics, are likely to be at risk of terrorist financing abuse. In 2023 the Strategic Committee in close collaboration with the Department of Interior co-ordinated a topical NPO Terrorism Financing Risk Assessment (2023 NPO RA). Monaco's NPO landscape consists of two types of NPOs - foundations and associations (which include also federations of associations). During the period of review for the 2023 NPO RA (2020-2022), 1054 associations and 17 foundations existed in Monaco. Both types of NPOs cater almost exclusively to the domestic population and in terms of funding they rely heavily on national support. Neither type of NPOs has been found to feature in any criminal cases (relevant data between 2020 to 2022 from Monegasque law enforcement agencies (LEAs) – namely the police, the prosecution and the AMSF (Financial Intelligence Unit (FIU)) was examined), no suspicious transaction reports (STRs) or incoming or outgoing formal mutual legal assistance (MLA) or direct information request have been recorded which would have revolved around Monegasque NPOs. According to the FATF standard, a total of 176 NPOs have been identified as falling within the FATF definition: 159 associations and 17 foundations. As the purpose of the foundations is from the outset to "*raise and disburse funds*", they all meet the FATF's functional definition. While, as far as associations are concerned 170 Monegasque associations have been identified. Among these, 11 were found to be inactive, therefore the actual population consist of 159 associations.

(b) The 2023 NPO RA identifies the nature of threats posed by terrorist entities to NPOs which are at risk as well as how terrorist actors abuse those NPOs. In particular, the 2023 NPO RA concluded that the jurisdiction's non-profit sector is at a low residual risk of TF abuse while within the low-risk sector, a number of foundations and associations have been found to have higher exposure to potential TF abuse.

(c) Monaco has taken steps to review the adequacy of measures that relate to at-risk NPOs. For example, since within the low-risk sector, a number of foundations and associations were found to have higher exposure to potential TF abuse, this resulted in the Department of Interior reshaping its approach to supervision by ensuring that the majority of its resources are dedicated to this subset of higher risk associations and foundations. In addition, several legislative changes were introduced to foster accountability and integrity among NPOs. For example, the changes made in 2018 to the legislative and regulatory framework applicable to non-profit-making associations, federations of non-profit-making associations and foundations increased the financial transparency of the non-profit sector, including by means of new detailed accounting obligations (Law No. 1.355, Article 20-1) and obligations to identify and carry out checks on

recipients of donations/grants and/or what they are ultimately used for (Law No. 1.355, Article 20-3) and a cap of 1 000 euros (EUR) for cash donations (Law No. 1.355, Article 9 and Law No. 56, Article 21).

The changes made to SO No. 10.114 and to SO 10.115, introduced for foundations and associations a record obligation for all donations and grants received and issued by the foundation of a value greater than EUR 200 (Articles 7 and 22). Moreover, associations shall identify all donors and keep a record of donations received regardless of the amount. Donations may only be received and paid by cheque or bank transfer (SO 10.115 of 14 September 2023, Article 24). Moreover, for foundations that are "*considered to present a particular risk of terrorist financing abuse, based on the national risk assessment*" risk-based measures have been introduced (SO No.10.114, Article 8).

(d) Authorities refer that the periodic update of the NPO RA (latest conducted in 2023) is scheduled for the end of 2024, based on feedback from the questionnaires used for NRA 2023. A general requirement that updates of the NPO risk assessment shall take place periodically can be found under Article 2 b) of SO 9.729 of February 1, 2023 which foresees, among the tasks of the Coordination and Monitoring Committee of the National AML/CFT/FP/C Strategy: "b. *Coordinate and direct the identification and assessment of risks in the fight against money laundering, the financing of terrorism and the proliferation of weapons of mass destruction, which is carried out at regular intervals*".

3. **Criterion 8.2** –

(a) Monaco has introduced several measures to foster accountability and integrity among NPOs with a view to increasing public confidence in their running and operation, including through obligations to (i) keep detailed accounts (Article 20-1 of Law 1.355), (ii) identify and carry out checks on the beneficiaries of donations/grants and/or their end use (Article 20-3 of Law 1.355), and (iii) limit cash donations to a maximum of EUR 1 000 (Article 9 of Law 1.355 and Article 21 of Law 56).

There are a number of obligations for NPOs, including declaration/approval systems (for non-profit-making associations as applicable) or authorisations (for foundations). NPOs (non-profit-making associations and foundations) have obligations to keep accounts, keep accounting records for five years, know the identities of their donors and monitor the proper use of grants. From the time when they are established, non-profit-making associations must keep a register containing full details of the civil status of their managers and their addresses. It must be presented whenever requested by the Minister of State or judicial authorities (Article 12 of Law No. 1.355 for associations and Articles 6, 6-1 and 6-2 of Law No. 56 for foundations).

Although they can be formed freely, non-profit-making associations which wish to acquire legal personality and legal capacity must be declared and their names made public. Only approved non-profit-making associations can receive public funds (Article 16 of Law No. 1.355). In exceptional circumstances, however, a one-off grant of assistance not renewable over a three-year period can be given on the same basis to a non-approved non-profit-making association.

Certain basic information about NPOs is publicly available on request to the Minister of State or via consultation of the Journal de Monaco [Official Gazette of Monaco] or the official website of non-profit-making associations[25] (Law 1.355, Article 13 and Law 56, Articles 11 and 22).

(b) The "*Guide de bonne conduite des associations eu égard au risque de financement du terrorisme*" [Good Conduct Guide for Non-profit-making Associations for the Risk of Terrorist Financing]

25. Available at https://groupements-associatifs.gouv.mc/assomc/assocmc.nsf.

(2016) covered certain aspects of the vulnerabilities and threats affecting non-profit-making associations in terms of TF as a whole. In order to take account of the sectoral risk assessment and the changes to the associated legislative framework (the new provisions of the AML/CFT Law and those concerning asset freezes) Monaco has run campaigns to raise awareness in the NPO sector concerning their risks and vulnerabilities. A good conduct guide drawn up by the Department of the Interior and the departments subordinate to it jointly with the Department of Legal Affairs was sent to the directors of non-profit-making associations in July 2021. This guide contains some information about the risks of misuse of NPOs for TF purposes and recommendations for preventive measures to be adopted. The following documents have been drawn up, taking into account the assessment of the sector's risk and the related legislative changes: Document on typologies of misuse of NPOs for FT purposes (July 2023), Guide for associations and foundations on their obligation to provide information on beneficial owners (September 2023), Guide for NPOs on CFT risks and mitigation measures (November 2023). Efforts to raise awareness within the sector have been carried out: Two training sessions were organised, one on 22 August 2023, for FIs and NPOs; and a second on 29 August 2023 for DNFBPs and NPOs. More than 340 FIs, DNFBPs and NPOs took part in these sessions, including NPOs identified as being at higher risk. An NPO summit was organised by the Ministry of Interior (MoI), focused on the risks of misuse of foundations and associations for ML and FT purposes, and on the need for foundations and associations to register their beneficial owners. Furthermore, the MONEYVAL and FATF processes as well as the new legal requirements for registration of basic and beneficial owner information by foundations and associations were also explained. 417 NPOs were represented at the event, including those considered to be at higher risk. The event was also used by the MoI to update the contact details of these 417 NPOs. Moreover, the donor community was made aware of the issue via the associations with which donors are in contact; these associations themselves took part in awareness-raising sessions. In addition, following the new provisions laid down by law concerning the keeping of donation registers, these associations and foundations require their donors to follow new and stricter rules (Law No. 1355, Article 20-2; SO No. 10.115, Article 22; Law No. 56, Article 17-1 and SO No. 10.114, Article 7).

(c) The NPO RA has been carried out by the MoI in co-operation with the NPO sector, discussing vulnerabilities and risk scenarios relating to the sector during accountability meetings and on-site inspections, as well as during various dedicated awareness-raising sessions. In addition, a document on typologies of misuse of NPOs for FT purposes (July 2023), a Guide for associations and foundations on their obligation to provide information on beneficial owners (September 2023), a Guide for NPOs on CFT risks and mitigation measures (November 2023) have been issued.

(d) The legal provisions governing NPOs set a limit of EUR 1 000 for cash donations and grants (Law No. 1.355, Article 9 and Law No. 56, Article 21). Above this value, donations must be paid by cheque or bank transfer. The *Guide de la vie associative* [Voluntary Sector Guide] advocates the use of traditional financial channels.

4. **Criterion 8.3** – Based on the results of the NPO sector risk assessment, the MoI developed a risk-based monitoring plan for 2023 for the 159 associations and 17 foundations falling within the functional definition of the FATF. The monitoring plan is developed based on the risks assigned to foundations and associations at the individual level, with 43 associations identified as very high risk, followed by 11 associations and 6 foundations as high risk, 54 associations and 2 foundations as medium risk, and 42 associations and 9 foundations as low risk. In addition, the nine associations that did not respond to the questionnaire were categorised as high risk, three of which have since been voluntarily dissolved and six remain unanswered and will be forced to dissolve. NPOs identified as

presenting a higher risk are subject to specific measures (Law No. 1.355, Article 31-2-1 and Law No. 56, Article 29-1). If they do not comply with these specific measures, the NPO may be subject to an administrative sanction in the form of successive fines, culminating in the possibility of dissolution of the association or federation of associations (Law No. 1.355, Article 31–6) or revocation of the foundation's authorisation (Law No. 56, Article 33).

5. The MoI monitoring action covers four areas, namely (1) inspections focused on very high-risk associations, (2) accountability meetings to allow broader coverage across all risk categories, (3) training workshops and (4) written guidance to reach all segments of the NPO sector, regardless of the risks they pose at the individual level.

6. Furthermore, in principle, only approved non-profit-making associations may receive public funding (Law No. 1.355, Article 16). In exceptional circumstances, however, a one-off grant of assistance not renewable over a three-year period can be given on the same basis to a non-approved non-profit-making association provided that it pursues an aim in the public interest or an activity that contributes to a public service function or the reputation of Monaco. No grant can be given in whole or in part by the government to an NPO before a reasoned opinion has been given by the Auditor-General, having regard to the balance sheet and the annual accounts of the organisation concerned, from which the Auditor-General may request any necessary explanation or evidence (Article 1 of Law No. 885 of 29 May 1970 on financial auditing of private-law corporations in receipt of government grants). Any organisation, whether or not approved, that receives a government grant is subject to auditing and checks by the Auditor-General. The latter has the necessary powers of investigation to carry out documentary and other on-the-spot checks on documents, balance sheets and accounts, as well as supporting evidence, relevant to the use of the public funding or to the management and use of the grant to ensure that it is consistent with the purpose for which the grant was given (Article 2 of Law No. 885). It should be noted that these measures are taken solely in respect of non-profit-making associations receiving public funding and are intended to act as a check on any embezzlement and not on exploitation for TF purposes.

7. **Criterion 8.4** –

(a) In recent years, the Monegasque authorities have started to classify and evaluate NPOs according to risk-based criteria. NPOs considered to present a particular risk of terrorist financing abuse, based on the national risk assessment, are subject to specific measures defined by sovereign ordinance (Law No. 56, Article 29-1 and Law No. 1.355, Article 31-2-1).

NPOs considered to present a particular risk of terrorist financing abuse, based on the national risk assessment, are required to apply additional measures, such as: a) donations may only be received and paid by cheque or bank transfer; b) identify all donors and keep a record of donations received regardless of the amount thereof; c) make the payment of their donations conditional upon the production of proof of their intended use by the beneficiaries and record these elements in the register of donations paid, which shall mention all donations made, regardless of the amount thereof. Associations have an obligation to send documents to the MoI within one month following the end of each association's accounting year (SO 10.114, Article 8 and SO 10.115, Article 24).

To date, the MoI carried out 64 on-site inspections and accountability meetings. The MoI concluded that the sector's performance level at the end of 2023 was variable. Some NPOs that also operate abroad tended to demonstrate a higher level of compliance in their internal organisation and with their obligations, unlike smaller NPOs that conduct exclusively domestic activities. The latter segment of the sector is still at a nascent stage in the development of its internal systems. Two NPOs are currently in the remediation process due to shortcomings

identified by the MoI in the course of the on-site inspections. Shortcomings include the failure to hold a general assembly, the absence of an approved board, the appointment of a treasurer without a legally mandated election and other grave violations. The MoI expects both cases to result in the dissolution of the NPOs or the replacement of management and the imposition of the maximum possible fine. In addition, in accordance with the law, the MoI will apply enhanced monitoring to NPOs classified as high-risk.

(b) For breaches related to NPOs (R.8), there is a range of sanctions available for NPOs themselves, and persons acting on behalf of these NPOs.

Administrative sanctions

8. Associations, federations of associations and foundations (NPOs) are supervised by the MoI, which has the power to impose sanctions on NPOs, including on persons acting on behalf of them, in case of breach of obligations within the general framework of accountability, integrity and transparency of NPOs. These sanctions include fines from EUR 5 000 to EUR 2 million (Law No. 1.355, Title III, Chapter II, Section I and Law No. 56, Chapter IX, Section I, as amended by Law No. 1550 of 10 August 2023), which can be considered proportionate. However, their dissuasiveness is limited since the MoI can impose more significant fines only if the breach persists (the deficiencies have not been rectified after receiving relevant notice to remedy the deficiencies).

9. If the breach persists, the Minister of Interior will inform the Minister of State, who may initiate, as appropriate, a procedure for the withdrawal of authorisation, or legal proceedings before the Court of First Instance for the purpose of dissolution. In addition, in the event of an emergency, the Minister of State may, by substantiated order, dissolve any association/foundation whose purpose, activity or effect is to contribute to or incite the perpetration of crimes or offences or to cause serious difficulties with a foreign government.

10. In addition, objecting to audits and checks by the Auditor-General or refusing to provide documents needed to carry them out results in withdrawal of the grant by the Minister of State, without prejudice to any full or partial repayment that the Auditor-General may order, including non-approved associations receiving public grants on an exceptional basis (Law No. 885 of 29 May 1970, Article 3).

Criminal sanctions

11. Criminal sanctions may be applied to associations, federations of associations and foundations and persons acting on behalf of them in parallel with administrative sanctions. As soon as administrative proceedings are initiated, the Ministry of the Interior liaises with the General Prosecutor's Office (Law No. 1355, Chapter II, Article 31-6(4) and Law No. 56 Chapter IX, Article 33(4)) who may decide to prosecute NPO, its representative or the person collecting and holding basic and beneficial ownership (BO) information under criminal law (without waiting to know whether or not the deficiencies are rectified). The sanctions that may be imposed range from 6 months of imprisonment to fines from EUR 18 000 to 90 000 for natural persons and up to EUR 180 000 for NPOs (Law No. 1.355, Article 32-4 and Article 32-5 and Law No. 56, Article 40 and 41). These sanctions can be considered proportionate and dissuasive.

12. **Criterion 8.5** –

(a) Co-operation, co-ordination and sharing of information between the competent authorities have been developed in the last years. A national co-ordination and information-sharing mechanism was established in December 2012 with the creation of the Contact Group (see paragraph 1326 of the 4th Round MER). Effectiveness concerns were raised on this mechanism. In order to improve the effectiveness of the Contact Group, new Terms of Reference have been adopted,

which require, inter alia, that the Contact Group meet at least once a month. The new Terms of Reference also reinforce the purpose of the Contact Group by clarifying its functions and responsibilities. The objective of the Contact Group is to ensure the exchange of information between the criminal prosecution authorities and the state departments involved in the fight against ML, TF and corruption, but also to take note of any issues of common interest, in order to improve the effectiveness of the co-operation and co-ordination mechanisms put in place at the operational level. Since 2023, the Contact Group meets at least once a month, in addition to any other date decided by the President. The meetings are scheduled to take place one week before the meetings of the Strategic Committee to ensure that the minutes and actions, as well as the progress made, are accurately recorded and that all findings are presented to the Strategic Committee.

Since January 2023 the Coordination and Monitoring Committee (the "Strategic Committee") acted as a co-ordination and monitoring mechanism for all AML/CFT/PF issues. The Strategic Committee is subdivided into two Colleges. The MoI is part of College I of the Strategic Committee (SO No. 9.729, Article 3), with College II bringing together, inter alia, representatives of the private sector. College I is the decision-making component of the Committee, while College II has an exclusively advisory function. Monthly meetings are held between members of College I, including the MoI, with the private sector participating twice in 2023.

The results of the Committee's work include the various thematic risk assessments and the amendments to the National Strategy and the National Action Plan. In 2023, College I of the Strategic Committee adopted the 2023 Detailed Work Plan, which determined the dates of the monthly meetings, the priority areas to be discussed and the concrete results that will be expected from each meeting. The Strategic Committee also required each authority to develop its own specific agency action plan to ensure that the various measures set out in the National Action Plan are implemented in a timely and comprehensive manner. The MoI has developed its own plan. In 2023, the Strategic Committee, in collaboration with the MoI, coordinated NPO NRA of the terrorism financing risks.

The MoI is also part of the Liaison Committee on AML/CFT/PF under the authority of the Minister of State, chaired by the Government Advisor-Minister of Finance and Economic Affairs assisted by the Director of the Monegasque Financial Security Authority. The purpose of this Committee is to provide mutual information between the state departments concerned by the fight against ML, TF and corruption and professionals, as well as to be informed of any issues of common interest in order to improve the effectiveness of the system put in place, in particular by exchanging information on trends and changes in methods and techniques of money laundering, terrorist financing and corruption, including those which could affect NPOs (Article 49 of SO No. 2.318).

In addition, as part of the exchange of information on beneficial owners provided for by law, certain authorities (the Monegasque Financial Security Authority, the Department of Justice (DSJ), the DSP, the General Expenditure Control, the DSF, the DBT) have direct access to the register of associations, federations thereof and foundations held by the Department. The Department works closely with the authorities, in particular with the DSP and the AMSF as required.

(b) For NPOs suspected of being exploited for TF purposes or by terrorist organisations, or of actively supporting terrorist activities or organisations, the GPO could use their general powers to investigate or ask the investigating judge to commence a judicial investigation for the purposes of ordering any step helpful in establishing the truth. Moreover, AMSF can carry out analyses at its own initiative upon receipt of an STR or at the request of a foreign counterpart in respect of any entity of this type.

(c) The register kept pursuant to Article 12 of Law No. 1.355 must be presented whenever requested by the Minister of State or the judicial authorities. Article 20-3 of Law No. 1.355 provides that information given in documents and statements of the association's expenditures must be sufficiently detailed and must make it possible to verify that the funds spent have been used in accordance with its corporate objective. Lastly, Article 20-5 provides that an association's accounts and all statements and supporting evidence in relation to its revenues and expenditures must be kept for a period of five years at the association's headquarters or by any person explicitly designated to this end, who must reside in Monaco, and that all such documents must be kept available to the authorities, which can, if they wish, take copies of them at their own expense.

As regards foundations, under Article 17 of Law No. 56, the Monitoring Commission[26] is entitled to receive, at any time, originals and copies, without any requirement to travel, at the foundation's headquarters, of all documents and decisions relating to the foundation's administration and accounts.

Pursuant to Article 13 of the aforementioned Law, every year, this Committee sends the Minister of State a report on the non-financial and financial situation of all foundations. If the information provided annually by a foundation turns out to be non-compliant, formal written notice of the irregularities must then be given (CCP, Article 61). In practice, no procedural irregularities concerning a foundation in Monaco have been reported to the Minister of State.

(d) The purpose of the Contact Group (see criterion 8.5(a)) is to ensure the swift sharing of information between the criminal prosecution authorities and the government departments responsible for AML/CFT in order to take preventive measures or to investigate where it is suspected or where there are plausible reasons to suspect that an NPO is being exploited or misused for TF purposes.[27] However, if on the one hand, it seems that the meetings are more frequent (6 minutes of meetings held from April to November 2023 were sent), on the other hand, it doesn't seem it has dealt with any TF cases to date. In addition, AMSF can review and deal with STRs in relation to NPOs and, if sufficient signs of TF emerge, it can refer the matter to the GPO, which can swiftly commence an investigation. AMSF has also put in place an emergency procedure for TF cases ("PCR flash").[28] No such referrals have been made to date.[29]

13. **Criterion 8.6** – For foreign requests, AMSF acts as a gateway (at least for other FIUs) because it can carry out investigations at its own initiative, upon request by a foreign counterpart, in relation to any NPO. For judicial co-operation, the DSJ acts as a gateway, and for police co-operation, this role is performed by the Financial Investigations Unit of the Police Department. No details of the procedures implemented have been provided.

Weighting and conclusion

14. Some deficiencies remain with respect to measures related to non-profit organisations: (i) Dissuasiveness of administrative sanctions for NPOs is limited since the MoI can impose more significant fines only if the breach persists (c.8.4(b)); and (ii) no details of the procedures implemented have been provided (c.8.6). In overall, all those remaining deficiencies can be considered as minor considering the risk and materiality of the NPO sector in Monaco. Consequently, the **Principality of Monaco is re-rated LC with R.8.**

26. Referred to in Article 13 of the amended Law No. 56.
27. NRA 2.
28. This is a communication from the GPO which is, in reality, merely a copy of the information sent by the institution or a counterpart without naming them (source: NRA 2).
29. NRA 2.

Recommendation 12 – Politically exposed persons

	Year	Rating
MER	2022	PC
FUR1	2024	↑ C (upgrade requested ↑)

1. In the 5th round MER of 2022, Monaco was rated PC with R.12. There were deficiencies identified with: the limitation of the period applicable to politically exposed persons (PEPs) who have stopped performing their duties to one year; and PEPs' duties do not include the notion of international organisation.

2. **Criterion 12.1**– Article 17 of the AML/CFT Law makes no distinction between foreign and national PEPs, which means the same due diligence measures provided for in 12.1 a) to d) apply to all PEPs. Consequently, the measures applicable to domestic PEPs go beyond the standard required.

3. Article 17-2 of the AML/CFT Law provides that where PEPs or persons entrusted with a prominent function by an international organisation stop performing their duties, the obliged entities must take into account the risk that this person continues to pose, and apply appropriate measures, based on an assessment of this risk, until it is considered that it no longer exists.

4. The provisions of Article 17 of the AML/CFT Law embody the requirements of the sub-criteria 12.1, i.e. a) have a risk management system to determine whether the customer or the beneficial owner is a PEP; b) obtain the approval of senior management or any person empowered to this end by the executive body to establish or continue with a business relationship with this customer; c) take measures to establish the source of wealth and funds involved in the business relationship or transaction; and (d) conduct enhanced scrutiny of the business relationship. The concept of members of senior management is explained in Article 1, paragraph 19° of SO 2.318.

5. In addition, the thematic guidance on PEPs was issued to assist the supervised entities in the identification of PEPs and in applying enhanced due diligence measures.

6. **Criterion 12.2** – Obliged entities are required to take the same measures as those described in the previous sub-criterion for domestic PEPs and persons entrusted with prominent functions by an international organisation. The definition of significant functions (Article 24 of SO 2.318) is in line with the FATF definition of a PEP. In addition, as the lists of PEPs foreseen by Article 24 of SO 2.318 are not exhaustive, the thematic guidance provides that obliged entities are encouraged to assess on a case-by-case basis whether a particular public function presents characteristics that would be considered as "prominent public function" in terms of Article 17 to 17-3 of the AML/CFT Law and Article 24 of the SO 2.318. The assessment would notably aim to determine the level of power or influence that a person holds and the level of exposure to corruption, bribery or any other criminal activity.

7. Furthermore, the concept of international organisation is explained in Article 1, paragraph 26° of SO 2.318, which is in line with the FATF definition of international organisation. In addition, international organisations accredited in the territory of the Principality of Monaco shall establish and update, as far as it is concerned, the list of persons performing the functions stipulated under Article 24(9) of SO 2.318.

8. **Criterion 12.3** – Article 17-3 of the AML/CFT Law extends the obligations that apply to PEPs and persons entrusted with a prominent function by an international organisation, to their family members and close associates. Family members and close associates are sufficiently broadly defined in Article 24 of SO 2.138.

9. **Criterion 12.4** – Article 17-1 of the AML/CFT Law provides for reasonable measures to determine whether beneficiaries and/or a beneficial owner is/are PEP, no later than the time of the payout and, where there are higher risks, to inform senior management, conduct enhanced scrutiny and, where appropriate, make an STR.

Weighting and conclusion

10. All criteria are met. **The Principality of Monaco is re-rated C with R.12.**

Recommendation 23 – DNFBPs: Other measures

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In the 2022 MER Monaco was rated PC on R.23. Following deficiencies were identified: (i) The supervisor of notaries and bailiffs is not a self-regulatory body as defined by the FATF (c.23.1); (ii) the mechanisms for co-operation between the Principal State Prosecutor, the Chairperson of the Monaco Bar Association and SICCFIN in relation to STRs are not entirely satisfactory (c.23.1); (iii) the obligations in relation to internal controls for groups are not applicable to legal professionals (c.23.2); and (iv) Monaco does not have a mechanism allowing countermeasures to be imposed independently of any call from the FATF or the European Commission (23.3).

2. **Criterion 23.1** – DNFBPs (notaries and legal professionals, accountants and related professionals, dealers in precious metals and precious stones, trust and company service providers) are subject to the same obligations to report suspicious transactions as FIs as described in c.22.1 (Article 36 of AML/CFT Law) with the exception of lawyers, defending lawyers (*avocats défenseurs*) and trainee lawyers, who must report them to the self-regulatory body - Monaco Bar Association (Council of the Order of the defence attorneys and attorneys) (Article 40 of AML/CFT Law), and in their case reports are sent on paper by post. Monaco Bar Association must then transmit these declarations to the AMSF as soon as possible (Article 40 paragraph 3 of AML/CFT Law. AMSF will publish on its website the reporting procedure for all DNFBP except lawyers (Art 36.2.1 of AML/CFT regulation); the Monaco Bar Association, once a suspicion is received, should also follow the reporting procedure set by the AMSF. Paper-based reporting on suspicious transactions does not ensure their promptness as required by R.20, c.20.1.

3. **Criterion 23.2** – Under Article 27 of the AML/CFT Law, DNFBPs are subject to the same obligations in relation to internal controls and foreign branches and subsidiaries as FIs as outlined in c.22.1, including legal professions (lawyers, defending lawyers (*avocats défenseurs*), trainee lawyers, notaries (*notaires*) and bailiffs) referred to in Article 2. Article 27 of the AML/CFT Law provides for the appointment of a compliance officer. An ongoing employee training programme is foreseen by Article 30 of the AML/CFT Law. However, provisions regarding high standards when hiring employees and an independent audit function are only applicable to groups (AML/CFT Law, Article 29.1). In addition, the minor deficiency identified in the analysis of R.18 (related to Monegasque law containing provisions which reflect the presumption that all EU or European Economic Area (EEA) member states apply harmonised AML/CFT provisions not envisaged by the FATF) are applicable to DNFBPs to the same extent.

4. **Criterion 23.3** – DNFBPs must apply enhanced due diligence measures proportionate to risks when they carry out a transaction with natural or legal persons from countries for which the FATF calls for them (Article 14.2 of the AML/CFT Law). Countermeasures can be imposed independently of any call from the FATF or the European Commission (Sovereign Ordinance No. 2.318, hereinafter AML/CFT regulation, Article 25-2-1).

5. **Criterion 23.4** – DNFBPs are subject to the same obligations in relation to tipping off and confidentiality as FIs. R.21 is rated C.

Weighting and conclusion

6. Monaco has measures in place for DNFBPs as required by R.23, with some minor deficiencies, as follows: (i) paper-based reporting on suspicious transactions does not ensure their promptness as required by R.20, c.20.1. (c.23.1); (ii) provisions regarding high standards when hiring employees and an independent audit function are only applicable for groups (c.18.1(b)) (c.23.2); and (iii) other minor deficiencies identified in the analysis of R.18 (related to Monegasque law containing provisions which reflect the presumption that all EU or EEA member states apply harmonised AML/CFT provisions not envisaged by the FATF) are applicable to DNFBPs to the same extent (c.23.2). **The Principality of Monaco is re-rated LC with R.23**.

Recommendation 24 – Transparency and beneficial ownership of legal persons

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. Monaco was rated PC in the 5th Round MER. There was no obligation to record basic information on associations and foundations in a register nor an obligation to keep BO information. Some basic information concerning companies was not available in the Trade and Industry Registry (RCI) or Special Registry of Civil-law Partnerships (RSC), while limited information was available on civil-law partnerships. Sanctions for failure to register or notify changes were not dissuasive. Companies were not bound to keep basic information, while most companies had no obligation to keep a register of members. Provisions on co-operation by companies with competent authorities for the purposes of identifying beneficial owners were not adequate. Competent authorities, especially law enforcement agencies, while able to obtain basic and BO information, could not do so swiftly. International co-operation in relation to basic and BO information was limited.

2. There are five types of legal persons in Monaco: (i) commercial companies (*sociétés commerciales*) (private limited companies (SARLs), limited partnerships (SCSs), commercial partnerships (SNCs), Monegasque joint-stock companies (SAMs) and limited partnership with shares (SCAs)); (ii) civil-law partnerships (*sociétés civiles*) (property investment partnerships, special civil-law partnerships) and SAMs *à objet civil*); (iii) economic interest groups (*groupements d'intérêt économique,* (EIGs)); (iv) foundations (*fondations*); and (v) associations (*associations*) (which can come together to form federations of associations).[30]

3. **Criterion 24.1** – Monaco has mechanisms in place that identify and describe:

(a) The different types, forms and basic features of legal persons. These are set out under various laws regulating different types of legal persons as follows: (i) *Sociétés anonymes monégasques* or SAMs (Monegasque joint stock companies) and *sociétés en commandite par actions* or SCAs (limited partnerships with shares) are primarily governed by the SO of 5 March 1895 on public limited companies and limited partnerships with shares; (ii) Title IV of the Code of Commerce governs *sociétés en commandite simple* or SCSs (limited partnerships) under Article 30, *sociétés en nom collectif* or SNCs (commercial partnerships) under Article 27 et seq. and *sociétés à responsabilité limitée* or SARLs (private limited companies) under Article 35-1 et seq; (iii) *Sociétés civiles* (civil-law partnerships) are governed by Law No. 797 of 18 February 1966 and Articles 1670 to 1711 of the Civil Code; (iv) *Groupements d'intérêt économiques* (economic interest groups) are governed by Law No. 879 of 26 February 1970; (v) foundations are governed by Law No. 56 of 29 January 1922; and (vi) associations and federations of associations are governed by Law No. 1.355 of 23 December 2008.

Laws are publicly available and can be accessed online on the Légimonaco website (https://legimonaco.mc/).

(b) The process for the creation of the different types of legal persons, and for obtaining basic and BO information is set out under the above-mentioned laws and Law 721 in the case of commercial companies and EIGs. More practical guidance is provided on the RCI website and on the Government Portal (https://monentreprise.gouv.mc/en/themes/starting-and-managing-a-business/starting-a-business/ - https://monservicepublic.gouv.mc/thematiques/associations-et-fondations).

30. The term "non-profit organisations" or "NPOs" is used to mean associations, federations of associations and foundations.

4. With regard to methods of obtaining and keeping basic information, the RCI (https://documents.gouv.mc/Consulter-ou-acheter-des-informations-du-RCI/help.html) informs the public on methods to obtain and record freely available basic information for commercial companies and EIGs - and of the ways of obtaining, in person or online and for a fee, an extract of an entry in the RCI which includes all data available at the RCI on the company (including date and number of registration, juridical form, corporate activity, registered office or place of business and identify details of directors/administrators). Some basic information can be accessed free of charge (name, RCI number, legal form, status, company activity and head office address).

5. For civil-law partnerships the Government Portal informs the public of the fact that any interested person can request, for a fee, a certificate of registration stating the legal form, registered office and corporate name at the office of the *Répertoire spécial des sociétés civiles* or RSC. Article 7 of Law 797 and Articles 10 and 11 of Order 3.573 set out that information is available to the public through an RSC extract (obtainable physically or electronically), which includes all basic information set out under c.24.3.

6. For Associations and Foundations guidance on how to access basic information is available on the Government Portal.

7. Beneficial owners are listed in a Register of beneficial ownership (RBO) appended to the RCI or the registry maintained by the MoI (in the case of associations and foundations – see c.24.6). The Government Portal gives details of the process of mandatory declaration to the Business Development Agency (DDE) of beneficial owners of all commercial companies, civil-law partnerships and EIGs and of how information in the RBO can be viewed by third parties. Third parties can view information on the premises of the DDE after paying a fee of EUR 500 and meeting certain requirements, including the fact that a period of two months must have passed since the legal person and the beneficial owners concerned were informed of the third party's desire to view the information (Articles 22-7 and 22-8, AML/CFT Law and Articles 63-1 to 63-3 of SO 2.318). Reporting entities (REs) may obtain an extract of BO information held at the RBO for fulfilling their Customer due diligence (CDD) obligations upon payment of a €15 fee, by attending the Registry in person.

8. **Criterion 24.2** – The authorities of Monaco have assessed ML/TF risks associated with legal persons in the country through multiple initiatives. An assessment was formalised as part of the 2021 NRA, while in December 2023, a more detailed sectoral national risk assessment on ML risks associated with legal entities was concluded. This sectoral risk assessment analysed the ML/TF risks associated with all types of legal entities in Monaco and concludes that there is a medium-high ML risk exposure, with limited liability companies, civil law partnerships and joint stock companies being the ones most exposed to ML risks. TF risks were considered as generally low.

9. The assessment was based on various sources of information, including disseminations by the AMSF, ML/TF prosecutions involving legal entities, international information exchanges, basic and beneficial ownership information, tax information and open-source data. The risk is derived by analysing (i) the threats of misuse for ML/TF faced by legal entities; (ii) inherent risks (e.g. type of activities, ownership and structure of legal entities); and (iii) transparency and risk mitigation measures.

10. **Criterion 24.3** –

Commercial Companies and EIGs

11. Any legal person who is regarded as a trader and trades in Monaco (i.e. commercial companies), and EIGs are required to be registered in the RCI (Article 1 of Law 721). They must be registered in the RCI within one month after submitting their declaration of activity or being authorised to operate, or after the signature of the economic interest grouping contract in the case of EIGs (Article 2 of Law

721). The registration application must include the information concerned by this criterion which has to be kept by the RCI (Article 3 of Law 721 and Articles 1 and 5 of Order 2.853). The information is accessible against a fee, while some basic information is also available on the RCI's website free of charge (see c.24.1).

Civil-Law Partnerships

12. Civil-law partnerships must likewise be registered in the *Répertoire spécial des sociétés civiles* or RSC within one month after completion of the formalities for registering the articles of association, or where applicable, within one month of the issuance of the declaration of activity or the administrative authorisation (Article 5 of Law 797). The registration application must include the information concerned by this criterion which has to be kept by the RSC (Article 5-1 of Law 797 and Articles 1 and 5 of Order 3.573). All such basic information recorded in the RSC is accessible to the public in the manner explained under c.24.1.

Associations and Foundations

13. Associations are freely formed and do not require any prior authorisation or declaration. However, for an association to acquire legal personality and capacity, it must be declared and made public. Such declaration is to be made with the Minister of State by means of a registered letter and shall include all the basic information set out under this criterion (Articles 5 and 7 of Law 1.355). The MoI is required to keep registered all such basic information (Article 13-1(1) of Law 1.355). The name, purpose, declared activities, registered office, details of the administrator/s and manager/s of the association, and notice of receipt of the declaration shall be accessible to the public (Article 13-1(2)) by requesting a registry extract.

14. Foundations become definitive only after being authorised by the Government (Article 4 of Law 56). Applications for authorisation shall be made to the Minister of State which shall include all the basic information set out under this criterion (Article 6). This basic information shall be kept registered by the MoI and, together with the copy of the foundation authorisation, must be made available to the public (Article 6-1).

15. **Criterion 24.4** –

Commercial Companies and EIGs

16. All types of commercial companies and EIGs must obtain, keep and update the basic information set out in c.24.3. Such information should be adequate, accurate and current and must be kept for ten years after the date on which they cease to be clients of REs (Article 16(1) of Law No. 721).

17. They are also required to keep an up-to-date register of partners and shareholders (companies), or members (EIGs) indicating their identity (Article 16-1). Article 16-1 of Law No. 721 and Article 12 of SO No. 2.853 specify that this register must indicate the identity details of the partners/shareholders/members, and in the case of commercial companies, the number of shares each partner/member holds and the category of such shares (including the nature of the voting rights associated with them).

18. Basic information is also held and available at the RCI in Monaco (see c.24.3). Moreover, commercial companies and EIGs are required to keep basic and shareholder information at the registered office, or failing that, at another location in Monaco (in particular with a RE) whose identity and address must be communicated to the DDE (Articles 16 and 16-1).

Civil-Law Partnerships

19. Similar obligations are applicable for civil law partnerships under Law 797 and SO No.3.575 (Articles 5-3 and 5-4 of Law No. 797 and Article 12 of SO No. 3.573).

Associations and Foundations

20. Associations must maintain a register containing adequate, accurate and current basic information, as well as a register of members at their registered office or at another site in Monaco, in particular with a RE. The identity and address of the latter holder of information must be communicated to the MoI. The register of members shall contain the members' identity, address, and membership category, showing the different forms of membership and the associated rights of each member (Article 12 and 12-1 of Law 1.355)

21. Basic information shall be kept for ten years after the date on which the association ceases to be a client of a RE.

22. Identical obligations to keep basic information are applicable for all foundations under article 12-2 of Law No. 56. Foundations do not have members.

23. Basic information on associations (having legal capacity) and foundations is also retained in the register maintained by the MoI (see c.24.3).

24. For all types of legal entities persons who are responsible for retaining basic and BO information (that must be appointed) and liquidators are also bound to keep basic and BO information for 10 years after the dissolution of the entity (see. c.24.9).

25. **Criterion 24.5** –

Commercial Companies and EIGs

26. Commercial Companies and EIGs are required to keep basic and shareholder information, which is adequate, accurate and up-to-date (see. 24.4). With respect to shareholders, they are also required to keep all supporting documents through which the accuracy of records may be ensured (Article 12 Order 2.853).

27. Commercial companies and EIGs must submit an amending declaration within one month in case of changes in basic information (i.e. one month from the deed setting out that change or, where applicable, from the issuance of an administrative authorisation for that change) so that these changes can be entered in the RCI (Article 4 of Law 721). In addition, confirmation of the accuracy of the information in the RCI must be sent to the RCI every five years (Article 4-2).

Civil-law partnerships

28. Civil-law partnerships are subject to similar obligations to keep basic and shareholder information, which is adequate, accurate and up-to-date (see c.24.4). They are also obliged to notify the RSC within one month of any change in basic information (article 6 of Law 797) and to make a declaration to the RSC attesting the accuracy of information held within the registry once a year (see Article 6-2). Pursuant to Articles 22 of Law No. 721 and Article 9 of Law No. 797 the DDE is responsible for supervising commercial companies, EIGs and civil law partnerships for compliance with their legal obligations, including their obligation to keep adequate, accurate and up-to-date basic and shareholder information.

Associations and Foundations

29. As set out under c.24.3 associations and foundations must maintain a register containing adequate, accurate and current basic information, and associations shall maintain a register of members updated every week (see Article 20 of Order No. 10.115). Basic information on associations (having legal capacity) and foundations is also retained in the register maintained by the MoI (see c.24.3).

30. Like other legal entities they are also bound to notify the MoI about changes in basic information within one month so that the registry may be updated (Article 10 of Law No. 1.355 and Article 12-1 of Law No. 56).

31. Where inaccuracies in the information on legal entities held at the RCI/RSC or by the MoI are noted, the DDE or Ministry will note this in the RCI/RSC or register of associations/foundations and on the extract of the entries that may be obtained by third parties. This note shall be deleted as soon as the inaccuracy is corrected (Article 25(1) of Law 721, 12(1) of Law 797, Article 31-6(1) of Law 1.355, and Article 33(1) of Law 56).

32. Sanctions are also foreseen for entities, their officials and other involved parties for breaches of their obligations to keep accurate and updated basic and shareholder/members information (see c.24.13).

33. **Criterion 24.6** – Monaco uses the three mechanisms referred to in c.24.6 to ensure that information on beneficial ownership of all legal entities is obtained by them and available at a specified location in Monaco or can be otherwise determined in a timely manner by a competent authority.

34. The BO definition for all types of legal entities under Monegasque law is aligned with the FATF Standards.

(a) and (b) All legal entities must obtain and keep adequate, accurate and up-to-date information on their beneficial owners. It has to be retained at the registered office or a location in Monaco as other basic information (see c.24.3). Beneficial owners are required to provide, within 30 working days after being asked to do so, all information needed by legal entities to fulfil their obligation (Article 21 of AML/CFT Law and Article 59-1 of SO No. 2.318).

Upon registration all legal entities must provide information on their beneficial owners (including surname, first name, date and place of birth, nationality, personal address, means of exercising control over the legal person, and date on which they became a beneficial owner) along with all supporting documents necessary to verify the accuracy of declarations to: (i) the DDE (in the case of commercial companies, civil law partnerships and EIGs) for the purposes of registration in the RBO (Articles 22 and 22-1 of AML/CFT Law and Article 61 of SO No. 2.318), and (ii) the Minister of State (in the case of associations and foundations) which is kept in the register held by the MoI (see Articles 7 and 13-1 of Law 1.355 and Article 6 and 6-1 of Law 56).

As explained under c.24.7 requirements and measures are in place to ensure that the BO information retained by legal entities and the respective registries are kept up-to-date.

As of the end of May 2024, 92% of all commercial companies and civil-law partnerships and 77% of all associations and foundations had declared their BO information to the respective authorities. The RBO and the BO register held by the MoI (for Associations and Foundations) are directly and immediately accessible to competent authorities, while it is indirectly accessible to the Council Bar Association (see Article 22-5 – AML/CFT Law, Article 13-2 of Law 1.355 and Article 6-2(1) of Law 56).

(c) AMSF can use existing information, including (i) information obtained by REs other than lawyers, in accordance with R.10 and R.22 (Article 50 of AML/CFT Law) and (ii) information held by other competent authorities or professional bodies (e.g. the Council of Order of Advocates) on the beneficial and legal ownership of companies (Articles 22-5 and 50 of AML/CFT Law). Competent authorities (and not including professional bodies) are also empowered to require all legal entities to provide them with BO information (see Article 22-1 and 22-4-1 of AML/CFT Law, Article 12-2 of Law 1.355 and Article 12-4 of Law 56).

35. Furthermore, as set out under c.24.8, competent authorities may also obtain BO information from the natural persons or REs that are nominated as responsible persons for keeping basic and BO information.

36. **Criterion 24.7** – In addition to the obligations to keep adequate, accurate and up-to-date BO information (explained under c.24.6) commercial companies, civil-law partnerships and EIGs must within one month following any change in beneficial ownership information, notify the RCI office so that changes can be made in the RBO. The RCI office can delay entry thereof or require the amendment of information if it is not consistent with the evidence sent or if the evidence is incomplete (Article 22-1 of AML/CFT Law).

37. Associations and Foundations are likewise required to communicate to the Minister of State, within a month, any change in beneficial ownership information (see Article 10 of Law 1.355 and Article 12-1(1) of Law 56).

38. FIs and DNFBPs, AMSF, the judicial authorities and judicial police officers, empowered officers of the DSF, authorised agents of the assets management department and the Chairperson of the Monaco Bar Association must report to the DDE or the MoI any absence of registration of BO information or any discrepancy that they find between information in the RBO or the registers held by the Ministry and the information they hold (Article 22-2 of AML/CFT Law). See also c.10.7, where FIs are required to conduct ongoing due diligence and keep customer information up to date.

39. **Criterion 24.8** – All legal entities must designate a person/s responsible for providing basic and BO information. Such a person has to be either (i) a Monaco resident (involved in the company or legal entity e.g. partner, shareholder, administrator of associations, chairman or administrator of foundations, employee, director, member or a representative thereof), or (ii) a Monegasque RE that is a trust and company service provider (TCSP), legal advisor, a multi-family office, accountant, notary or attorney. Civil law partnerships, that do not have a deposit account with a credit institution in Monaco, may only appoint one of the REs (under point ii) to be responsible for providing basic and BO information. (see Article 22-1(2) of AML/CFT Law, Article 12-3 of Law 1.355 and Article 12-3 of Law 56)

40. The identity of the appointed persons must be made known to the RCI or the MoI. In the case of all legal entities (except for associations that do not register to acquire legal personality see c.24.3) this should take place at the moment of registration. All legal entities must notify the respective registry if any changes thereto within a month (Article 3-1 of Law 721, Article 5-2 of Law 797, Article 12-3 of Law 1.355 and Law 12-3 of Law 56).

41. These persons are responsible for:

(a) keeping adequate, accurate and up-to-date basic and BO information on the legal persons, in a place in Monaco communicated to the RCI or the MoI, as the case may be;

(b) notifying the Minister of State or the DDE, as the case may be, of the said information and updating it, with a view to its entry in the relevant register;

(c) keeping this information for ten years after the date of dissolution or liquidation of the legal person; and

(d) communicating basic and BO information on request and within the time limit determined by the competent authorities and providing any other form of assistance to those authorities. Refer to Article 22-1(2) of AML/CFT Law, Article 3-1 of Law 721, Article 5-2 of Law 797, Article 12-3(2) of Law 1.355 and Article 12-3 of Law 56.

42. **Criterion 24.9** –

Legal Entity and Responsible Persons

43. All legal entities are required to keep basic and BO information for ten years after the date on which they cease to be clients of REs. (Article 21(4) of AML/CFT Law, Article 16(1) of Law No. 721, Article 5(3) of Law 797, Article 12 of Law 1.355 and Article 12-2 of Law 56).

44. Responsible Persons appointed to keep basic and BO information (see c.24.8) are obliged to keep the said information at a location in Monaco for ten years after the date of dissolution/liquidation of the respective legal entity (Article 22-1 of AML/CFT Law, Article 3-1 of Law 721, Article 5-2 of Law 797, Article 12-3(2) of Law 1.355 and Article 12-3 of Law 56.)

Directors and Liquidators

45. The President, officers, directors or liquidators of legal entities are required to maintain basic and BO information at a place in Monaco for ten years after the date of dissolution or liquidation of the legal entity (Article 21, paragraph 5, of AML/CFT Law, Article 16 of Law 721, Article 5-3(2) of Law 797, Article 12 of Law 1.355 and Article 12-2 of Law 56).

46. The President or liquidators of associations are also bound to keep the register of members for the same period of time (see Article 12-1).

47. In the case of all legal entities (other than associations) there is no time frame stipulated for how long the register of shareholders/members should be retained. Foundations do not have members.

FIs and DNFBPs

48. FIs and DNFBPs must keep, for a period of five years after terminating their relationships with regular or occasional customers (including legal entities), copies of all documents and information, regardless of the medium, obtained during the course of CDD (Article 23 of AML/CFT Law).

Registers

49. In accordance with Article 1-1 of Order No.2.853 and Article 1-1 of Order 3.573 the information entered in the RCI and RSC (see c.24.3 – c.24.5) shall be kept by the DDE for a period of ten years from the date of the dissolution or liquidation of commercial companies and civil-law partnerships.

50. The information entered in the register kept by the MoI (including basic and BO information) shall be retained for a period of ten years from the date of the dissolution or liquidation of the association or foundation (Article 9-2 of Order 10.115 and Article 4-1 of Order 10.114). The authorities explained that the provisions of Article 1-1 of Order No. 2.853 and Order 3.573 (see paragraph above) are also applicable to the RBO in respect of BO data. This since the RBO is annexed to the RCI. In support of this interpretation, the authorities also provided an official declaration of the Commission for Control of Personal Data recommending (based on a legal analysis) that BO information is to be kept for a maximum period of 10 years. While the assessment team (AT) is not contesting this interpretation it believes that a lack of legal clarity exists.

51. **Criterion 24.10** – All competent authorities have direct and immediate access to:

(i) the RCI and the RBO (holding BO information for 92% of commercial companies and civil-law partnerships) and

(ii) the register maintained by the MoI (holding basic information, and BO information for 77% of registered associations and foundations).

52. The Bar Association may access the register indirectly through the Monegasque Financial Security Authority which has direct and immediate access. (Article 22-5 of the AML/CFT Law, Article 7-1 of Law 797, Article 13-2 of Law 1.355 and Article 6-2 of Law 56).

53. Competent authorities are also able to access upon request, and within the time-limits they set, the basic and BO information, as well as the register of shareholders/members held by legal entities and the basic and BO information held by natural persons nominated to retain such information. (see Article 22-4-1 of the AML/CFT Law, Article 17(1) of Law 721, Article 5-5 of Law 797, Article 12-2 of Law 1.355 and Article 12-2 of Law 56 for access to basic and shareholder/member information). See c.24.6 and c.24.8 for more details on access to BO information.

54. Basic information may be accessed from the president, officers, directors or liquidators of legal entities and natural persons appointed to hold basic information in the same manner as BO information (see 24.8).

55. The AMSF (FIU and Supervision Function) can request any information or document in the possession of FIs, some DNFBPs and various departments of the civil service of Monaco (Articles 50 and 54 of the AML/CFT Law). In practice, the AMSF gives regulated persons five days to answer their requests. As set out under c.31.1, the GPO or under his authorisation the DSP officers, likewise have the power to request information or documents from FIs, DNFBPs as well as any other person.

56. **Criterion 24.11** – Bearer shares were prohibited by the Law of 7 June 2004 for joint-stock companies (SAMs and SCAs), with an exception for companies whose securities are admitted to trading on a regulated market. Pre-existing bearer shares had to be converted before 12 June 2009, on which date bearer shares had to be sold and converted by law. The Law of 15 December 2011 required the conversion of bearer shares of companies whose securities were admitted to trading on a regulated market within a transition period until the end of 2014 so that pre-existing bearer shares could be converted (Law 1.282 and Article 4 of Law 1.385). Shares must be registered for all companies (Article 42 of the Code of Commerce).

57. **Criterion 24.12** – In Monaco, only Joint Stock Companies (including non-trading companies) are allowed to issue shares registered in the name of nominees. There are restrictions envisaged for Joint Stock Companies, SARLs, SCSs, SNCs and civil-law partnerships with respect to having nominee directors.

Nominee shareholders

58. With regard to joint-stock companies (including non-trading companies), ownership of shares must be established through the issuing of a security registered in the company's register of transfers. For all transfers, a transfer slip must be transcribed in the register within one month. The transfer slip must mention the surnames, first names and address of the transferor(s) and transferee(s) and shall give rise to the issuing of a new personal share certificate (Article 43 of the Code of Commerce). Moreover, all companies must record in their register of members the identity of any nominator on whose behalf a shareholder acts (which must be kept updated at all times) and this on pain of nullity of the nominee shareholder's power to act on behalf of the nominator (see article 16-1 of Law 721 and Article 5-4 of Law 797).

59. With regard to companies (having capital organised in shares other than Joint Stock Companies, i.e. SARLs, SCSs and SNCs) shareholders must be authorised by decision of the Minister of State and this authorisation is personal and non-transferable (Articles 2, 4, 5 and 7 of Law No 1.144 of 26 July 1991 concerning the exercise of certain economic and legal activities (Law 1.144)). Article 15 of the same law imposes sanctions on natural persons who seek such authorisation on behalf of someone else (i.e. nominee shareholder) as well as the nominators. These provisions do not allow shares to be held on another person's behalf.

Nominee directors/managers

60. For SAMs, directors are chosen from among the shareholders, to whom the controls explained above apply. Shareholders can also nominate by mutual agreement a non-shareholding agent to represent them (managing director). See article 10 of SO of March 1895 on joint stock companies and partnerships limited by shares).

61. For other legal entities (i.e. SARLs, SCSs, SNCs and civil-law partnerships) that undertake a commercial or professional activity, partners or managers must be authorised by a decision of the Minister of State and this authorisation is personal and non-transferable (Articles 2, 4, 5 and 7 of Law 1.144).

62. In the case of associations with legal personality and foundations, all persons who, under any capacity or for whatever reason, are responsible for the administration or direction of that respective legal entity have to be declared to the Minister of State (see c.24.3 and c.24.5). There are however no mechanisms to prevent the misuse of such nominee administrators (as envisaged under c.24.12). These legal entities are however of lower materiality and risk.

63. **Criterion 24.13** –

Sanctions on Commercial Companies, EIGs and Civil law partnerships

64. Administrative fines are envisaged under Article 25 of Law No.721, Article 12 of Law 797 and Articles 22-2-1 and 22-3 of the AML/CFT Law.

65. These apply to commercial companies, EIGs, and civil-law partnerships which fail to remedy (within 30 days) breaches of their obligations to: (i) register with the RCI/RSC, (ii) obtain, retain and keep up-to-date basic, shareholder and BO information, (iii) notify the RCI/RSC with any changes in basic information within a month, (iv) to confirm the accuracy of information within the RCI every one/five years (amongst other obligations), and (v) provide BO information to the DDE upon registration and up-dated information within a month of any change. Entities may also be struck off in case breaches remain unremedied.

66. The initial administrative fine may be up to EUR 5 000 (commercial companies and EIGs) and up to EUR 3 000 or EUR 5 000 (civil-law partnerships and depending on their type). If the breach remains unremedied a second administrative fine up to the following amounts may be imposed:

- EUR 20 000 - EIGs and civil-law partnerships;
- EUR 20 000 – commercial companies with an annual turnover of less than EUR 1 million;
- EUR 50 000 – commercial companies, civil-law SAMs and civil law partnerships pursuing professional activities which have an annual turnover of between EUR 1 million – EUR 2 million; and
- EUR 100 000 – commercial companies, civil-law SAMs and civil law partnerships pursuing professional activities which have an annual turnover equal to or more than EUR 2 million, or where the annual turnover has not been determined or communicated.

67. The quantum of the fines depends also on the seriousness and repetitiveness of the breaches. The imposition of the initial and secondary administrative fines will depend on whether breaches are remedied, and this irrespective of whether the said breaches are serious, repeated or systemic. This undermines the adequacy of the sanctioning regime to deal with such types of breaches.

68. If, despite the imposition of a second administrative fine, the breach persists, the DDE may refer the matter to the President of the Court of First Instance, who may order the commercial company, EIG or civil-law partnership, if necessary subject to an additional fine, to proceed with its registration,

to make additional, corrective or annual declarations, to correct incomplete or inaccurate information, to appoint any appropriate agent to carry out formalities, or its deregistration.

69. Separately, companies and EIGs are liable to criminal sanctions (i.e. fines of between EUR 36 000 and EUR 180 000) for submitting, in bad faith, inaccurate or incomplete basic or BO information to the DDE (Article 30 of Law No. 721, Article 17 of Law No. 797 and Article 71(2) - AML/CFT Law).

Sanctions on Associations and Foundations

70. Associations and foundations are subject to administrative penalties for failure to (i) keep adequate, accurate and up-to-date basic and BO information and to notify the MoI about any changes thereto within a month (Article 31-6 of Law No. 1.355 and Article 33 of Law No. 56), and (ii) failure to keep a register of all members of the associations and update it on a weekly basis (Article 12-1 of Law No. 1355 and Article 20 of Order No. 10.115).

71. An initial administrative fine of EUR 1 500 for associations and EUR 5 000 for foundations is applicable where such entities fail to remedy breaches within 30 days. If they fail to correct the situation, they may incur a second administrative fine which, depending on their annual budget, can range from EUR 5 000 to EUR 100 000 for associations and from EUR 20 000 to EUR 100 000 for foundations. The maximum EUR 100 000 penalty may be imposed on associations and foundations having an annual budget of EUR 2 million or more or when the budget is not determined or communicated. If the breach persists, the association or federation of associations may be dissolved, and the foundation's authorisation may be revoked. (Articles 31-6 of Law No. 1.355 and Articles 33 of Law No. 56).

72. In the case of provision to the Minister of State, in bad faith, of inaccurate or incomplete basic and BO information or updates thereto, criminal sanctions identical to the ones set out for other legal entities (see above) are also envisaged for associations and foundations. (Articles 32-4 of Law No. 1.355 and Articles 40 of Law No. 56).

73. The quantum of administrative fines is effective and dissuasive. The AT is not convinced that the administrative sanctioning framework in place for all types of legal entities ensures the imposition of proportionate, dissuasive, and effective fines in the case of serious, systemic, and repeated type of breaches. This since administrative fines may only be imposed where entities fail to remediate breaches irrespective of their extent. Furthermore, the heftier fines i.e. EUR 5 000 to EUR 100 000 may only be imposed after two rounds of formal requests to remedy breaches. To some extent, this is mitigated by the criminal sanctions imposed on persons appointed to keep basic and BO information (see below). These are however not considered to be a dissuasive and effective replacement considering that the maximum fine that may be levied is EUR 9 000.

Sanctions on FIs, DNFBPs and other parties - Basic and Shareholder Information

74. Where any of the basic and BO information-related failures (set out above) are attributable to the directors, partners, shareholders, members, chairmen, foundation administrators, or to persons authorised to represent the legal entity, by virtue of their personal involvement, these shall be liable to the same administrative and criminal sanctions – Article 22-2-1, 22-3, and 71 of the AML/CFT Law, Article 25(5) of Law 721, Article 12(5) of Law 797, Article 31-6 and 32-4 of Law 1.355 and Article 33 and 40 of Law 56).

75. Criminal sanctions are applicable for various other involved parties for all types of legal entities as follows:

(i) Officers of and persons authorised to act on behalf of legal entities who do not communicate basic and shareholder information to competent authorities upon request – up to 6 months imprisonment and a fine of between EUR 36 000 and EUR 180 000.

(ii) Liquidators who fail to keep basic and BO information for 10 years after the dissolution of the entity or to provide the said information to competent authorities upon request – a criminal fine of between EUR 18 000 and EUR 90 000, or EUR 2 500 and EUR 9 000 in the case of associations and foundations.

(iii) Persons appointed to keep basic and BO information who (a) do not keep adequate, accurate and up-to-date basic and BO information for 10 years, (b) do not provide basic and BO information to competent authorities upon request and (c) who do not provide updated basic and BO entity information to the DDE for registration purposes – criminal fine of between EUR 2 500 and EUR 9 000.

76. Criminal sanctions are also envisaged for the submission in bad faith by all the above-mentioned individuals of inaccurate or incomplete registration information or updates thereto. In such an event, the persons authorised to act on behalf of the legal person, as well as the persons responsible for retaining the basic information are liable to six months imprisonment and a criminal fine of between EUR 18 000 and EUR 90 000. (Article 71(1) and (5) of the AML/CFT Law, Article 30 of Law No. 721, Article 17 of Law No. 797, Articles 32, 32-4 – 32-6 of Law 1.355, and Articles 37, 40 – 42 of Law 56).REs who fail to adhere to their AML/CFT obligations, which entail the collection and retention of basic, shareholder and BO information, in respect of legal entities they service are subject to the sanctions analysed under R.35. These sanctions are considered to be appropriate (see c.35.1(c)).

77. **Criterion 24.14** – Monegasque authorities may provide international co-operation in relation to both basic information and beneficial ownership of legal persons in Monaco:

(a) As set out under c.24.2 some basic information on commercial companies and civil-law partnerships is freely available online. Furthermore, in terms of Article 20(4) of Law 721, Article 7-1(4) of Law 797, Article 13-2(4) of Law 1.355, Article 6-2(4) of Law 56 and Article 51-1 of AML/CFT Law, competent authorities may communicate the basic information held on all types of legal entities (at the RCI/RSC or at the register maintained by the MoI) to foreign authorities. Any requests for information exchange shall be responded to quickly.

(b) Article 17(2) of Law 751, Article 5-5(2) of Law 797, Article 12-2(4) of Law 1.355, Article 12-4(4) of Law 56, and Article 51-1 of AML/CFT Law enable competent authorities to exchange with foreign counterparts shareholder/member/partner information that is accessible upon request. Any requests for information exchange shall be responded to quickly.

(c) BO information on associations and foundations held in the register maintained by the MoI may be accessed and exchanged with foreign counterparts (see Article 13-2(4) of Law 1.355 and Article 6-2(4) of Law 56). There are no similar provisions to enable the exchange of BO information held in the RBO for commercial entities, civil-law partnerships and EIGs. Nonetheless, the AMSF (FIU – Function) and Supervisory Authorities (i.e. AMSF – Supervisory Function and Bar Association) are empowered to co-operate with foreign counterparts including by obtaining and exchanging information for the purposes of combating ML/TF, proliferation of weapons of mass destruction and corruption, and hence would cover the obtainment and exchange of BO information (see Article 51-1 and 59-1 of the AML/CFT Law, and c.40.13). Moreover, judicial authorities and the DSP may obtain, on behalf of certain foreign counterparts, BO information and send it to the requesting authorities (see R.37 and c.40.17 and c.40.18).

78. The AMSF (FIU Function), the DSP, and judicial authorities are bound to respond quickly to any requests for BO information by foreign counterparts (see Articles 51-1(6) and 59-3 of AML/CFT Law, and c.37.1 in case of judicial authorities). There are no legal requirements for the supervisory authorities to exchange BO information in a rapid manner.

79. **Criterion 24.15** – The Monegasque authorities control the quality of the assistance they receive from other countries concerning basic or on BO information. The assessment of the quality of the return is made by the requesting magistrate himself or by AMSF, which would request additional information if the return from the foreign authorities is not satisfactory.

Weighting and conclusion

80. Monaco is compliant with the majority of the criteria under this recommendation and largely compliant with three criteria (i.e. c.24.9, c.24.12 and c.24.14). It is only partially compliant with one criterion (i.e. c.24.13) and this due to the fact that the sanctioning framework in place for all types of legal entities does not ensure the imposition of proportionate, dissuasive, and effective fines in the case of certain serious, systemic, and repeated type of breaches (c.24.13). The remaining shortcomings identified in respect of c.24.9, c.24.12 and c.24.14 are minor in nature. These include (i) the absence a time frame for how long the register of shareholders/members should be retained in the case of all legal entities (other than foundations and associations) (c.24.9), (ii) the fact that the retention period of BO data in the RBO is not clearly established (c.24.9), and (iii) the absence of mechanisms (as envisaged under c.24.12) for administrators of associations and foundations, which are however of lower materiality and risk. Moreover, there are no provisions binding the supervisory authorities to exchange BO information in a rapid manner (c.24.14). **The Principality of Monaco is re-rated LC with R.24.**

Recommendation 25 – Transparency and beneficial ownership of legal arrangements

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. Monaco was rated PC with R.25 in the 5th round MER. This rating was mainly underpinned by the absence of a legal provision to ensure timely access by competent authorities to information held by trustees and other parties and hence to provide international co-operation, and the lack of an explicit obligation for trustees to hold information on other regulated agents or trust service providers. Furthermore, the sanctions applicable to trustees were not considered proportionate or dissuasive.

2. **Criterion 25.1** – Trusts subject to the law of Monaco cannot be created in Monaco. The country has ratified the Hague Convention on the Law Applicable to Trusts and on their Recognition. In addition, the law of Monaco allows foreign-law trusts to be created in or transferred to Monaco and also allows the use of foreign-law trusts to deal with people's property, *inter vivos* or after their death (Articles 1, 2 and 4 of Law 214). Trustees that are not established or domiciled in Monaco must appoint a local representative. All trusts created in or transferred to Monaco must have a trustee or a local representative that features on a special list drawn up by the Court of Appeal (see Article 3), which are REs in terms of Article 1(5) of the AML/CFT Law.

3. Law 214 sets out the following obligations in relation to trustees:

(a) The trustee or local representative (of a trust created or transferred to Monaco) must obtain and hold adequate, accurate and up-to-date information on the identity of the settlor(s), the trustee(s), the protector(s) (if any), the beneficiaries or class of beneficiaries, or, where the beneficiary/beneficiaries have not yet been designated, the group of persons in whose main interest the trust was settled or became effective, and any natural person exercising effective control over the trust. (Article 6-1, paragraph 1, of Law 214 and Article 2 of SO No. 8.635). A trustee who administers a trust created in or transferred to Monaco must provide this information to the Business Development Agency (DEE) so that it can be entered and kept in the Register of Trusts (RdT) as provided by sovereign order (Article 11 of Law 214 and Article 2 of SO No. 8.635). This registration obligation is also applicable to trustees (and persons holding similar functions in other types of legal arrangements) that are established outside of the EU, when they acquire real estate or establish a business relationship in Monaco.

(b) The trustee, and local representative (of a trust created or transferred to Monaco), shall obtain, keep and update basic information relating to REs (or equivalent thereof in foreign jurisdictions) which provide services or advice to a trust created in or transferred to Monaco (Article 6-1-1 of Law 214).

(c) Professional trustees and legal advisors are subject to the AML/CFT Law (Article 1, points 5, 6, 13, and Article 2 of AML/CFT Law and Article 3 of Law 214) when conducting the activities set out under c.22.1. They must maintain information obtained during the course of CDD measures, including information used to identify and verify their customers, for five years after their relationships with their customers end (Article 23 of AML/CFT Law). These CDD obligations are hence also applicable to trustees and local representatives of trusts created or transferred to Monaco (that feature on the Court of Appeal's list), and in addition to their BO information obligations emanating from Law 214 (see paragraph (a)).

4. **Criterion 25.2** – Basic information and beneficial ownership information obtained and held by a trustee (or a local representative) must be adequate, accurate and up-to-date (see c.25.1). Within

one month from the creation of the trust or its transfer to Monaco, the trust must be registered with the DDE. The registration application shall include the information on the trust parties set out under c.25.1(a) as well as information on the trust's ownership and control structure. The application is to be accompanied by supporting documentation which proves the accuracy of the supplied information (Article 2-2 and 2-3 of Order 8.635). Within a month following any changes in information, trustees and local representatives must notify the DDE (Article 13-2 of Law 214).

5. DDE officers are responsible for keeping the RdT and must ensure that all registration applications are accompanied by the required information and documentation, and check that the information to be entered in the RdT complies with the supporting documents provided by the trustee in the application for registration (Article 13 of Law 214).

6. Monaco has also in place a mechanism of discrepancy reporting to further ensure that information held in the RdT is accurate and up-to-date. In accordance with article 13-1 of Law 214 REs and competent authorities must report cases of lack of registration of trust information within the RdT and cases of discrepancies between information they hold and information featuring in the RdT. In cases of noted inaccuracies or missing information the respective trustee shall be asked to remedy the situation.

7. The DDE is responsible for supervising and ensuring that trustees and local representatives abide by the above-mentioned record-keeping and registration obligations (Article 13-1-1 of Law 214). Administrative and criminal sanctions are also envisaged for breaches of the said obligations (see 25.7).

8. Professional trustees and legal advisors, being REs are subject to customer identification and verification requirements and obliged to ensure that CDD documentation is kept up-to-date and relevant (see c.22.1, c.10.3, c.10.5 and c.10.7(b)). These obligations also apply to trustees and local representatives of trusts created in or transferred to Monaco (see c.25.1).

9. **Criterion 25.3** – Trustees, persons holding an equivalent position in legal arrangements similar to trusts, and local representatives must disclose their status when forming a business relationship or carrying out an occasional transaction in an amount equal to or greater than EUR 15 000 (Article 6-2 of Law 214).

10. **Criterion 25.4** – There is no legal provision or other enforceable means preventing trustees from providing competent authorities with any information relating to the trust or from providing FIs and DNFBPs, upon request, with information about beneficial ownership and trust assets held or managed in the context of the business relationship.

11. Also, as indicated in c.25.1 (a), trustees must submit to the DDE information on trust parties for inclusion in the RdT.

12. The RdT is directly and immediately accessible to competent authorities, and indirectly accessible to the Bar Association (see Article 13-3 of Law 214). Moreover, trustees and local representatives are bound to provide or make accessible all information they hold on the trust or similar legal arrangements. This includes the BO and other information envisaged under c.25.1, as well as information on assets of the trust held or managed by REs (see Article 6-3). The information has to be made available to competent authorities within the time they stipulate.

13. In addition, as indicated in c.25.1 (c), professional trustees are REs subject to AML/CFT obligations and the AMSF (FIU and Supervision Function) can obtain any information or documents in the possession of REs (Articles 50(1) and 54 of AML/CFT Law).

14. **Criterion 25.5** –

Access to information held by trustees and local representatives

15. As set out under c.25.4 trustees and local representatives must provide to competent authorities (including LEAs) all information they hold on the trust or similar legal arrangement, within the time that the competent authority stipulates. This would include all the information on the trust (or similar legal arrangements) and trust parties as envisaged under this criterion.

Access to information held by FIs and DNFBPs

16. The AMSF (FIU and Supervision Function) can obtain timely access to information held by trustees and by FIs and some DNFBPs on (a) beneficial ownership, (b) the residence of the trustee, and (c) any assets held or managed by an FI or DNFBP in relation to any trustee with whom they have a business relationship, or for whom they undertake an occasional transaction on the basis of the control powers conferred upon the AMSF by the AML/CFT Law (Article 50 and 54). The GPO or under his authorisation the DSP officers, likewise have the power to request information or documents from FIs, DNFBPs as well as any other person, within the deadline they specify (see c.31.1, Article 81-1-6 of the CCP and Article 208-3 of the CC). The department for the management of seized and confiscated assets is also empowered to obtain any useful information from any natural or legal person. There is however no provision to ensure that the sourcing of information from FIs/DNFBPs (other than trustees) is timely.

17. Administrative and criminal sanctions are envisaged for failure by trustees, local representatives, FIs and DNFBPs to make available requested trust information (see c.25.8).

Access to the RdT

18. The RdT is immediately and directly accessible to competent authorities (including LEAs), while it is indirectly accessible to the Bar Association (see c.25.4). The RdT contains information concerning (a) beneficial ownership, and (b) the residence of the trustee. The RdT also contains information on the nature and extent of the beneficial interests held by the beneficial owner(s) (real property, personal property, shares, liquid assets) and on any interests held by the trust in a company or other legal entity (see Article 11 of Law 214 and Article 2, 2-3 of Order 8.635).

19. **Criterion 25.6** – Monaco can rapidly provide international co-operation in relation to information concerning foreign trusts (whether created or transferred in Monaco, or merely doing business in Monaco), including information on beneficial ownership.

(a) Information on trusts contained in the RdT (see c.25.5) may be communicated by competent authorities to their foreign counterparts (see Article 13-3(5) of Law 214 and Article 51-1 of AML/CFT Law). Any requests for information exchange shall be responded to quickly.

(b) The AMSF (FIU Function) and Supervisory Authorities (i.e. AMSF – Supervisory Function and Bar Association) may also provide nationally accessible information from trustees, local representatives, FIs and DNFBPs to foreign FIUs and authorities exercising similar powers. Exchange of information is subject to reciprocity, provided that: (i) the request relates to AML/CFT, (ii) the request states the relevant facts, their context, the reasons and the use that will be made of the requested information, (iii) that provision is not detrimental to Monaco's fundamental interests, (iv) that the foreign FIUs are subject to equivalent obligations of professional secrecy, and (v) that they offer an adequate level of protection in relation to the processing of the information provided (Article 51-1 of and 59-1 of the AML/CFT Law).

The AMSF (FIU Function) must also give its prior consent to foreign FIUs in order for them to pass on information communicated to other competent authorities in their country and are

bound to exchange information quickly (see Article 51-1(4) and (6). The Supervisory Authorities are bound to exchange trust information obtained from trustees and local representatives quickly. This however does not extend to trust information obtained from other sources in particular other FIs and DNFBPs.

(c) The judicial authorities and the DSP can obtain, for some foreign counterparts, information about trusts and their beneficial ownership and send it to requesting authorities (see R.37, c.40.17 and c.40.18). Judicial authorities and the DSP are required to rapidly provide mutual legal assistance (see c.37.1, and in the case of the DSP Article 6-3(2) of Law 214, and Article 59-3 of the AML Law).

20. **Criterion 25.7** – Trustees, and local representatives of trusts created or transferred to Monaco are subject to administrative penalties where they fail to: (i) obtain, hold and keep updated the basic and BO information (envisaged under c.25.1) on the trusts they administer, (ii) register information on the administered trust, and (iii) to notify the DDE within a month about any changes to registered trust information.

21. Administrative fines are set out under article 13-1-5 of Law 412. These may be applied where trustees, and local representatives fail to remedy (within 30 days after formal notification) identified breaches. Administrative fines consist of (i) an initial administrative fine of up to EUR 10 000; and (ii) if the breach remains unremedied (after a further 30-day period), a second-stage administrative fine of up to EUR 200 000. Article 13-1-5(5) stipulates that the value of fines imposed depends on their severity and recurrence.

22. If, following the imposition of two administrative fines the breach remains unremedied the trustee, or local representative may be prosecuted for the offence envisaged under Article 16 of Law 214. In terms of this article imprisonment of up to 1 year and a fine of between EUR 18 000 and EUR 90 000 (which may increase by five-fold) is foreseen for local representatives. Trustees and other legal persons would be liable to criminal fines of up to five times the amount applicable for local representatives.

23. While the combined administrative and criminal sanctions are proportionate, effective and dissuasive in nature, the sanctioning framework applicable under Law 214 (and applicable to trustees and local representatives of trusts created or transferred to Monaco) is not considered conducive to the imposition of dissuasive and effective fines in the case of certain serious, systemic, and repeated type of breaches. This since all administrative and criminal fines may only be imposed where entities fail to remediate breaches irrespective of their extent. It is further concerning to note that the heftier fines i.e. EUR 10 000 to EUR 200 000 and criminal sanctions may only be imposed after two and three rounds of formal requests to remedy breaches.

24. Administrative fines (as envisaged under R.35(c)) are applicable for infringements of CDD obligations which would also cover the obligation to obtain, hold and keep updated BO information for administered trusts. These administrative fines (considered to be appropriate – see c.35.1(c) analysis) apply to all REs, including trustees and local representatives of trusts created or transferred to Monaco (see c.25.1(a)). The AT however notes that there is legal uncertainty as to which administrative sanctioning regime would apply (i.e. whether the one under Law 214 is deemed to have major shortcomings, or the one under the AML/CFT Law is deemed to be appropriate). The AT thus cannot conclude that trusts and local representatives of trusts created or transferred to Monaco are covered by an effective sanctioning regime for the reasons explained in the previous paragraph.

25. Criminal sanctions are also envisaged under Article 14 of Law 214 for failures by trustees, and local representatives, to disclose their status to REs (see. c.25.3). Moreover, if inaccurate or incomplete information is provided to the DDE in bad faith, co-trustees and local representatives are liable to six months' imprisonment and a fine of between EUR 18 000 and EUR 90 000, which may be increased by

threefold. Where such a breach is committed by trustees and legal persons the fine may be increased by fivefold. (Article 15 of Law 214 and Article 26, sections 3 and 4 of the CC). These sanctions are considered proportionate and dissuasive.

26. **Criterion 25.8** – Criminal sanctions are foreseen under article 19 of Law 214 for trustees and local representatives for failing to provide competent authorities with trust information as required under article 6-3 (see c.25.4). In terms of this article imprisonment of up to 6 months and a fine of between EUR 18 000 and EUR 90 000 (which may be doubled) is foreseen for co-trustees and local representatives that are natural persons. Trustees and other legal persons would be liable to criminal fines of up to five times higher. These sanctions are considered proportionate and dissuasive.

27. Furthermore, failure to provide the GPO or under his authorisation the DSP officers, with any requested information or documents within the requested deadline is subject to a criminal offence in terms of Article 208-3 of the CC, and punishable by up to six months imprisonment and a fine of up to EUR 90 000 for natural persons and EUR 900 000 for legal persons.

28. FIs and DNFBPs are subject to the sanctions explained under R.35 for failure to conduct CDD and record-keeping and to provide the AMSF (FIU and Supervisory Function) with any requested information (see Article 65 of the AML/CFT Law). These sanctions are considered to be appropriate (see c.35.1(c)).

Weighting and conclusion

29. All criteria under this recommendation are met or mostly met with the exception of c.25.7. This since the sanctioning framework under Law 214 does not ensure the imposition of dissuasive and effective fines in the case of serious, systemic, and repeated breaches by trustees of their obligations to obtain and keep updated information on trusts created or transferred to Monaco, to register information on such administered trusts and to notify the DDE within a month about any changes in trust information. Other minor deficiencies remain which impact some of the other criteria, including: (i) there are no provisions to ensure that the sourcing of information from FIs/DNFBPs (other than trustees) by the department for the management of seized and confiscated assets is timely (c.25.5), and (ii) supervisory authorities are not required to provide trust information (obtained through FIs and DNFBPs, other than trustees) to foreign counterparts in a rapid manner (c.25.6). **The Principality of Monaco is re-rated LC with R.25.**

Recommendation 26 – Regulation and supervision of financial institutions

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In its 5th round MER, Monaco was rated PC for R.26. It was pointed out that there were moderate deficiencies in relation to: (i) measures to prevent criminals or their associates from holding or becoming the beneficial owners of a significant or controlling interest in a financial institution or from holding a managerial position in one; (ii) in relation to risk-based supervision, particularly the elements on which the frequency and extent of documentary checking and on-site inspections are based. In view of these moderate deficiencies, and (iii) the regulation and supervision of the Core Principles institutions which were not demonstrated to be in line with Core Principles, where relevant for AML/CFT, including the application of risk-based consolidated group supervision for AML/CFT purposes.

2. **Criterion 26.1** – AMSF (Monegasque Financial Security Authority) is responsible for supervising AML/CFT in relation to credit institutions, finance companies, payment and e-money institutions, non-bank financial institutions (such as security portfolio managers, mutual funds or other pooled investment vehicles), multi-family offices, insurance companies, insurance intermediaries, agents and brokers in relation to life or investment-related insurance, currency exchange service providers, money transfer service providers and pawnbrokers and their agents (Article 1, points 1 to 4, 8, 9, 18 and 19 and Article 53-1 of AML/CFT Law).

3. **Criterion 26.2** – All Core Principles FIs (credit institutions, payment institutions and e-money institutions) must be authorised by the Prudential Supervisory and Resolution Authority of France (ACPR), which draws up and updates the relevant lists (Articles L511-10, L522-6 and L522-7 of the Monetary and Financial Code of France). This arrangement, which was made in the exchange of letters between France and Monaco on 20 October 2010, was made compulsory by way of SO No. 3.021. It meets the requirements of the criterion concerning these types of FIs. In addition, in view of the prudential requirements to be met by these institutions so that they can gain approval from the ACPR, choosing the legal form of a *société anonyme monégasque* or SAM is necessary so additional authorisation is needed from the government, which is granted by order of the Minister of State for the creation of the SAM (Articles 1 and 2 of the Order of 5 March 1895).

4. Money transfer services are services which can only be provided by credit institutions, payment institutions and e-money institutions (Article L314-1 of the Monetary and Financial Code of France) which can also be provided by a branch of a payment institution approved in France by the ACPR after permission has been given by the Minister of State (Articles 5 to 8 of Law 1.144).

5. Non-bank financial companies, including credit institutions undertaking the activities of these companies, mutual funds and investment funds, and where necessary, multi-family offices need approval from the Financial Activities Supervisory Commission (CCAF) (Article 2 of Law 1.338 and Articles 2 and 34 of Law 1.339).

6. There are no Monegasque insurance companies. Insurance companies based in France or insurance companies in the EU which are authorised to operate in France can extend their activities to Monaco. They must obtain approval from the Minister of State (Franco-Monegasque Convention on the Regulation of Insurance, signed in Paris on 18 May 1963, made enforceable by SO No. 3.041 and Articles 3 and 4 of SO No. 4.178).

7. An administrative authorisation system for the pursuit of craft, commercial, industrial and professional activities, except activities and professions to which access is already subject to other authorisation, requires professionals acting in a personal capacity, partners in a civil-law partnership, partners in an SNC or SCS and members and managers of an SARL to obtain administrative authorisation from the Minister of State so that they can pursue financial sector activities (hereinafter "general authorisation system"). The opening or running of an agency, branch, administrative or

representative office of an undertaking or company headquartered abroad is also subject to the general authorisation system (Articles 1, 4, 5, 7 and 8 of Law 1.144). With regard to activities undertaken by joint-stock companies, their incorporation is subject to authorisation from the government given by order of the Minister of State (Articles 1, 2 and 24 of the Order of 5 March 1895). Finance companies, currency exchange service providers, pawnbrokers and their agents and insurance agents and brokers are therefore required to obtain authorisation under these systems.

8. The laws of Monaco combined with the Franco-Monegasque banking conventions do not allow shell banks to be established or operate.

9. **Criterion 26.3** – Monaco takes legislative or regulatory measures to prevent criminals or their associates from holding or becoming the beneficial owners of a significant or controlling interest, or holding a management function, in a financial institution. They are taken for all regulated professionals in the general authorisation system or when considering an application to incorporate a joint-stock company. Additional measures taken by the ACPR apply to credit institutions, payment institutions and e-money institutions, and additional measures taken by the CCAF apply to non-bank financial companies when requests for approvals for these types of FIs which will operate in the form of a joint-stock company (SAM) are considered. Measures taken by the ACPR and the CCAF will apply to FIs pursuing activities regulated by both supervisors.

10. Additional fit and proper checks by the AMSF have been introduced for all FIs to ensure the control of good repute of the FIs' effective directors, partners, shareholders and beneficial owners. AMSF has developed a new Licencing policy for this purpose. All authorising authorities shall submit to AMSF the relevant information and documents for the purposes of controlling the conditions of good repute. The checks extend to all managers (effective directors), including the non-residents with no work permit. The fit and proper controls shall be carried out both at the licensing stage and on an on-going basis (Articles 53-2 and 53-3 of AML/CFT Law).

11. In this respect, DDE must provide the AMSF with the information and documents related to the BO of an FI when the information is entered and updated in the BO register, as well as the information and documents relating to changes in shareholders, partners and effective director, at the time of entries and applications for amendments in the Trade and Industry Register or the Special Register of Companies (Articles 53-5 and 53-6 of AML/CFT Law). The BO definition which was considered to be restrictive by the 5th round MER has been amended and is in line with the FATF standards (Article 21 of AML/CFT Law). It appears that AMSF's opinion on the additional fit and proper checks is mandatory in relation to the appointment or reappointment of the effective directors of FIs, as well as to approval of their shareholders, partners and beneficial owners, subject to sanctions under article 65-8 of AML/CFT Law (Article 53-7 of AML/CFT Law). Concerning banks, in the event of a disagreement between the ACPR and AMSF's opinions on any issue, including the fit and proper checks, it is to be resolved by mutual agreement (Article 5 of the bilateral Agreement on banking supervision,[31] Decree no. 2010-1599 of 20.12.2010).

12. **Criterion 26.4** –

(a) Core Principles FIs are supervised by AMSF and CCAF (Article 54 of AML/CFT Law). The last assessments of Basel, and International Organization of Securities Commissions Objectives (IOSCO) Principles were conducted by the International Monetary Fund (IMF) in 2003, with follow-up assessments of Basel and IOSCO Principles in 2008.[32] There have been no more recent external assessments, self-assessments or updated reviews for the Basel or IOSCO Principles. In relation to the International Association of Insurance Supervisors (IAIS) Principles, no assessment was conducted by the IMF as there are no Monegasque insurance companies (see c.26.2).

31. Source available at https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000023269058.

32. Assessment of the Supervision and Regulation of the Financial Sector, IMF, 2003, Monaco: Assessment of Financial Sector Supervision and Regulation, IMF, 2008 and Technical Note on IOSCO Objectives and Principles of Securities Regulation, IMF, 2008.

Concerning the Basel Principles on banking supervision, the Monegasque banking system is subject to French banking law and supervision by the ACPR[33] and France's compliance with the Core Principles for Effective Banking Supervision is broadly applicable to the supervision of the Monegasque banking system.[34] France was assessed to be consistent or broadly consistent with the Core Principles (see the analysis under c.26.3 of the MER on France of 2022). Although there are no recent reviews on the two Basel Core Principles (BCP) which were assessed by the IMF in 2003, due to the specific responsibility of the Monegasque authorities for AML/CFT, the 2003 report concluded that Monaco was LC with BCP 1.6 and BCP 15.

The 2008 follow-up review by the IMF in respect of the IOSCO principles assessed that, overall, Monaco has made progress in implementing the 2003 assessment recommendations in most areas of securities regulation. However, it was concluded that more efforts were needed to comply with international standards on key topics such as information sharing, confidentiality, insider dealing and market manipulation offences, obligation to report reasonable suspicions of such offences, conflict of interest policies, CCAF independence, etc. There has been no more recent review of the implementation of the IMF's twelve high and medium priority recommendations of 2008. Notwithstanding, following the IMF's recommendation, in October 2022, CCAF became an Ordinary Member of the IOSCO.

(b) Other FIs, including those providing money or value transfer services or exchange services, are subject to the professional obligations set out in the AML/CFT Law and ML/TF risk-based supervision by AMSF (Articles 54 and 58-1 of AML/CFT Law).

13. **Criterion 26.5** – The AML/CFT Law provides that AMSF must take a risk-based AML/CFT supervision approach concerning all FIs (Article 56-1 of AML/CFT Law). The system requires that the AMSF, through its department performing the supervision function, shall determine the frequency, intensity and scope of the controls on the basis of:

(a) ML/TF risk profile of the entity, including the adequacy and implementation of internal policies, controls and procedures (Article 54-1, 56-1 paragraph 3 of AML/CFT Law).

(b) The ML/TF/PF risks assessment carried out by the AMSF (Article 56-1, point 1) of AML/CFT Law).

(c) The characteristics, diversity and number of FIs, as well as the degree of discretion granted to them (Article 56-1 paragraph 1 of AML/CFT Law).

14. The Inspection Procedures Manual details the risk-based approach to supervision. The supervisory engagement plans, adopted on an annual basis, are established on the grounds of institutional risk assessment exercise carried out based on the data collected annually from all FIs through sector specific questionnaires on the entities' inherent and residual ML/TF risks[35] (point 3.1 of the Inspection Procedures Manual). Although the RBA model described by the inspection manual does not expressly require the results of the NRA and sector risk analysis to be considered when planning the supervisory activities, except when referring to thematic inspections, the Monegasque authorities explained that the notion of risk assessment carried out by the AMSF (as referred to in article 56-1, point 1 of AML/CFT Law) is understood in a broad manner, encompassing institutional, sectoral and national risks. Moreover, the inspections are viewed as a supervisory tool assisting AMSF with an ongoing enhanced and up-to-date understanding of the institutional and sectoral ML/TF risks (point 2.8 of the Inspection Procedures Manual).

15. **Criterion 26.6** – AMSF reviews the assessment of the risk profile of these FIs or financial groups, including the risk of non-compliance, periodically and when there are major events or developments

33. Source available at https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000023269058.
34. Assessment of the Supervision and Regulation of the Financial Sector, IMF, 2003, see point 2, page 7 of the report.
35. Available at https://amsf.mc/en/supervision/amsf-strix-questionnaire.

in the management and operations of the groups and institutions (Article 54-1, paragraph 2 and 56-1, paragraph 2 of AML/CFT Law).

Weighting and conclusion

16. Supervisors have adequate powers. However, a minor deficiency remains: It has not been fully demonstrated that Core Principles FIs are subject to regulation and supervision in line with Core Principles, in particular with the IOSCO Principles (c.26.4). **The Principality of Monaco is re-rated LC with R.26**.

Recommendation 27 – Powers of supervisors

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In the 2022 MER, Monaco was rated PC on R.27. The assessment identified significant deficiencies in relation to the lack of powers of the FI supervisory authority to impose sanctions for failure to comply with AML/CFT requirements and concerning the sanctioning process which did not allow to sanction one-off breaches during documentary checks or simple breaches of requirements. A minor deficiency was noted regarding the obligation of the SICCFIN to inform certain regulated professionals in advance of a forthcoming on-site inspection.

2. **Criterion 27.1** – AMSF (formerly SICCFIN) is empowered to monitor FIs' compliance with their AML/CFT obligations (AML/CFT Law, Article 54 (1)). The agents of the department performing the AMSF's supervision function are specially commissioned and sworn to this end.

3. **Criterion 27.2** – AMSF has the power to carry out documentary checks and on-site inspections without professional secrecy being a valid ground for objecting to them (AML/CFT Law, Article 54 (2)). Since March 2023, due to a new inspection process implemented by AMSF, the FIs are no longer informed several weeks before an on-site inspection, and the previous practice has been formally abolished by the AMSF and Monaco Association for Financial Activities. Two weeks' notice would be the general rule for submitting the *engagement letter* before an inspection. AMSF can also carry out unannounced inspections (Inspection Procedures Manual, point 4.3.2).

4. **Criterion 27.3** – AMSF can compel the production of any documents, on any medium, which it deems relevant to its task and can make copies of them by any means without needing a prior court decision (Article 54, paragraph 2, point 4, of AML/CFT Law). Criminal sanctions can be imposed for obstruction or attempted obstruction of checks (AML/CFT Law, Article 70).

5. **Criterion 27.4** – AMSF has the power to impose administrative sanctions on FIs for AML/CFT breaches (AML/CFT Law, Article 65). A range of administrative sanctions can be imposed by the AMSF on the FIs, their managers, employees, agents or persons acting on behalf of the FIs (AML/CFT Law, Articles 65 and 65-8) (see R.35). The new powers extend to all types of sanctions, including withdrawal, restriction or suspension of the licence or authorisation of FIs. AMSF's decisions of withdrawal, restriction or suspension of a licence or authorisation are to be enforced by the Minister of State. When such decisions concern the entities authorised by the CCAF or ACPR, AMSF must immediately inform these authorities in order to withdraw the issued authorisation (AML/CFT Law, Article 65-8 (1) 9), (2) and (3)).

6. In relation to one-off breaches identified during documentary checks, including breaches listed under Article 64-7 of AML/CFT Law such as failure to send to AMSF the risk assessment, failure to terminate a correspondent relationship at the request of AMSF, failure to designate an agent, etc., the powers of AMSF are limited to sanctions applied for enforcing the imposed rectifying measures. In the event of such breaches, AMSF must, as a first step, give a formal notice to the concerned FI to rectify the situation. Only when the situation is not remedied within a period from eight days up to one month, AMSF may impose administrative sanctions of up to EUR 5 000, which can be doubled if the breach is repeated (AML/CFT Law, Article 64-8). This limits the dissuasiveness of the sanctions that can be imposed for this type of breach (see R.35, c.35.1).

Weighting and conclusion

7. Supervisors have powers to supervise with minor limitation of AMSF's powers to impose sanctions concerning breaches identified during documentary checks only in case of failure by the FI to implement the rectifying measures, which limits the dissuasiveness of the sanctions (c.27.4). **The Principality of Monaco is re-rated LC with R.27.**

Recommendation 28 – Regulation and supervision of DNFBPs

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In 2022 MER, Monaco was rated PC on R.28. Following deficiencies were identified: (i) there was a deficiency in the legal provision concerning the regulation of TCSPs in Monaco in that the definition of TCSPs was narrower than the FATF's definition because it excluded persons and undertakings that provide third parties, outside of these situations, with a registered office, a business address or premises or an administrative or postal address to a legal person or legal arrangement, i.e. business centres where companies only provide business address services (c.28.2 and c,28.3); (ii) there were deficiencies in relation to measures to prevent criminals or their associates from holding or becoming the beneficial owners of a significant or controlling interest in a DNFBP or from holding a managerial position in one (c.28.4); (iii) The Minister of State was not required to implement sanction proposals made by the Audit Review Commission (CERC) and could ultimately decide not to impose a sanction at all (c.28.4); (iv) it was impossible to sanction DNFBPs in an isolated manner for simple breaches or breaches identified during documentary checks (c.28.4); (v) the supervisory powers available to the Chairperson of the Monaco Bar Association were limited and those available to the GPO were not defined; (vi) the law did not make provision for the implementation of a risk-based supervision approach by the Chairperson of the Monaco Bar Association (c.28.5); and (vii) there was no obligation for SICCFIN and the GPO to take account of the degree of discretion allowed to DNFBPs under the risk-based approach when assessing the relevance of their policies, controls and procedures (c.28.5).

2. **Criterion 28.1** –

Casinos

3. Casinos are subject to AML/CFT regulations and checks in Monaco.

(a) Casinos must obtain prior authorisation from the government (CC, Article 350; Law 1.103, Article 1).

(b) A monopoly over gambling has been granted since 1863 by the Government of Monaco to *Société des Bains de Mer et du Cercle des Etrangers* (SBM), which was operating two casinos on the date of the on-site visit. The SBM currently has this monopoly until 31 March 2027 and approval for any other entity cannot be sought. SBM is a SAM which is listed on the Paris Stock Exchange (Euronext Paris). Its main shareholder is the Government of Monaco, which holds a stake of more than 64%. Three significant shareholders each hold a stake of approximately 5%. The remainder of the shares (free float) and the liquidity of the securities do not allow an outsider to acquire a significant proportion of the capital or control of SBM. The directors and employees, including managers, of the company that is authorised to establish or run a gambling establishment must have administrative approval delivered by the Ministry of State. Checks on professional integrity are carried out by the DSP when it considers requests for approval in order to prevent criminals from accessing these roles (Law 1.103, Articles 4 and 6; Law 1.430/2016, Article 3 and Ministerial Order 2016-622, Article 1). Control measures are in place to ensure that they are in good standing at all times, although no periodicity is established for the checks, nor any event that would lead to new checks (AML/CFT Law, Article 53.2). The DDE sends to the AMSF information on BO whenever there is an update in the register of BO ("*Registre des bénéficiaires effectifs – sociétés et GIE*") (AML/CFT Law, Article 53.5). AMSF can also carry out measures to monitor changes in shareholders, associates, effective managers and beneficial owners through

different means, for example, supervisory actions such as annual questionnaires or onsite inspections.

(c) Casinos are subject to monitoring by AMSF of their compliance with their professional AML/CFT obligations (AML/CFT Law, Article 1, Section 7, Article 54-1).

DNFBPs other than casinos

4. **Criteria 28.2 and 28.3** – DNFBPs are subject to monitoring of their compliance with their professional AML/CFT obligations. Notaries and bailiffs are monitored by the AMSF (AML/CFT Law, Article 2, points 1 and 2, and Article 53-1). Lawyers are monitored by the Monaco Bar Association ("*Conseil de l'Ordre*") (AML/CFT Law, Article 2, point 3, and Article 56-3). Other DNFBPs are monitored by AMSF (AML/CFT Law, Article 54), i.e. estate agents (AML/CFT Law, Article 1, point 10), dealers in precious stones and metals (AML/CFT Law, Article 1, point 15), legal advisers (AML/CFT Law, Article 1, point 13), tax advisers (AML/CFT Law, Article 1, point 12), multi-family offices (AML/CFT Law, Article 1, point 19,), accountants and chartered accountants (AML/CFT Law, Article 1, point 20) and trustees, and TCSPs(AML/CFT Law, Article 1, points 5 and 6).

5. **Criterion 28.4** –

(a) AMSF has a wide range of supervisory powers to perform its functions, including powers to monitor compliance (AML/CFT Law, Article 54). The powers available to the Monaco Bar Association include powers to verify compliance by lawyers (AML/CFT Law, Article 57).

(b) The authorities of Monaco take measures to prevent criminals or their associates from obtaining the status of approved professionals and from holding a significant or controlling interest, becoming beneficial owners of such an interest or holding a managerial post in a DNFBP. They consist of checking the professional integrity of any person responsible for effective management, any shareholder, any associate and any beneficial owner of any DNFBP (except for lawyers, notaries, and bailiffs, see below), upon authorisation or declaration (AML/CFT Law Article 53, 53-2 and 53-3).

Regarding beneficial owners, the DDE sends to the AMSF the information and documents both at the moment of inscription in the corresponding register and when there is an update (AML/CFT Law, Article 53-5). Regarding persons responsible for effective management, shareholders, and associates, the DDE also sends information and documents to the AMSF when there is a change (AML/CFT Law, Article 53-6).

AMSF may object to the appointment or reappointment of the effective directors. It may also order DNFBPs, except lawyers, notaries and bailiffs, to take the necessary measures to ensure that their shareholders, partners and beneficial owners are of sufficiently good repute. Failure to comply with the injunctions is subject to administrative sanctions (AML/CFT Law, Article 53-7).

During this *fit & proper* check, AMSF shall co-operate and exchange information with the competent authorities, both national and international (AML/CFT Law, Article 53-7).

<u>Lawyers, notaries and bailiffs</u>

Lawyers are appointed by order of the DSJ. To be able to practise as lawyers, they must have civic rights and be of good character (Law 1.047 of 28/07/1982 on the practice of the professions of defending lawyer (*avocat défenseur*) and lawyer), Articles 1 and 6). Notaries are appointed for life by the Prince. In order to be appointed, notaries must have civic rights and submit a certificate of good character and capacity (Order of 03/04/1886, Articles 2, 49 and 50). Bailiffs are appointed by sovereign order on the basis of a DSJ report (Law 1.398/2013, Article 72). While there are no provisions concerning checks on good character when a person becomes a

bailiff, administrative investigations can be carried out by the DSP in relation to the persons concerned in order to check that they provide appropriate guarantees before the various authorisations referred to under c.28.4 b) are issued (Law 1.430/2016, Article 3 and Ministerial Order 2016-622, Article 1). Lastly, checks identical to those mentioned in the first indent of c.28.4 b) apply to companies established for the purposes of undertaking law firm activities.

There are control measures in place to ensure that they are in good standing at all times, although no periodicity is established for the checks, nor any event that would lead to new checks (AML/CFT Law, Article 53-2).

(c) AMSF can give formal notice to DNFBPs under its supervision that they must take, within a set timeframe, any measure to put their situation in order in the event of a failure to perform AML/CFT obligations. Where a DNFBP does not remedy deficiencies which have given rise to formal notice or if AMSF notes in an on-site inspection report a serious, repeated or systematic breach of all or some of its AML/CFT obligations, a range of administrative sanctions can be imposed on the DNFPB, its managers, employees or persons acting under its direction by the AMSF (AML/CFT Law, Article 56-2). The sanctioning process is applicable to chartered accountants and approved accountants by means of their own regulations (Law n° 1.231 *du 12 juillet 2000 relative aux professions d'expert comptable et de comptable agréé,* Article 26.1 and AML/CFT Law, Article 64-7).

In the case of notaries (Law 1362, Article 62) and bailiffs (Law 1.398, Article 90), sanctions are imposed by the Principal State prosecutor (GPO) following the referral of the AMSF. For notaries, The Court of First Instance will decide in cases where the Principal State Prosecutor has decided not to impose any sanction and the AMSF does not agree. The process is the same for bailiffs, except that the sanction has to be imposed by the Court of Appeal. Regarding defending lawyers (*avocats-défenseurs*) and lawyers, the sanction is imposed, as applicable, by the Monaco Bar Association ("*Conseil de l'Ordre")*, (AML/CFT Law, Article 58-2).

In relation to one-off breaches identified during documentary checks, including such as failure to send to AMSF the documents (such as AML/CFT activity reports, AML/CFT procedures, etc.), the powers of AMSF are limited to sanctions applied for enforcing the imposed rectifying measures (please see R.35).

6. **Criterion 28.5** – The law provides that AMSF and the Monaco Bar Association shall take a risk-based supervision approach (AML/CFT Law, Articles 56-1 and 58-1).

(a) AMSF and the Monaco Bar Association determine the frequency and intensity of their documentary checks and on-site inspections according to the risk profile of the professionals under their supervision and ML/TF risks and ensure that they are well understood. The risk-based supervision approach takes account of the characteristics, diversity and number of professionals, *inter alia* (AML/CFT Law, Articles 54-1 and 56-1).

(b) AMSF and the Monaco Bar Association must take account of the ML/TF risk profile of DNFBPs and consider the risk assessment, adequacy and implementation of policies, controls and internal procedures of DNFBPs over which they have authority. They should take into account the degree of discretion allowed to DNFBPs under the risk-based approach when assessing the relevance of these policies, controls and procedures (AML/CFT Law, Articles 56-1 and 58-1).

Weighting and conclusion

7. Monaco has regulations and supervision in place for DNFBPs with few minor deficiencies: (i) measures to ensure good standing at all times with the professional integrity requirements do not include requirements that ensure periodicity for such checks nor any event that would lead to new checks (c.28.1(b)); (ii) control measures in place to ensure that lawyers, notaries and bailiffs are in good standing at all times do not establish periodicity for the checks, nor any event that would lead to new checks (c.28.4(b)); and (iii) in relation to one-off breaches identified during documentary checks, including such as failure to send to the AMSF the documents, the powers of the AMSF are limited to sanctions applied for enforcing the imposed rectifying measures, which limits the dissuasiveness of the sanctions that can be imposed for this type of breaches (c.28.4(c)). **The Principality of Monaco is re-rated LC with R.28.**

Recommendation 31 – Powers of law enforcement and investigative authorities

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In the 2022 MER, Monaco was rated PC on R.31. Following deficiencies were identified: (i) Except in the context of searches, the authorities cannot take coercive measures to compel persons to produce documents (c.31.1); (ii) The scope for the use of some investigative techniques is limited (particularly undercover operations and controlled delivery) (c.31.2); and (iii) There is no mechanism in place to identify assets without prior notification to the owner (c.31.3).

2. **Criterion 31.1** – DSP officers, under the oversight of the GPO or an investigating judge, have powers which can be considered adequate to take all steps necessary for an investigation. They have the power to take the following coercive measures *inter alia*:

(a) *the production of records held by financial institutions, DNFBPs and other natural or legal persons* – The GPO or under his authorisation, the DSP officers, have the power to request information from any person, public or private body likely to hold information or documents useful in establishing the truth (Article 81-6-2 of the CCP). In case of a refusal to provide information, criminal liability can be applied (Article 208-3 of the CC).

(b) *the search of persons and premises* – is provided for under the provisions of the CCP that govern police custody (Title IV *bis* of Book I of the CCP). Under Article 60-4 of the CCP, it is possible to carry out a full search on a person in custody where this is essential as a security measure or for the purposes of the investigation. Searches of premises are only possible in the context of a judicial investigation, where the investigating judge deems them useful (Articles 92 et seq. of the CCP). During an investigation of an offence discovered during its commission, the GPO and, under his/her oversight the DSP, have extended powers to carry out searches (see Articles 250 et seq. and in particular Article 255 of the CCP). In the preliminary investigation, searches are permissible upon the contest of the owner in order to establish the offence or identify the perpetrator (Article 81-7 paragraph 3 of the CCP). Article 81-8 of the CPP refers to the possibility of carrying out searches on any person, vehicle or luggage located "*in any place other than a closed property location*". Article 81-8-1 of the CPP refers to the possibility of carrying out searches on ships present in Monegasque territorial or inland waters, as well as vessels present on the quays of ports and their dependencies. If the vehicles are used as living premises, then the conditions set out in Article 81-7 will apply. In the case of a contest of the owner, the judge may order the search of premises but only for the criminal offences punishable by more than three years of imprisonment (Article 81-7, paragraph 4 of the CCP) which includes ML, TF and the majority of predicate offences except (i) counterfeiting and piracy of products, and (ii) smuggling (including in relation to customs and excise duties and taxes).

(c) *taking witness statements* – Under the system for investigating offences discovered during their commission, the GPO and the DSP have extended powers, including the power to examine and compare conflicting versions of events given face to face (see in particular Article 259 of the CCP). In a judicial investigation, the investigating judge can hear persons whose testimony appears to him/her to be useful (Articles 125 to 147-6 of the CCP), with the exception of certain categories of persons (Articles 133 to 135 of the CCP). In addition, the investigating judge can examine a witness whose identity remains secret in relation to an ML, TF or corruption matter, in situations that are listed exhaustively (Article 147-1 of the CCP).

(d) *seizing and obtaining evidence* – evidence can only be seized during a judicial investigation. Within this context, the investigating judge can seize or order the seizure of any documents,

computer data or other items that may help to establish the truth, to the extent necessary for the investigation, as well as telegrams, letters and other things sent (Articles 100 and 102 of the CCP). However, the investigating judge must take all measures necessary to ensure that legal professional privilege and defence rights are respected. Where a judicial investigation is opened, the investigating judge has particularly wide-ranging powers in relation to crime scene visits, search and seizure and interception, recording and transcription of correspondence sent by electronic means of communication (Articles 92 to 106-11 of the CCP). Where the offence is transnational or committed by an organised group, the investigating judge can also arrange audio surveillance and recording of images of certain places or vehicles (Articles 106-12 to 106-16 of the CCP) and covert investigations (Articles 106-17 to 106-23 of the CCP). Under Articles 107 et seq. of the CCP, if a technical issue arises, the investigating judge can also order one or more experts to carry out necessary processes with the nature and for the purpose specified in the order.

3. In addition, solely in the case of offences discovered during commission, the GPO, and under his/her oversight, the DSP have wide-ranging powers where the criteria for an offence discovered during commission are met, including in relation to crime scene visits, searches, seizure of any item, including computer data, in the possession of persons who are suspected of involvement in the alleged offences or who may have documents, information or objects related to them, examination, comparisons of conflicting versions of events given face to face or expert opinions (Articles 250 et seq., particularly 253 et seq. of the CCP).

4. **Criterion 31.2** – DSP officers can, under the oversight of the GPO or an investigating judge, use investigation methods that are appropriate to ML investigations, predicate offences and TF, including:

(a) *undercover operations* – under Article 106-17 of the CCP, where the investigation or judicial investigation concerns *inter alia* ML, associated predicate offences and TF (Article 106-17 and 106-18 of the CCP).

(b) *intercepting communications* – an investigating judge can order interception, recording and transcription of correspondence sent by telecommunications or electronic communications technology for an offence carrying a sentence of one year or more (Article 106-1 of the CCP). Therefore, interception of communications can be ordered by the investigating judge where the investigation relates to ML, associated predicate offences or TF.

(c) *accessing computer systems* – this is permitted, in the context of a judicial investigation, under Article 100 of the CCP and is also among the wide-ranging powers of the GPO and, under his/her oversight, the DSP where the criteria for an offence discovered during commission are met (see c.31.1 (d)).

(d) *controlled delivery* – this is provided for as part of undercover operations, also known as infiltration (Article 106-18 of the CCP) *inter alia* for ML, associated predicate offence and TF.

5. **Criterion 31.3** – With regard to the existence of mechanisms to identify, in a timely manner, whether natural or legal persons hold or control accounts, and mechanisms to identify assets without prior notification to the owner:

(a) *mechanisms to identify, in a timely manner, whether natural or legal persons hold or control accounts* – The laws of Monaco allow judicial authorities to seize bank, financial, accounting and commercial documents from undertakings, regulated professionals or banking institutions during a preliminary or judicial investigation (see c.31.1 (d)). Since there are no time restrictions on the use of these powers, they can be exercised in a timely manner.

Access to relevant financial information has been increased by the recent introduction of a register of payment accounts, bank accounts and safes (FICOBAM) by way of an amendment

made to the AML/CFT Law on 31 August 2021. This register is kept by AMSF and contains declarations from regulated entities which must include information making it possible to identify any natural or legal person who holds or controls a payment account, a bank account identified by an IBAN number or a safe rental contract (Article 64-3 of the AML/CFT Law). These declarations must be made in the month following the opening, closure or amendment of accounts or safe rental agreements (Article 64-1, paragraph 2, of the aforementioned law). For information contained in this register, and solely for the purposes of tackling ML, TF and corruption, access is available to the competent authorities, without prior notification to the owner: FIU, authorised person of the judicial authority, DSP officers acting at the written request of the GPO or by delegation of an investigating judge and authorised agents of the seized and confiscated asset management department (Article 64-2 of the AML/CFT Law).

(b) *mechanisms to ensure that competent authorities have a process to identify assets without prior notification to the owner* – The professional confidentiality to which the Registrar of Mortgages (DSF) is subject forbids prior notification to an owner of a request for information made by the GPO or an investigating judge. In addition, identification of a bank account through the FICOBAM register is carried out without prior notification of the owner. The AML/CFT Law prescribes criminal liability in instances when the request for the identification of property is disclosed to the owner (Article 75-1 of the AML/CFT Law). However, the concern remains whether this provision is applicable for all requests concerning the identification of property when pursuing ML, TF and predicate offences.

6. **Criterion 31.4** – AMSF can send to the GPO, the DSP or other members of the judiciary (including investigating judges) any information relevant to the performance of their respective duties (Article 50-2 of the AML/CFT Law).

Weighting and conclusion

7. The competent authorities have a number of investigation and prosecution powers. However, a deficiency remains with respect to the lack of (i) the legal possibility to search premises where there is no content of the owner in the preliminary investigation for some predicate offences (c.31.1(b)) and (ii) mechanism in place to identify assets, other than money on bank accounts, without prior notification to the owner (31.3(b)). Considering that most of the criteria are met or mostly met, **the Principality of Monaco is re-rated LC with R.31**.

Recommendation 34 – Guidance and feedback

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In its 5th round MER, Monaco was rated PC with R.34 due to the lack of sector specific guidance and thematic guidance.

2. **Criterion 34.1** – The AMSF has the legal authority to establish guidelines for reporting entities (except for lawyers) to assist the reporting entities in implementing the requirements of the AML/CFT law, particularly in relation to detecting and reporting suspicious transactions (Article 46 of the AML/CFT Law). The Monaco Bar Association has the same authority regarding lawyers (Article 56-4 of the AML/CFT Law).

Guidelines and feedback on the application of AML/CFT measures

3. At the time of mutual evaluation, general AML/CFT and corruption guidance were available (2021) and sectorial guidelines were in place for sectors for estate agents, lawyers and two categories not covered by the FATF Standards (yachting/chartering and sports agents). After the assessment, AML/CFT guidance for casino and real estate agents has been issued (February-March 2024).

4. Further, after the mutual evaluation, in the period of 2023-2024, a large number of thematic guidelines – suspicion transaction reporting regime, business risk assessments, politically exposed persons, terrorist financing awareness guide, private banking and wealth management, treatment of high-value players by the casino - have been published. In addition, in 2023 TFS typologies' papers on proliferation financing and terrorist financing followed by the DBT's new TFS guidance were published.

5. With these publications, Monaco has targeted higher risk sectors and areas, but has not yet published sector specific guidance for other sectors. In addition, further work is needed on consolidated feedback targeted to specific deficiencies or risks found amongst reporting entities, based on supervisory findings.

6. In the period of late 2023 – first half of 2024, a large number of awareness raising events, both online and in a physical format, have been conducted aimed at increasing understanding of risks and implementation of AML/CFT measures amongst reporting entities and improving STR reporting, as well introduction of new guidance papers.

Guidelines on suspicious transactions

7. To improve reporting entities' ability to detect and report suspicious transactions, the AMSF has published an overview of the STR reporting regime in Monaco, suspicious transaction reporting guidelines along with general cross-sectorial and sectorial risk indicators (February 2024). In addition, in November 2023 the AMSF carried out risk driven analysis based on STRs filed by different sectors with a view to assess their timeliness and quality. The results of the analysis are made public and can be further used to target future feedback and awareness-raising efforts.

8. Where the AMSF sends a report to the GPO, it informs the FI or DNFBP that filed the report and also informs it of the commencement of judicial proceedings or discontinuance of proceedings and decisions taken by a criminal court (Article 49 of the AML/CFT Law).

Weighting and conclusion

9. Significant improvements have been made since the last mutual evaluation on issuing thematic guidance, awareness raising and guidance on STR reporting, however, Monaco would further benefit from providing targeted aggregated feedback on sector specific AML/CFT implementation deficiencies and risks based on the supervisory findings as well as issuing guidance for all sectors. **The Principality of Monaco is re-rated LC with R.34**.

Recommendation 35 – Sanctions

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In the 2022 MER, Monaco was rated PC on R.35. Following deficiencies were identified: (i) the amount of the fine for failure to comply with TFS obligations was not dissuasive for persons or undertakings with high income/revenue in particular (35.1); (ii) the sanctions for NPOs and the natural persons concerned were not dissuasive for the most part (35.1); (iii) the Minister of State was not required to implement sanctions proposed by the CERC and could ultimately decide not to impose any sanction (35.1); (iv) the sanction process did not allow sanctions to be imposed in an isolated manner for deficiencies identified during documentary checks or simple breaches (35.1); (v) criminal penalties for failure to comply with AML/CFT obligations were not regarded as proportionate and dissuasive (35.1); and (vi) no sanctions were applicable to the members of the governing bodies and senior management of companies created by lawyers for the purpose of pursuing their activities (35.2).

2. **Criterion 35.1** –

(a) For breaches of TFS obligations (R.6) sanctions with proportionate range are available which can be considered dissuasive. Failure by FIs and any organisation, entity or person to comply with the obligations set out in relation to procedures for freezing assets and economic resources pursuant to international economic sanctions is punishable by a fine of up to EUR 900 000 for natural persons and up to EUR 4 500 000 for legal persons (CC, Articles 219-1 to 219-4[36] and Article 29-2). Violations of the provisions relating to TFS of a criminal nature must be reported to the Attorney General, who may then order an investigation, open a judicial inquiry and if the facts appear to be established notify the Criminal Court who may, if it considers that the offence has been established, impose a sentence.

(b) For breaches related to NPOs (R.8), there is a range of proportionate sanctions available for NPOs themselves, and persons acting on behalf of these NPOs. Dissuasiveness of administrative sanctions is limited since the MoI can impose more significant fines only if the breach persists (see c.8.4(b)).

(c) For breaches of preventive measures and reporting obligations (R.9 to R.23) administrative or criminal sanctions may be imposed by the relevant supervisor to FIs and DNFBPs.

Administrative sanctions

3. Available sanctions range from warnings, reprimands, injunctions, administrative fines, suspension, and the publication of the sanction decision (Law no. 1.362, Article 65-8). The competent supervisory authority may impose a fine not exceeding EUR 1 million, or 10% of the net banking proceeds or annual turnover excluding tax of the body or person concerned, or, where the benefit derived from the breach can be determined, twice that amount, whichever is higher. For the FIs, the fine may be increased to an amount of up to EUR 10 million (Law no. 1.362, Article 65-8, 7°). There is a minor limitation of AMSF's powers to impose sanctions concerning breaches identified during documentary checks only in case of failure by the FI to implement the rectifying measures (Law no. 1.362, Article 64 – 7 et seq.), which limits the dissuasiveness of the sanctions in this case (see c.27.4).

4. The AMSF as the competent supervisory authority of obliged entities (excluding notaries, lawyers, and bailiffs) may impose these sanctions for any breaches of preventative measures and

36. Section introduced with Law n. 1.559 of 29 February 2024.

reporting obligations (Law no. 1.362, Articles 64 -7 and 64-8).

5. There is a comparable range of sanctions available for lawyers, notaries, and bailiffs. For notaries the sanctions may be imposed by the Court of First Instance, and suspension decisions must be approved by the Prince (AML/CFT Law; Article 65(3), Article 67, (1) 3) and 4), and (2); Order of 4 March 1886 on notaries, Articles 63, 64 and 70). Sanctions against bailiffs are imposed by the Court of Appeal (AML/CFT Law, Article 65(3), Article 67(1) 3) and 4), (2); Law 1.398/2013, Articles 90 to 94). Sanctions against lawyers are imposed by the Bar Council, by the court seized of the matter, or in the Judge's Chambers at the Court of Appeal. If a suspension or strike-off decision is taken, it must be ordered by the Prince on the basis of a report from the Head of the DSJ (AML/CFT Law, Article 65(3), Article 67(1)3) and 4), (2); Law 1.047/1982, Articles 30 and 37).

6. In addition, a Council of Order of defence attorneys and attorneys may impose to a lawyer, in the event of a relevant breach, a fine in the amount of up to EUR 1 million or 10% of the annual turnover of the professional structure or of the person concerned, or when the advantage gained from the breach can be determined, at double the latter, the highest amount being retained (Law no. 1.362, Chapter X, sub-section I; Article 69-2(1), no. 1°)). Similarly, the Court of First Instance may impose a monetary penalty against the notary or bailiff, who has breached its obligations, in the amount of up to EUR 1 million, or 10% of the annual turnover of the professional structure or person concerned, or, when the advantage gained from the breach can be determined, double the latter, the highest amount being retained (Sovereign Ordinance of March 4, 1886 on notaries, Article 63(2), no. 5°), and Law no. 1.398, Article 90(4), no. 4°)).

Criminal sanctions

7. There are criminal sanctions available for certain breaches, such as failure to file an STR or disclosure of the fact that an STR has been filed (fine of between EUR 36 000 and EUR 180 000 for natural persons and EUR 180 000 and EUR 900 000 for legal persons), maintaining a correspondent banking relationship with an institution in a country where there is no actual physical presence or failure to keep documents (fine of between EUR 18 000 and EUR 90 000 for natural persons and EUR 90 000 to EUR 450 000 for legal persons) (Law no. 1.362, Section II and CC, Articles 26 and 29). These criminal sanctions can be considered proportionate as the range of the imposed sanctions can be decided upon considering the circumstances as well as they may be applied cumulatively for different breaches.

8. **Criterion 35.2** – Sanctions may also be imposed on the directors of the FI or DNFBP, as well as employees, agents or persons acting on behalf of these bodies or legal persons, for their personal involvement (Law no. 1.362, Article 65). These include the same range of administrative and criminal sanctions as described under c.35.1 applicable for obliged entities.

9. For NPOs, the sanctions apply also to persons acting on behalf of them (see c.8.4(b)).

Weighting and conclusion

10. A range of proportionate and dissuasive sanctions is available for the natural and legal persons who fail to comply with the AML/CFT requirements of R.6, R.8 to R.23. There is a minor limitation of AMSF's powers to impose sanctions concerning breaches identified during documentary checks only in case of failure by the FI to implement the rectifying measures, which limits the dissuasiveness of the sanctions in this case (c.35.1). **The Principality of Monaco is re-rated LC with R.35.**

Recommendation 37 – Mutual legal assistance

	Year	Rating
MER	2022	PC
FUR1	2024	↑ LC (upgrade requested)

1. In the 2022 MER, Monaco was rated PC on R.37. The 2022 MER identified two deficiencies with major potential impact on mutual legal assistance. These were: (i) the addition in 2018 of Article 204-1 to the CCP, which laid down rules governing the disclosure of documents pertaining to a request for mutual legal assistance to the lawyers of the persons concerned, was contrary to the requirement of confidentiality of the content of requests for mutual legal assistance; and (ii) there was a theoretical possibility of refusing a request related to tax matters and the dual criminality requirement for income tax evasion offences.

2. **Criterion 37.1** – Monaco has a legal basis that allows it to rapidly provide a wide range of types of mutual legal assistance. The domestic law governing the receipt and execution of international letters of request is contained within Title XI of book IV of the CCP, Articles 596-2 to 596-24 (as amended by Law no. 1.536 of 9 December 2022). Monaco is also a party to many international ML/TF co-operation conventions. Where there is no legal basis between countries for mutual legal assistance, customary international law applies. In this event, requests for mutual legal assistance go through diplomatic channels and are executed in Monaco only if the requesting state guarantees reciprocity. According to Article 596-2 of the CCP, the irregularity of the transmission of the request for mutual assistance cannot constitute a cause for nullity of the acts performed in connection with this request. However, the non-criminalisation of income tax evasion in Monaco has some repercussions in practice on its ability to provide mutual legal assistance for this type of offence, as it depends on the discretion of the Public Prosecutor to reclassify this type of offence (see c.37.4). Monaco has demonstrated that it is nonetheless capable of executing most requests for mutual legal assistance in relation to this offence by reclassifying it as forgery or use of forgeries, or fraud.

3. According to Article 596-7 of the CCP (as amended by Law no. 1.536 of 9 December 2022), requests for mutual legal assistance from foreign judicial authorities shall be executed as soon as possible. In addition, 596-12 of the CCP now states the following: "*Documents drawn up in connection with the request for mutual assistance shall be submitted without delay to the authority of the requesting state*." However, the Public Prosecutor or the examining judge may decide to postpone the execution of the request for mutual assistance if it is likely to interfere with an inquiry, investigation, or ongoing proceedings or if the items, documents or data concerned are already used in other proceedings, the requesting state is immediately informed. Nevertheless, the request for mutual assistance shall be implemented without delay once the reasons justifying the postponement have ceased.

4. **Criterion 37.2 –** The DSJ within the Ministry of Justice is the central authority for international judicial co-operation, except for requests for mutual legal assistance from France, which are passed on directly to the judicial authorities. The Central Authority for dealing with and processing requests for mutual legal assistance in respect of money laundering and terrorist financing matters is the Public Prosecutor.

5. Whilst the National Policy on Combating Money Laundering and Asset Recovery states that authorities shall establish mechanisms to provide constructive and timely mutual legal assistance to their foreign counterparts across the range of international co-operation requests, Monaco does not have clear processes for the timely prioritisation and execution of mutual legal assistance requests, nor does it have a case management system for tracking progress made on requests. However, since the admissibility and execution process are relatively straightforward, this deficiency has no impact in practice on the timely execution of requests for mutual legal assistance.

6. **Criterion 37.3** – The law of Monaco does not make mutual legal assistance subject to unreasonable or unduly restrictive conditions.

7. **Criterion 37.4** –

(a) Monaco can, under Article 2 of the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30), refuse to provide mutual legal assistance if the request relates to offences regarded by the requested party as tax offences (Article 2 of SO No. 1.088). The amendments introduced to the CCP (Article 596-11) by Law no. 1.536 of 9 December 2022 and to the SO No. 15.457 by the Council of Government on May 2024, preclude the rejection of a request for mutual legal assistance containing coercive measures in relation to tax evasion if the acts are punished as crimes or offences in Monaco, even if it doesn't classify the offence in the same category, or doesn't use the same terminology to designate it. Despite the possible conflict between the provisions, as described above, in practice, Monaco has never rejected such requests for mutual legal assistance solely because they related to tax matters.

(b) Banking secrecy or confidentiality requirements cannot be relied on as grounds on which to refuse to execute a request for mutual legal assistance. See also R.9 with regard to FIs.

8. **Criterion 37.5** – According to the CCP Article 596-5 (as amended by Law no. 1.536 of 9 December 2022) the requests for mutual legal assistance from foreign judicial authorities shall be enforced in accordance with the provisions of Article 31 of the named Code, that govern the principle of investigation secrecy. Anybody who breaches Article 31 of the CCP is liable to imprisonment from 6 months to one year and a fine of between EUR 9 000 to EUR 18 000. Article 596-5 also lists all the authorities involved in the execution of MLA (Public Prosecutor, an examining judge, the officers or agents of the judicial police) and, therefore, makes it clear that all of these authorities are subject to confidentiality.

9. The Manual (adopted by the Contact Group in April 2023) which applies to all investigative authorities, including those involved in the execution of an incoming MLA request, contains a section on confidentiality which states the following: *All incoming and outgoing requests for MLA are covered by the confidentiality provisions of Article 308 of the Penal Code, which states that; All persons who are the custodians, by virtue of their status or profession, of the secrecy entrusted to them, who, except in cases where the law obliges or authorizes them to act as informers, have revealed such secrets, shall be punished by imprisonment from six months to one year and by the fine provided for in paragraph 3 of article 26 (between EUR 9 000 – EUR 18 000), or by one of these two penalties only*.

10. Moreover, Section 3.3 of the Code of Ethics of the DSP states: *The staff of the DSP are subject to a reinforced obligation of professional secrecy and a strict duty of discretion. They shall refrain from disclosing to anyone who has neither the right nor the need to know, in any form whatsoever, any information that comes to their knowledge in the course of or in connection with the performance of their duties.*

11. The Mutual Legal Assistance Handbook expressly states that in order to preserve the confidentiality of the foreign procedure, the entire MLA request and the information it contains on the foreign procedure are not communicated to the Monegasque lawyer.

12. Monaco has also revised the mutual legal assistance appeals procedure, which is now set out in Article 596 -13 and states that actions taken on the basis of the MLA request may be subject to the same appeals as those provided for under Monegasque law in the context of a similar national procedure. The period for submitting an appeal before the Council Chamber of the Court of Appeal, against the measures implemented pursuant to a request for mutual assistance, is two months. Concerning the requirement posed to maintain the confidentiality of mutual legal assistance requests, the revised legal framework of Monaco (Article 596-13 of the CCP) allows the Public Prosecutor to communicate to the lawyers the subject of measures implemented pursuant to a request for mutual assistance, who have lodged an appeal, a copy of the procedural documents corresponding to the implementation measures, as well as the list of measures requested by the principal authority. Also, the introduced appeal does not suspend the execution of the request for mutual assistance and the Council Chamber of the Court of Appeal has an imperative four months to rule upon the appeal. Even

though Monaco has made significant progress in the attempt to fully meet this criterion, the obligation of the Public Prosecutor to communicate the list of measures requested by the principal authority, along with the theoretical probability of the subject of measures implemented to get access to the request for mutual legal assistance during appeal procedures, in a limited number of situations, might have an impact on the confidentiality of the investigation pursued in the requesting state.

13. **Criterion 37.6** – Monaco has entered a reservation in respect of the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 in relation to dual criminality solely with regard to coercive measures. As such, dual criminality can only be required for requests for mutual legal assistance involving coercive measures for their execution. Outside this Convention, Monaco operates on the basis of the Palermo Convention or the principle of reciprocity.

14. **Criterion 37.7** – The principle of dual criminality is generally interpreted in an abstract manner by Monaco. Only the elements of the offence are considered, not the legal classification of the offence. Therefore, Article 596-11 of CCP provides that coercive measures pertaining to a request for mutual assistance could only be taken when the facts are punished as crimes or misdemeanours in Monaco and the requesting state, including when the two states do not classify the offence in the same category of offences, or do not use the same terminology to designate it. Therefore, international co-operation is possible in most cases and allows rejection solely for acts contained in the request for mutual legal assistance which do not constitute an offence under the law of Monaco. Moreover, the non-criminalisation of income tax evasion in Monaco and the discretion of the Public Prosecutor to reclassify this type of offence in each MLA case, has some repercussions in practice on the ability to provide mutual legal assistance for this type of offence.

15. **Criterion 37.8** – Requests for mutual legal assistance are executed in the same way as indictments from national authorities, and enable them to be executed by means of all investigative powers allowed under domestic law, such as the production of documents, searches, collection of evidence (including government, banking, or financial records, or the records of commercial establishments, businesses, or professions), seizure of evidence, undercover operations, interception of communications, access to computer systems, controlled delivery, service of legal or judicial documents, identification of property, inspecting and examining objects and sites, implementing measures of freezing assets or other provisional measures, confiscating assets and any other type of legal and judicial assistance that does not conflict with the laws in force in Monaco. The minor deficiencies identified in R.31 (such as the lack of mechanisms in place to identify assets without prior notification to the owner) have an impact on c.37.8.

Weighting and conclusion

16. Monaco has a legal framework in place to provide mutual legal assistance. However some deficiencies remain: (i) the non-criminalisation of income tax evasion in Monaco has some repercussions in practice on its ability to provide mutual legal assistance for this type of offence, as it depends on the discretion of the Public Prosecutor to reclassify this type of offence (c.37.1); (ii) the Public Prosecutor or the examining judge may decide to postpone the execution of the request for mutual assistance (and inform about this the requesting state) if it is likely to interfere with an inquiry, investigation or ongoing proceedings or if the items, documents or data concerned are already used in other proceedings (c.37.1); (iii) Monaco does not have clear processes for the timely prioritisation and execution of mutual legal assistance requests, nor does it have a case management system for tracking progress made on requests, including those postponed according to Article 596-7 of the CCP (c.37.2); (iv) Monaco can, under Article 2 of the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30), refuse to provide mutual legal assistance if the request relates to offences regarded by the requested party as tax offences (Article 2 of SO No. 1.088) with exception of rejecting a request for mutual legal assistance containing coercive measures in relation to tax evasion if the acts are punished as crimes or offences in Monaco (c.37.4(a)); (v) the provisions of Article 596-13 of the CCP which establishes the obligation of the Public Prosecutor to communicate the list of all measures requested by the requesting state, along with the theoretical probability of the subject of measures implemented, to get access to the request for mutual legal assistance during the appeal procedures, in

a limited number of situations, might have an impact on the confidentiality of the investigation pursued in the requesting state (c.37.5): (vi) Mutual legal assistance framework allows rejection solely for acts contained in the request for mutual legal assistance which do not constitute an offence under the law of Monaco (37.7); and (vii) minor deficiencies under R.31 (such as: (i) the legal possibility to search premises where there is no content of the owner in preliminary investigation for some predicate offences (c.31.1(b)) and (ii) mechanism in place to identify assets, other than money on bank accounts, without prior notification to the owner (31.3(b)).) impact c.37.8 (c.37.8). Above listed deficiencies have an overall minor impact on mutual legal assistance. Some minor clarifications to the legal framework are necessary to ensure more clear and mandatory interpretation and application of the law, including by authorities in processing MLA requests. **The Principality of Monaco is re-rated LC with R.37.**

Annex B: Summary of Technical Compliance – Deficiencies underlying the ratings

Recommendations	Rating	Factor(s) underlying the rating
4. Confiscation and provisional measures	PC (MER 2022) **LC (FUR1 2024)**	• There are minor deficiencies related to management of seized and confiscated assets (c.4.4).
6. Targeted financial sanctions related to terrorism and terrorist financing	PC (MER 2022) **C (FUR1 2024)**	• All criteria are met.
7. Targeted financial sanctions related to proliferation	PC (MER 2022) **C (FUR1 2024)**	• All criteria are met.
8. Non-profit organisations	PC (MER 2022) **LC (FUR1 2024)**	• Dissuasiveness of administrative sanctions for NPOs is limited since MoI can impose the more significant fines only if the breach persists (c.8.4(b)). • No details of the procedures implemented have been provided (c.8.6).
12. Politically exposed persons	PC (MER 2022) **C (FUR1 2024)**	• All criteria are met.
23. DNFBPs: Other measures	PC (MER 2022) **LC (FUR1 2024)**	• Paper-based reporting on suspicious transactions does not ensure their promptness as required by R.20, c.20.1. (c.23.1). • Requirements regarding high standards when hiring employees and an independent audit function are only applicable for groups (c.18.1(b)) (c.23.2). • Other minor deficiency identified in the analysis of R.18 (related to Monegasque law containing provisions which reflect the presumption that all EU or EEA member states apply harmonised AML/CFT provisions not envisaged by the FATF) are applicable to DNFBPs to the same extent (c.23.2).
24. Transparency and beneficial ownership of legal persons	PC (MER 2022) **LC (FUR1 2024)**	• In the case of all legal entities (other than associations, and foundations since the latter have no members) there is no time frame stipulated for how long the register of shareholders / members should be retained. (c.24.9). • Further legal clarity on the retention period of BO data in the RBO would be beneficial (c.24.9). • There are no mechanisms (as envisaged under c.24.12) for administrators of associations and foundations. (c.24.12). • The sanctioning framework in place for all types of legal entities does not ensure the imposition of proportionate, dissuasive, and effective fines in the case of certain serious, systemic, and repeated type of breaches-(c.24.13). • There are no provisions binding the supervisory authorities to exchange BO information in a rapid

Recommendations	Rating	Factor(s) underlying the rating
		manner (c.24.14).
25. Transparency and beneficial ownership of legal arrangements	PC (MER 2022) **LC (FUR1 2024)**	• There are no provisions to ensure that the sourcing of information from FIs/DNFBPs (other than trustees) by the department for the management of seized and confiscated assets occurs in a timely manner (c.25.5). • In case of supervisory authorities the provision of trust information (obtained through FIs and DNFBPs, other than trustees) to foreign counterparts is not required to be provided in a rapid manner (c.25.6). • The sanctioning framework is not conducive to the imposition of dissuasive and effective fines in the case of serious, systemic, and repeated breaches by trustees of their obligations to obtain and keep updated information on trusts, to register information on administered trusts and to notify the DDE within a month about any changes in trust information (c.25.7).
26. Regulation and supervision of financial institutions	PC (MER 2022) **LC (FUR1 2024)**	• It has not been fully demonstrated that Core Principles FIs are subject to regulation and supervision in line with Core Principles, in particular with the IOSCO Principles (c.26.4(a)).
27. Powers of supervisors	PC (MER 2022) **LC (FUR1 2024**)	• The limitation of AMSF's powers to impose sanctions concerning breaches identified during documentary checks only in case of failure by the FI to implement the rectifying measures, limits the dissuasiveness of the sanctions (c.27.4).
28. Regulation and supervision of DNFBPs	PC (MER 2022) **LC (FUR1 2024)**	• Measures to ensure good standing at all times with the professional integrity requirements do not include requirements that ensure periodicity for such checks nor any event that would lead to new checks (c.28.1(b)). • Control measures in place to ensure that lawyers, notaries and bailiffs are in good standing at all times do not establish periodicity for the checks, nor any event that would lead to new checks (c.28.4(b)). • In relation to one-off breaches identified during documentary checks, the powers of AMSF are limited to sanctions applied for enforcing the imposed rectifying measures, which limits the dissuasiveness of the sanctions that can be imposed for this type of breaches (c.28.4(c)).
31. Powers of law enforcement and investigative authorities	PC (MER 2022) **LC (FUR1 2024)**	• There is no legal possibility to search premises where there is no content of the owner in preliminary investigation for some predicate offences (c.31.1(b)). • There is no mechanism in place to identify assets, other than money on bank accounts without prior notification to the owner (c.31.3 (b)).
34. Guidance and feedback	PC (MER 2022) **LC (FUR1 2024)**	• Monaco would further benefit from providing targeted aggregated feedback on sector specific AML/CFT implementation deficiencies and risks based on the supervisory findings as well as issuing guidance for all sectors.

Recommendations	Rating	Factor(s) underlying the rating
35. Sanctions	PC (MER 2022) **LC (FUR1 2024)**	There is a minor limitation of AMSF's powers to impose sanctions concerning breaches identified during documentary checks only in case of failure by the FI to implement the rectifying measures, which limits the dissuasiveness of the sanctions in this case (c.35.1).
37. Mutual legal assistance	PC (MER 2022) **LC (FUR1 2024)**	• The non-criminalisation of income tax evasion in Monaco has some repercussions in practice on its ability to provide mutual legal assistance for this type of offence, as it depends on the discretion of the Public Prosecutor to reclassify this type of offence (c.37.1). • The Public Prosecutor or the examining judge may decide to postpone the execution of the request for mutual assistance (and inform about this the requesting state) if it is likely to interfere with an inquiry, investigation or ongoing proceedings or if the items, documents or data concerned are already used in other proceedings (c.37.1). • Monaco does not have clear processes for the timely prioritisation and execution of mutual legal assistance requests, nor does it have a case management system for tracking progress made on requests, including those postponed according to Article 596-7 of the CCP (c.37.2). • Monaco can, under Article 2 of the European Convention on Mutual Assistance in Criminal Matters (ETS No. 30), refuse to provide mutual legal assistance if the request relates to offences regarded by the requested party as tax offences (Article 2 of SO No. 1.088) with exception of rejecting a request for mutual legal assistance containing coercive measures in relation to tax evasion if the acts are punished as crimes or offences in Monaco (c.37.4(a)). • The provisions of Article 596-13 of the CCP which establishes the obligation of the Public Prosecutor to communicate the list of all measures requested by the requesting state, along with the theoretical probability of the subject of measures implemented, to get access to the request for mutual legal assistance during the appeal procedures, in a limited number of situations, might have an impact on the confidentiality of the investigation pursued in the requesting state (c.37.5). • Mutual legal assistance framework allows rejection solely for acts contained in the request for mutual legal assistance which do not constitute an offence under the law of Monaco (37.7). • Minor deficiencies under R.31 (such as: (i) the legal possibility to search premises where there is no content of the owner in preliminary investigation for some predicate offences (c.31.1(b)) and (ii) mechanism in place to identify assets, other than money on bank accounts, without prior notification to the owner (31.3 (b)).) impact c.37.8 (c.37.8).

GLOSSARY OF ACRONYMS

ACPR	French Prudential Supervisory and Resolution Authority
AML	Anti-money laundering
AMSF	Autorité Monégasque de Sécurité Financière
AML/CFT Law	Law No. 1.362 of 3 August 2009 on prevention and combating money laundering and terrorism financing
AT	Assessment team
BCP	Basel Core Principles
BO	Beneficial ownership
C	Compliant
CCAF	Financial Activities Supervisory Commission
CCP	Code of Criminal Procedure
CDD	Customer due diligence
CERC	Audit Review Commission
CFT	Combating the financing of terrorism
CC	Criminal Code
DBT	Department of Budget and Treasury
DDE	Business Development Agency
DME	Decision of the Minister of State (Décision du Ministre d'État)
DNFBPs	Designated non-financial businesses and professions
DSF	Department of Tax Services
DSJ	Department of Justice
DSP	Police Department
EEA	European Economic Area
EIGs	Economic interest groups
EU	European Union
EUR	Euro
FATF	Financial Action Task Force
FI	Financial institution
FICOBAM	Central National Bank Account File - Monaco
FIU	Financial Intelligence Unit
FUR	Follow-up report
GPO	General Prosecutor's Office
LC	Largely compliant
Law 1.144	Law No 1.144 of 26 July 1991 concerning the exercise of certain economic and legal activities
ML	Money Laundering
MLA	Mutual legal assistance
MoI	Ministry of Interior
NC	Non-compliant
NPO	Non-profit organisation
NRA	National risk assessment
PC	Partially compliant
PEP	Politically exposed person
PF	Proliferation financing
R.	Recommendation

RA	Risk assessment
RBA	Risk-based approach
RBO	Register of beneficial ownership
RCI	Trade and Industry Registry
RdT	Register of trusts
RE	Reporting entity
RSC	Special Register of civil-law partnerships
SAM	Monegasque joint stock company
SARL	Private limited company
SBM	Société des bains de mer et du cercle des étrangers de Monaco
SCAs	Limited partnership with shares
SCSs	Limited partnerships
SICCFIN	Monaco FIU (now AMSF)
SO	Sovereign Order
SNCs	Commercial partnerships
STR	Suspicious transaction report
TC	Technical compliance
TCSP	Trust and company service providers
TF	Terrorist financing
TFS	Targeted financial sanction
UN	United Nations
UNSC	United Nations Security Council
UNSCR	United Nations Security Council Resolution
VASP	Virtual Asset Service Provider

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November 2024

Follow-up report

Anti-money laundering and counter-terrorist financing measures -

Monaco

1st Enhanced Follow-up Report &

Technical Compliance Re-Rating

This report analyses Monaco's progress in addressing the technical compliance deficiencies identified in the December 2022 assessment of their measures to combat money laundering and terrorist financing.