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Monaco: Assessment of Financial Sector Supervision and Regulation

This Assessment of Financial Sector Supervision and Regulation for Monaco was prepared by a staff team of the International Monetary Fund as background documentation for the periodic consultation with the member country. It is based on the information available at the time it was completed on June 19, 2008. The views expressed in this document are those of the staff team and do not necessarily reflect the views of the government of Monaco or the Executive Board of the IMF.

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Principality of Monaco

Assessment of Financial Sector Supervision and Regulation

Prepared by the Monetary and Capital Markets Department

Approved by Jaime Caruana

June 19, 2008

This Assessment of Financial Sector Supervision and Regulation (AFSSR) is based on the work of the Offshore Financial Center (OFC) Program Update team, which visited the Principality of Monaco during March 4–17, 2008. The OFC Program Update team comprised Messrs. Alessandro Giustiniani (Mission Chief), Renzo Avesani (risk management expert), and Richard Britton (securities market expert). The OFC Program Update team received excellent cooperation from the Monegasque and French authorities as well as from market participants and associations.

The main findings of the OFC Program Update are the following:

- Since the 2002 OFC assessment, the Principality of Monaco has taken important steps to further strengthen an already comprehensive legal framework, supervisory structure, and practices supporting a well-regulated environment. Nonetheless, given Monaco's ambition to develop into a fully-fledged financial center, there is a case for intensifying ongoing efforts to comply with international best practices, in particular regarding the sharing of information with foreign regulatory authorities. Moreover, the newly created Commission de Contrôle des Activités Financières (CCAF—Financial Activity Supervisory Commission) would need to strengthen its independence as well as its human resources, should it assume a greater direct role in overseeing local nonbank institutions.
- In its recent mutual evaluation of compliance with FATF 40+9 Recommendations, MONEYVAL acknowledged that Monaco has a satisfactory Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) legal framework, but identified a range of issues on which further action by the authorities is needed. A Report on the Observance of Standards and Codes (ROSC) based on the Executive Summary of the MONEYVAL evaluation supplements this AFSSR. The authorities expressed their commitment to implement MONEYVAL's recommendations.
- The Monegasque banking sector is generally robust. Private banking and asset management are the main services offered by the Monegasque banks, the majority of which are subsidiaries of large internationally active groups. In general, their investment activity is conservative, thus entailing limited risks. Nevertheless, financial market turmoil may heighten challenges for the Monegasque banks, especially if serious difficulties were to emerge at a parent institution.

The main author of this AFSSR is Mr. Giustiniani, with contributions from the rest of the OFC Program Update team.

The AFSSR is a summary report on implementation of the indicated financial sector regulatory standards. It has been developed to help jurisdictions identify and remedy weaknesses in financial sector supervision and regulation. The reviews do not directly assess risks, such as those associated with asset quality, markets, or fraud, which could affect the soundness of financial systems or individual institutions.

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GLOSSARY

AFSSR	Assessment of Financial Sector Supervision and Regulation
AMAF	Association Monégasque des Activités Financières (Monegasque Association of Financial Activities)
AML/CFT	Anti-Money Laundering and Combating the Financing of Terrorism
AMF	Autorité des Marchés Financiers (French Financial Market Authority)
AMPA	Association Monégasque des Professionnels en Administration de Structures Étrangères (Monegasque Association of Company Service Providers)
CB	Commission Bancaire (French Banking Commission)
CBFA	Commission Bancaire, Financière, et des Assurances (Belgian financial sector regulator)
CECEI	Comité des Établissements de Crédit et des Entreprises d'Investissement (French Credit Institutions and Investment Companies Committee)
CCAF	Commission de Contrôle des Activités Financières (Monegasque Financial Activity Supervisory Commission)
CIS	Collective investment scheme
COB	Commission des Opérations de Bourse (the predecessor body to the AMF)
CONSOB	Commissione Nazionale per le Societa' e la Borsa (Italian securities market regulator)
CSP	Company service provider
CSSF	Commission de Surveillance du Secteur Financier (Luxemburg financial sector regulator)
DEE	Direction de l'Expansion Economique (Division of Economic Expansion)
EEA	European Economic Area
EU	European Union
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FSA	Financial Services Authority (UK financial sector regulator)
HHI	Herfindhal-Hirshman Index
IOSCO	International Organization of Securities Commissions
MoU	Memorandum of Understanding
MMoU	Multilateral Memorandum of Understanding
OFC	Offshore Financial Center
ROSCs	Report on Observance of Standards and Codes
SICCFIN	Service d'Information et de Contrôle sur les Circuits Financiers (Monegasque Financial Intelligence Unit)
SO	Sovereign Order
STR	Suspicious Transaction Report
UCITS	Undertakings for Collective Investment in Transferable Securities

EXECUTIVE SUMMARY

Since the 2002 OFC assessment, the Principality of Monaco has taken important steps to further strengthen an already comprehensive legal framework, supervisory structure, and practices supporting a well regulated environment.

The creation of the independent CCAF, resulting from the merger of two previous Commissions in charge of supervising nonbank financial institutions; the establishment of a Coordinating Committee to help cooperation and information sharing on a broad range of financial services issues; the introduction of some elements of self-regulation into the system; the signing of a number of Memoranda of Understanding (MoUs) with foreign security regulators; and the continuing action of the Service d'Information et de Contrôle sur les Circuits Financiers (SICCFIN—Service for the Information and Supervision of Financial Networks) in raising market awareness about AML/CFT prevention mechanisms are all welcome developments.

Nonetheless, given Monaco's ambition to develop into a more fully-fledged financial center, there is a case for intensifying efforts to comply with international best practices so as to minimize potential reputational risk, which is the main risk that Monaco's financial sector faces.

In particular, should the CCAF fully develop its role of supervisor and inspector of collective investment schemes, it would need additional resources. In addition, the law and practices regarding its sharing of information with both domestic and foreign regulatory authorities need to be raised to international standards. In particular, the staff encourages the Monegasque authorities to initiate talks with the International Organization of Securities Commissions (IOSCO) with a view to joining the organization as an Ordinary Member, noting that admission is now conditional on an applicant becoming a full signatory to the IOSCO Multilateral MoU (MMoU).

The mission welcomes the authorities' commitment to address the weaknesses identified by MONEYVAL in its recent evaluation of Monaco's compliance with FATF 40+9 Recommendations. The mission encourages the authorities to rapidly adopt the necessary legislative and regulatory changes and to strengthen the resources assigned to AML/CFT purposes even beyond what is actually planned.

Monegasque banks are generally reported to enjoy robust capitalization, strong liquidity, sound asset quality, and solid profitability. Given their specialization in private banking and asset management and their belonging to large and internationally active financial groups, risks appear to be contained. Nevertheless, current financial market turmoil may heighten challenges for Monegasque banks, especially if serious difficulties were to emerge at a parent institution.

Main Recommendations

Recommendation	Priority
Amend Act 1.338 to enhance information sharing and cooperation both domestically and between the CCAF and foreign regulatory authorities, particularly regarding the requirements of an MoU and comparable professional secrecy obligations, in line with best international practices.	High
Amend Act 1.338 to bring the offences of insider dealing and market manipulation into line with international best practices.	High
Require licensed firms to report to the CCAF transactions which create reasonable suspicion of insider dealing or market manipulation, and develop the Commission's expertise to analyze such reports so as to take timely remedial actions.	High
Adopt conflicts of interest policies (including reporting of trades) for members and staff of the CCAF along with monitoring compliance.	High
Give consideration to assigning to the CCAF a greater direct role in overseeing local nonbank financial institutions, which may require reviewing the current cooperation arrangements with the French securities regulator (Autorité des Marchés Financiers—AMF).	High
Bring the AML/CFT framework more into line with international standards, in particular with regard to foreign activities and internal controls in financial institutions, and strengthen staffing levels in the SICCFIN.	High
Strengthen the independence of the CCAF by removing the mandate of the Commissaire du Gouvernement to attend its meetings particularly when decisions on licensing or administrative sanctions are to be taken.	Medium
Introduce legal protection of members of the CCAF from liability when carrying out duties in good faith.	Medium
Strengthen staffing levels in the CCAF.	Medium
Monitor valuation of collateral required by banks for Lombard lending activity and banks' liquidity conditions.	Medium

I. INTRODUCTION

1. **The first OFC evaluation of Monaco took place in April–May 2002**.[1] At that time, the mission concluded that Monaco had in place a comprehensive legal framework, supervisory structure and practices that support a well regulated financial environment. However, the staff advised to further strengthen the supervisory architecture through enhancing information sharing with foreign supervisory authorities, improving the AML/CFT regime, and fine-tuning supervisory arrangements.

2. **A number of factors limited the scope of the OFC update**. Banking activity in Monaco is regulated and supervised by the French supervisory authority whose compliance with Basel Core Principles for Effective Supervision was assessed in 2004.[2] MONEYVAL recently conducted a mutual evaluation of the AML/CFT regime in the Principality of Monaco.[3] The dearth of insurance companies precluded undertaking an assessment of the Insurance Core Principles of the International Association of Insurance Supervisors.

3. **As a consequence, the main tasks of the mission were:**

- updating the 2002 assessment of the IOSCO Objectives and Principles of Securities;
- reviewing developments, risks and vulnerabilities of the financial sector;
- evaluating the supervisory architecture, especially regarding cooperation and information sharing domestically and with foreign regulatory authorities; and
- following-up on MONEYVAL's mutual evaluation.

4. **Overall, the Monegasque authorities have implemented many of the previous OFC recommendations** (Appendix). The results of the IOSCO assessment update were generally positive, although efforts should be strengthened to comply with international standards on key topics such as information sharing, independence of the newly created supervisory and regulatory agency, conflicts of interest of commission staff and members,

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[1] "Monaco—Publication of Offshore Financial Sector Assessments—Volume I—Review of Financial Sector Regulation and Supervision," and "Monaco—Publication of Offshore Financial Sector Assessments—Volume II—Detailed Assessment of Observance of Standards and Codes," IMF Country Report No. 03/263, August 2003.

[2] "France—Publication of Financial Sector Assessment Program—Detailed Assessments of Observance of Standards and Codes," IMF Country Report No. 05/186 June 2005.

[3] MONEYVAL (the Council of Europe's Committee of Experts on the Evaluation of Anti-Money Laundering Measures and Financing of Terrorism) is the Financial Action Task Force (FATF)-style regional body of which Monaco is a member.

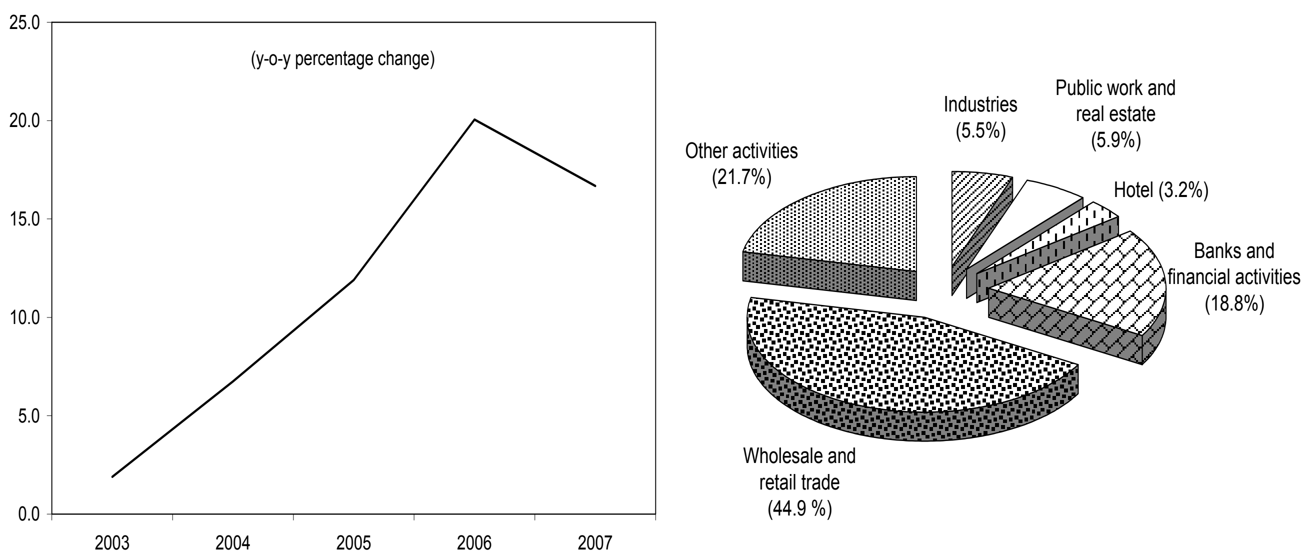
insider dealing and market manipulation. As for the AML/CFT regime, a ROSC based on the Executive Summary of the MONEYVAL evaluation supplements this AFSSR.

II. Background

5. **Monaco is a small, open and diversified economy**. Monaco is the second-smallest independent state in the world. Unlike some other OFCs, the Monegasque economy does not depend solely on financial services. As of end-2007, the turnover of credit institutions and portfolio management represented about 18 percent of total turnover in the economy—three percentage points lower than in 2000—while employment in the financial sector was about 6 percent of total employment. Tourism and related activities, real estate, and some small scale industry (mainly pharmaceuticals and cosmetics) are other important productive sectors. In 2007, economic activity, as measured by total turnover, has continued to grow at a solid pace, although somewhat slower than in 2006 (Figure 1).

6. **Historically, Monaco has maintained close and special relations with France.** In particular, Franco-Monegasque relations are governed by the Treaty of July 17, 1918, which was renegotiated in 2002 and ratified in 2005. There is a whole series of other agreements on neighborhood and mutual administrative assistance, taxation, customs, insurance and posts, telegraph and telephones. Under the Franco-Monegasque agreement of July 28, 1930, a number of French persons are seconded from the French public service, particularly in the fields of education, law enforcement, justice, and tax affairs.

Figure 1. Monaco: Total Private Sector Turnover; 2002–07



7. **Monaco is not a member of the European Union (EU) or the European Economic Area (EEA) but it participates in some EU policies through its special relations with France.** Monaco is an integral part of the Community customs territory (Article 3(2)(b) Customs Code) and applies directly most measures related to Value Added Tax and excise duties, in particular those related to the free movements of goods within the Community.[4] Furthermore, the EU Commission concluded with the Principality an agreement regarding the application of the Savings Tax Directive (2003/48/EC) which seeks to ensure that EU residents pay tax on their interest income wherever it is received.[5] Like Austria, Belgium, and Luxembourg, Monaco deducts a withholding tax and transfers three quarters of the collected revenues to the relevant jurisdiction.[6] However, Monaco remains on the Organization for Economic Cooperation and Development's list of uncooperative tax havens, along with Andorra and Liechtenstein, since it has not yet made commitments to transparency and effective exchange of information in tax matters. Monaco became a member of the Council of Europe in October 2004.

8. **The euro is the official currency of Monaco**. In December 2001, Monaco concluded with France, acting on behalf of the European Community, a monetary agreement (the Convention) which entitles the Principality to use the euro as its official currency.[7] As a result, the Monegasque banking system has full access to the euro zone payment systems and as such is subject to the monetary policies of the European Central Bank. Under this Convention Monaco has agreed to apply the measures adopted by France to implement "Community Acts concerning the prudential supervision of credit institutions and the prevention of systemic risks to payment and securities settlement systems" (Article 11(2)). The relevant Acts are added to the Annexes of the Convention by the EU Commission whenever an Act is amended or a new Act is adopted.

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[4] The participation in the Community customs territory does not extend to the area of external trade. Preferential trade agreements concluded by the Community apply only to goods originating on the territory of the Community. Goods produced in Monaco may not claim Community origin and are generally not included in an extended application of the protocol of origin with the trade partners of the Community.

[5] The agreement entered into force on July 1, 2005.

[6] Currently the withholding tax rate is 15 percent but it will be increased to 20 percent in July 2008. This rate will remain in force for the next three years and it will be raised to 35 percent thereafter.

[7] 2002/409/EC; published on the Official Journal, L 142 of 31.05.2002, p. 59–73 (http://ec.europa.eu/external_relations/monaco/intro/index.htm).

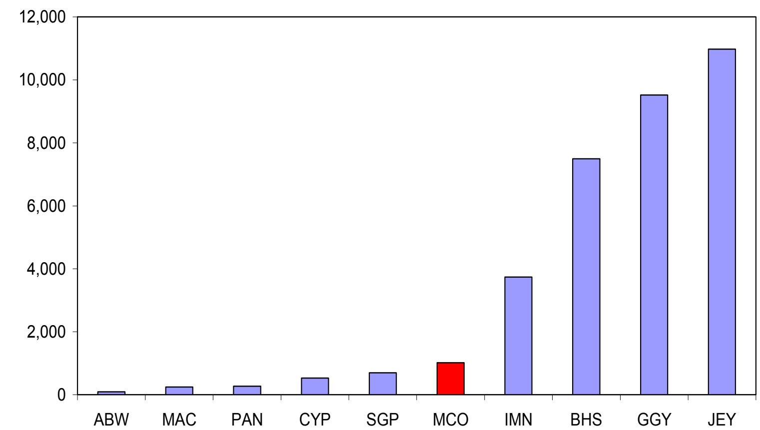
III. Financial System Features

A. Overview

9. **Monaco is a small to medium sized OFC.** Although the size of the financial sector, as measured by its total assets, is a substantial multiple of the Monegasque economy, the depth of the Monegasque financial sector is only a fraction of that seen in other OFCs (Figure 2).

10. **Financial intermediation is dominated by the banking sector.** Private banking and asset management are the main services offered by Monegasque banks, which hold the lion's share of the financial sector's total assets (Table 1).[8] Monegasque banks are controlled by foreign groups headquartered mainly in France, Switzerland, Italy, and the UK. Investment advisory and wealth management services are offered also by nonbank institutions. The Monegasque financial sector includes also two financial companies specialized in consumer credit, property financing and financing companies' cash requirements. There are currently no insurance companies directly represented in the Principality. Insurance services are offered by 47 agents and brokers representing more than 150 insurance companies.

Figure 2. Monaco: Financial Sector Depth in Selecetd OFCs; 2006
(Total assets in percent of GDP)



ABW = Aruba; BHS = The Bahamas; CYP = Cyprus; GGY = Guernsey; IMN = Isle of Man; JEY = Jersey; MAC = Macao SAR; MCO = Principality of Monaco; PAN = Panama; SGP = Singapore.

11. **There are no organized capital markets in Monaco and there is no informal or over-the-counter capital market**. Trades for clients and for the banks' own accounts are executed on exchanges (via a non-Monegasque broker) and with counterparties outside the jurisdiction. Bank and investment managers are not allowed to be remote members of overseas stock or derivatives exchanges. There are only two companies whose securities trade publicly and those trade on the lower sections of Euronext Paris, the Marché Libre and the Second Marché.

[8] The number of credit institutions increases to 40 if 14 branches of French banks are included.

Table 1. Monaco: Financial System Structure; 2003–2006

Type of Institution	2003			2004			2005			2006		
	Number	Assets	Share	Number	Assets	Share	Number	Assets	Share	Number	Assets	Share
Commercial banks 1/	30	16,934	62.0	28	17,568	60.7	24	20,673	62.4	25	24,361	64.4
of which												
Societe de droit monegasque	20	14,301	52.4	19	14,976	51.7	16	17,881	53.9	17	21,933	58.0
Branches of EU countries	8	2,557	9.4	7	2,516	8.7	6	2,687	8.1	6	2,289	6.1
Branches of other countries	2	76	0.3	2	75	0.3	2	105	0.3	2	139	0.4
Municipal Credit Banks	1	17	0.1	1	16	0.1	1	15	0.0	1	14	0.0
Finance Companies 2/	3	736	2.7	2	692	2.4	2	587	1.8	2	743	2.0
Asset Management Companies	24	4,121	15.1	23	4,777	16.5	22	5,624	17.0	29	6,722	17.8
Investment Funds	61	5,493	20.1	62	5,906	20.4	62	6,247	18.8	63	5,975	15.8
Trustees	26			32			31			31		
Insurance												
No. of brokers										31		
No. of agents										25		
Total agents/brokers 3/										47		
Total assets		27,301			28,959	100.0		33,145			37,815	100.0
Memorandum items:												
Total assets under management 4/					59,304			79,541			71,396	
GDP (est.)								3,442			3,717	

Sources: Commission Bancaire; and Department des Finances et de l'Economie.
1/ Excludes 14 branches of French credit institutions.
2/ Excludes 1 branch of a French finance company.
3/ Some general agents are also brokers for other insurrance companies.
4/ Includes branches of French banks.

B. Banking Sector

12. **Despite the large number of credit institutions, the Monegasque banking sector is rather concentrated**. The five largest institutions account for slightly more than half of total bank deposits and customer assets. Based on information available from Bankscope on an incomplete set of credit institutions, calculated market structure indicators, such as the Herfindhal-Hirshman Index (HHI), confirm a significant degree of concentration in the banking industry.[9] This result may reflect a series of mergers and acquisitions that started in 2003 and the arrival of large, international credit institutions.

13. **Private banking and asset management are the main services offered by Monegasque credit institutions**. Monegasque banks provide a host of financial services to wealthy customers, mainly non-resident.[10] Lending activity, mainly mortgage and Lombard lending (see below), is rather limited accounting for less than a quarter of total deposits. Hence, the system generates a substantial amount of liquidity that is transferred to parent institutions or, in minor part, lent through the money market. The off-balance-sheet component of banks' assets, i.e. the assets held in the financial institutions on client accounts,

[9] The HHI index was calculated for a sample of 14 credit institutions for which data on total assets were available for one of the years 2005–06. The HHI assumed a value (2,895) higher than the threshold of 1,800 above which a market is considered to be highly concentrated.

[10] It is estimated that two-thirds of banks' customers are non-resident.

is in part discretionally managed (advised) by asset management units and in part directly managed by the investors themselves.

14. **As a result of the particular business model, Monegasque banks are generally reported to enjoy robust capitalization, strong liquidity, and sound asset quality.** Although banks' leverage has somewhat increased, their capital buffer in terms of risk-weighted assets has remained well above requirements (Table 2). Return on equity has been relatively low but this may reflect high costs associated with private banking business and conservative investment activity by Monegasque banks (Section D).

15. **Nevertheless, financial market turmoil may heighten challenges for Monegasque banks.** Many banks have specialized in asset management for their clients. As a result, more than two thirds of banks' income stems from trading and fee income. Should capital market activity slow significantly, Monegasque banks' recurring earnings power might be negatively affected. Owing to high costs associated with private banking activity, bank efficiency, as measured by the ratio between operating expenses and gross income, does not compare favorably with that of other European countries, although it has recently improved somewhat. Potential pressure from both earnings and cost sides, together with the high leverage, may make Monegasque banks vulnerable to a significant fall in their profitability. However, market participants, although acknowledging the potential risks, were of the view that the overall impact on Monegasque banks of current market turbulence would be contained.

C. Nonbank Financial Sector

16. **The industry of collective investment schemes (CISs) has grown marginally in recent years**. As of end-2007, CIS total assets amounted to €6.1 billion compared to €5.5 billion at the end of 2003. In particular, funds open to the public totaled €4.1 billion and private funds, or funds dedicated to one or a few investors, totaled €2.1 billion (Table 3). The inability to market Monegasque funds in the EU is probably the key factor in explaining CISs' weak growth performance.

17. **On the other hand, the activity of nonbank portfolio management companies has increased substantially**. In the 2003–07 period, total assets of nonbank portfolio management companies have more than doubled, increasing from €4.0 billion to €10.5 billion. The number of companies has risen from 24 to 41. This significant expansion indicates the ability of the Monegasque wealth management industry to attract an increasing number of wealthy clients.

Table 2. Monaco: Banking Sector Financial Soundness Indicators; 2002–06

	2002	2003	2004	2005	2006
Capital adequacy					
Regulatory capital as percent of risk-weighted assets	15.3	17.0	18.5	14.6	16.3
Regulatory Tier I capital to risk-weighted assets	13.8	14.5	15.1	11.4	12.2
Capital as percent of total assets	4.2	5.0	4.9	4.3	3.9
Asset composition					
Sectoral distribution of bank credit (as percent of total credit to the resident non-monetary private sector)					
Households	7.3	10.8	12.3	12.2	10.7
Non-financial corporations	9.2	14.4	18.7	21.8	20.0
Other financial corporations	83.3	74.8	69.0	66.0	69.3
Asset quality					
Non-performing loans (NPL) as percent of gross loans	1.3	1.5	0.8	0.6	0.5
Provisions as percent of NPL	130.6	101.2	169.6	150.7	140.6
NPL net of provisions as percent of tier I capital	-1.2	-0.1	-2.1	-1.3	-0.9
Large exposures as percent of regulatory capital					
Earnings and profitability					
Gross profits as percent of average assets (ROAA)	0.3	0.4	0.4	0.2	0.5
Gross profits as percent of average equity capital (ROAE)	7.4	7.5	8.1	5.2	13.7
Gross income as percent of average assets	2.0	2.4	2.4	2.3	2.2
Net interest income as percent of gross income	40.6	33.9	31.1	28.2	30.1
Non-interest income as percent of gross income	59.4	66.1	68.9	71.8	69.9
Trading and fee income as a percent of gross income	62.9	66.6	67.7	70.4	69.3
Non-interest expenses as percent of gross income	80.6	81.0	78.0	75.2	71.3
Personnel expenses as percent of non-interest expenses	58.3	61.3	63.7	64.4	65.0
Liquidity					
Liquid assets as percent of total assets	61.9	63.6	62.9	63.8	63.8
Liquid assets as percent of short-term liabilities	145.5	158.0	153.1	149.2	153.7
Foreign currency assets as percent of total assets	39.3	39.4	38.6	46.6	43.8
Foreign currency liabilities as percent of total liabilities	39.0	39.4	38.7	46.8	44.0
Foreign currency liabilities as percent of total assets	39.0	39.4	38.7	46.8	44.0
Deposits as percent of assets	71.0	73.2	72.5	74.6	76.4
Loans as percent of deposits	16.0	21.9	23.9	24.5	23.5

Source: Commission Bancaire.

Table 3. Monaco: Breakdown of Public Collective Investment Schemes; 2003–07

	2003		2007		
	In EUR mill.	Share	In EUR mill.	Share	Percent. Chg.
Money market funds	2,720.9	72.3	2,828.9	69.8	4.0
Diversified funds	766.2	20.3	599.0	14.8	-21.8
Equity funds	152.3	4.0	390.8	9.6	156.6
Bond funds	126.5	3.4	148.1	3.7	17.1
Funds of funds	0.0	0.0	60.4	1.5	…
Future market funds	0.0	0.0	25.3	0.6	…
Total	3,765.9	100.0	4,052.5	100.0	7.6

Source: Commission de Contrôle des Activités Financières.

18. **Hedge fund activity is still at an early stage of development**. In the last couple of years a handful of hedge funds have started locating part of their activities in Monaco. This is a completely new line of business, which has shown a strong capacity to develop in many other jurisdictions. However, it is still too early to pass a judgment on the hedge fund industry in Monaco, although both the authorities and market participants have emphasized that the Principality may be quite an attractive location for these entities.[11]

19. **Company Service Providers (CSPs) are an important part of the Monegasque financial services sector**. There are 37 firms employing around 250 people. CSPs' main activity is family inheritance planning rather than corporate advice or management. Consistent with FATF general policy recommendations, the Monegasque law was amended in 2004 (Act 1.282) to abolish the issuance of bearer shares.

D. Risks and Vulnerabilities

20. **As for risk management, Monegasque banks adopt the standardized approach of Basel II**. Two factors justify this choice. On the one hand, the scale and complexity of banks' operations is rather contained. On the other, the majority of Monegasque banks are subsidiaries of large and internationally active groups that implement more sophisticated risk management procedures. In general, Monegasque banks' risk management practices are determined by parent institutions and therefore they are likely to be consistent with international best practices.

[11] The limited number of premises and their high cost may be a constraint.

21. **The main risk faced by Monegasque financial institutions is reputational risk.** Because of their particular business activity based upon attracting high net worth and sophisticated individuals or institutional investors, Monegasque financial firms need to maintain the confidence of customers and the general marketplace. Otherwise funds could be immediately shifted to another jurisdiction.

22. **Reputational risk has its source in operational risk**. This could reside, for example, in prosecution for AML violations, fraud by staff on clients or mismanagement of client assets. Both market participants and the authorities are well aware of this risk and put a lot of emphasis on know-your-customer and compliance practices. In general, the existence of close networks among different operators and between them and the Monegasque authorities helps mitigate this type of risk.

23. **Given the limited scope of traditional banking activity, credit risk is limited**. Some credit exposure is assumed through Lombard lending. This type of lending against collateral is usually represented by the borrower's assets and liquidity is offered by private banks to clients who want to undertake speculative investment for their own account. Sometimes new investment opportunities are offered by the same institution that finances the operation, thus reducing risks for the lender who is in a position of monitoring asset price developments. In normal market conditions, the existence of collateral and haircuts would protect the lending institution from adverse outcomes. Nevertheless, current market conditions characterized by high volatility call for closer-than-usual monitoring of this type of lending activity since abrupt and unexpected re-pricing of collateral may materialize.

24. **Market and counterparty risks are also small**. Only two banks have their own trading books but these are rather small compared to the overall activity of these institutions, although in one case almost half of the regulatory capital requirement is due to market risk exposure (mainly interest rate risk). As mentioned above, the bulk of banks' liquidity is transferred to parent institutions and a small fraction is lent through the money market. As a result, counterparty risk is rather low unless serious difficulties emerge at the parent institution.

25. **In general, the investment activity of Monegasque financial firms is conservative, thus entailing limited risks**. Market operators have highlighted that while asset management clients are characterized by different risk profiles, the typical portfolio of investment is rather conservative. Simple equity or bond funds or funds of funds or plain vanilla money market instruments are the typical investments chosen by their customers.

IV. SUPERVISORY ARCHITECTURE

A. Banking Sector

26. **Monegasque banks are subject to the French banking law and are supervised by the French banking regulator**. Under the 1945 convention signed between France and Monaco, regulations passed under the French Banking Act are also automatically applicable in the Principality.[12] Under the agreements, Monegasque banks are licensed by the Comité des Établissements de Crédit et des Entreprises d'Investissement (CECEI—French Credit Institutions and Investment Companies Committee), after which authorization to conduct business is granted by the Monegasque Minister of State.[13] Except on anti-money laundering, Monegasque banks are supervised by the Commission Bancaire (CB—French Banking Commission) (Table 4).[14] With regard to their organization, Monegasque credit institutions must comply with the rules laid down by the French Minister for Economic Affairs, Finance and Industry, after consulting the French Consultative Committee on Financial Legislation and Regulations. Since Monaco is not part of the EU, the legislation concerning the rights of establishment and the freedom to provide services is not applicable.

27. **As a consequence, most French safety net regulations apply to Monegasque banks as well**. Membership to the French deposit guarantee scheme is compulsory for credit institutions under Monegasque law as well as for branches located in Monaco of foreign institutions even if their registered office is located in an EEA country. However investors' securities held on deposit by Monegasque credit institutions are not yet covered by the French securities guarantee arrangements which implemented the EU Investors Compensation Directive (97/9/EC), since the 1996 Financial Activity Modernization Act in France, amended in 1999, is not applicable in the Principality. The exchange of letters between the two countries regarding the extension of the French securities guarantee

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[12] The scope of this convention was made more specific by the exchanges of letters that followed in 1963, 1987, and 2001. In particular, it was specified that provisions applicable in France were also applicable in the Principality when they strictly concerned the regulation and organization of credit institutions. The anti-money laundering regulations do not apply and certain provisions of criminal law and other provisions relating to the functions of company administrators or liquidators and auditors only apply when taken in conjunction with the relevant Monegasque legislation and regulations.

[13] All business activities in Monaco have to be authorized by the Monegasque Minister of State; the Direction de l'Expansion Economique (DEE) is in charge of carrying out all the controls necessary to issue the authorization.

[14] A representative of the Monegasque government sits on the CB when it deliberates on general or specific affairs concerning Monaco, in accordance with the agreement between France and Monaco of November 27, 1987.

Table 4. Monaco: Regulatory Structure

Financial institution	Establishment	Supervision
Credit institutions	Authorization of the Ministry of State (Department of Finance and Economic Affairs/Division for Economic Development) to create the establishment and licensing by the Comité des Establissements de Crédit et des Enterprises d'Investissement (France).	Commission Bancaire (France) for prudential regulation; Service d'Information et de Contrôle sur les Circuits Financiers (Monaco) for AML/CFT; Commission de Contrôle des Activités Financières (Monaco) for asset management activities.
Portfolio management companies	Authorization of the Ministry of State (Department of Finance and Economic Affairs/Division for Economic Development) to create the establishment and licensing by the Commission de Contrôle des Activités Financières (Monaco).	Commission de Contrôle des Activités Financières (Monaco); Service d'Information et de Contrôle sur les Circuits Financiers (Monaco) for AML/CFT.
Fund management companies	Authorization of the Ministry of State (Department of Finance and Economic Affairs/Division for Economic Development) to create the establishment and licensing by the Commission de Contrôle des Activités Financières (Monaco).	Commission de Contrôle des Activités Financières (Monaco) but it can use external experts (usually the Autorité de Marché Financiers, France); Service d'Information et de Contrôle sur les Circuits Financiers (Monaco) for AML/CFT.
Insurance companies	Authorization of the Ministry of State (Department of Finance and Economic Affairs/Division for Economic Development) to create the establishment and licensing of the establishment of the company by the French Ministry for Economic Affairs, Finance and Industry and the French insurance monitoring commission.	No insurance company in Monaco.
Money remittance/transfer companies	Authorization of the Ministry of State (Department of Finance and Economic Affairs/Division for Economic Development) to create the establishment.	Service d'Information et de Contrôle sur les Circuits Financiers (Monaco) for AML/CFT.
Bureaux de change	Authorization of the Ministry of State (Department of Finance and Economic Affairs/Division for Economic Development) to create the establishment.	Service d'Information et de Contrôle sur les Circuits Financiers (Monaco) for AML/CFT.

arrangements to Monegasque banks, which dates back to November 2005, has still to be ratified by the French parliament.

28. **Provisions of the French Monetary and Financial Code related to reorganization and winding up of credit and financial institutions would also apply to Monegasque institutions with necessary modifications to take into account Monegasque business law**. The modifications have also to consider the different judicial authorities involved in the process. Furthermore, there is an insolvency convention between Monaco and France providing for a unified procedure valid in the two countries.[15]

B. Nonbank Financial Sector

29. **The supervisory structure regarding securities activity in Monaco has been recently reinforced with the establishment of the CCAF**. As recommended by the previous OFC Assessment, the Commission de Contrôle de Gestion de Portefeuille et des Activités Boursières Assimilées (Supervisory Commission for Portfolio Management and Related Stock Market Activities) and the Commission de Surveillance des Organismes de Placement Collectif en Valeurs Mobilieres (Supervisory Commission for Mutual Funds) have been merged in the CCAF (Act 1.338 of September 7, 2007).

30. **The CCAF is significantly more independent than the previous two Commissions**. In addition to the inspection and investigation powers of its predecessors, the CCAF has now been given licensing and sanctioning authority. However, the power to enact regulations remains with the Ministry of State, as administrator of all laws in the Principality. In this regard, the CCAF remains in an advisory position, although it is developing a significant role in transposing Acts, Sovereign and Ministerial Orders into practical compliance measures. Pursuant to the 1992 agreement with France, inspections of mutual fund companies continue to be undertaken by staff of the AMF.[16]

31. **However, the CCAF's independence could be further enhanced by removing the mandate of the Commissaire du Gouvernement to attend CCAF meetings.** The

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[15] As a result, if a French bank with a branch in Monaco fails there will be only one procedure, governed by the French law. If there is a failure of two branches of a foreign bank (one in France and one in Monaco) there will be only one procedure, as was the case for Bank of Credit and Commerce International in 1991.

[16] Unlike the licensing and regulation of banks where reliance on the CECEI and CB is required by the Monetary Convention, reliance on the AMF is based solely on an exchange of letters in 1992 between the President of the Commission des Opérations de Bourse (COB—the predecessor body to the AMF) and the President of the Mutual Funds Commission of Monaco.

Commissaire attends CCAF meetings "in an advisory capacity."[17] Although the Monegasque authorities noted that the Commissaire has mainly the function of keeping the CCAF members informed about the government's general policies, in the view of the mission his/her presence may give the government an opportunity to influence CCAF operational decisions such as licensing and administrative sanctions. The Commissaire du Gouvernement also has the function of liaison between the CCAF and the CB, since he/she sits on the CB Board when the latter deliberates on general or specific affairs concerning Monaco. For this reason the CCAF is of the view that further formal information sharing arrangements with the CB would not accrue any additional benefits to existing communication channels.[18] However, should the above-mentioned recommendation be accepted, alternative arrangements will have to be made.

32. **The management of mutual funds and other investment funds has also been modernized**. In particular, the regulation of mutual funds largely follows the model of Undertakings for Collective Investment in Transferable Securities (UCITS) adopted in the EU (Directive 85/611/EEC as amended). However, since Monaco is not an EU Member State, the Monegasque funds do not have the privileged position regarding marketing to EU citizens that are granted to UCITS from Member States.

33. **Several steps have been taken to expand the range of investment activities that may be carried out in the jurisdiction** (Act 1.338 of September 7, 2007). These now include the execution of orders for third parties (Article1.5), the management of foreign collective investment schemes (Article 1.6) and trading for own account (Article 1.7). In practice the execution of orders for third parties and trading on own account (for third parties) remains non-permissible. Article 11.9 of the above-mentioned Monetary Convention with the EU (paragraph 9) provides that for these investment activities to be permissible Monaco would have to implement "measures equivalent in effect to existing Community legal acts governing these services." The setting up of companies whose exclusive business is portfolio management or the transmission of orders (for execution by a third party) is permitted, because they are not allowed direct access to payment and securities settlement systems and are therefore outside the Monetary Convention with the EU (Recital 11).

[17] The Commissaire du Governement is not a full member of the Commission, has no voting rights, cannot ask for a second deliberation of the Commission, and has a liaison function with the Government on general matters.

[18] A recommendation of the 2003 OFC assessment was to authorize the Commission de Controle de Gestion de Portefeuille et des Activites Boursieres to provide information to the French CB and other foreign banking supervisors.

34. **The extension of the fund management provisions to the management of foreign funds provides the legal basis for the expansion of the activities of hedge fund managers in Monaco**. In recent months a number of hedge fund managers have set up establishments in Monaco. Legally they have been restricted to giving investment advice to their management companies located in other jurisdictions, which in turn manage foreign (in Monaco terms) funds, often based in the Cayman Islands. These "advisers" are expected to upgrade their licenses to "managers of foreign funds" under the new legislation.

35. **The fund management business is evolving rapidly in Monaco, as elsewhere**. The range and complexity of products is growing. Day-to-day investment decisions are frequently made by third party fund managers close to the markets and remote from the headquarters of the fund management company. More funds are targeted at specific investor sectors and as such are not broadly available to the public (at least until they have developed a track record acceptable to regulators). The distinctions between public funds, private funds and portfolios constructed and managed to meet the needs of specific investors (individual and institutional) are increasingly blurred.

36. **Going forward, consideration should be given to assigning to the CCAF a greater direct role in overseeing local nonbank institutions, which may require reviewing the current institutional arrangement with the AMF**. In practice the role of the AMF staff is limited to a portion of the overall investment management market (public and private CISs) that is declining in importance in terms of market share and usually has a low risk profile (long only funds with little or no leverage). Furthermore, the AMF stated that its inspections largely focus on compliance with prudential regulation. Owing to its greater closeness to the market and its daily involvement with and oversight of the local financial community, a greater direct role of the CCAF is likely to enhance the possibility of getting early warning of problems. Furthermore, the recent legislative changes in Monegasque law (Article 4 of Act 1.338) permit the same management company to manage both collective investment schemes (public and private funds) and individual portfolios. If the current arrangements remain unchanged, there is a risk that firms which take advantage of the new law could be subject to duplicative inspections by both CCAF and AMF staff. This would be costly and inefficient for both the firms and the CCAF. The Monegasque authorities expressed their willingness to reinforce their cooperation with the AMF. In this regard they informed the staff that the 1992 agreement governing their cooperation for on-site inspection will be soon updated to take into account recent legal and economic developments.

37. **Given the ambition of Monaco to develop into a more fully fledged financial center compliant with international standards of service and regulation, there is a case for increasing CCAF's responsibilities**. Taking on the full role of supervisor and inspector of the CIS industry rather than employing an external expert (even one with the high international reputation of the AMF) is a natural progression. This will not require any

legislative or constitutional changes. It will not call for a modification of the Monetary Convention since Monegasque fund management companies are not permitted direct access to payment and settlement systems. Nonetheless, such a development has significant resource implications.

C. Information Sharing

38. **It is similarly consistent with Monaco's ambitions that its law and practices regarding information sharing and cooperation both domestically and between the CCAF and foreign regulatory authorities be further enhanced to match best international practices**. This was stressed in the previous OFC assessment. To this end, the previous OFC assessment made a number of recommendations aimed at removing legal impediments to information sharing and further developing the supervisory architecture through additional MoUs for information exchange and cooperation.

39. **Since the last OFC assessment there have been some improvements**. Generally, prudential information can be provided at the request of overseas regulators when the Monegasque licensed company is part of a group headquartered outside Monaco (Article 16(1) of Act 1.338). In addition to the MoU with the French security regulator, three new MoUs have been signed with the Commissione Nazionale per le Società e la Borsa (CONSOB—Italy) in November 2003, the Commission de Surveillance du Secteur Financier (CSSF—Luxemburg) in June 2004, and the Commission Bancaire, Financière, et des Assurances (CBFA—Belgium) in March 2005.[19] Discussions have begun with the UK Financial Services Authority (FSA) and the Swiss authorities. Moreover, an MoU between the SICCFIN and the CB was signed in October 2003.

40. **However, two major problems remain: the need for a formal MoU to exchange information, and highly demanding professional secrecy obligations**. The CCAF can provide information concerning possible market related offences, such as insider dealing and other forms of market abuse, to foreign regulators only if an MoU has been signed (Article 16 of Act 1.338).[20] [21] The new legislation envisages that "[i]nformation may be provided …

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[19] At the time of the previous OFC assessment, only the MoU between one of the original Monegasque commissions and the COB existed. The relations between the CCAF and the AMF continue to be regulated by that MoU.

[20] In 2007 Monaco received and responded to 11 requests for assistance on market abuse, primarily concerning insider trading: 10 were submitted by the AMF and one by the CONSOB, both of which have an MoU with the Monegasque authorities.

only … on condition that the authority concerned is bound by a professional secrecy obligation offering the same guarantees as in the Principality" (Article 17 of Act 1.338).

41. **To be consistent with international good practices, both these constraints ought to be removed or significantly mitigated**. Current international good practice does not require an MoU to be in place as a necessary precondition for information to be exchanged or assistance provided. Most regulators claim that they will attempt to provide assistance whether or not an MoU is in place. As for professional secrecy, for example, the IOSCO MMoU imposes only a "best-efforts" obligation on the requesting authority (Article 10) and, in the event the requesting authority receives a legally enforceable demand, an obligation to "assert such appropriate legal exemptions or privileges with respect to such information as may be available." To date, 47 regulators have signed the MMoU, while a further 15 regulators are publicly committed to seeking changes in their legislation which will permit them to sign the MMoU. Going forward, the staff encourages the Monegasque authorities to initiate talks with the IOSCO with a view to joining the organization as an Ordinary Member, noting that admission is now conditional on an applicant becoming a full signatory to the IOSCO MMoU.

42. **Domestically, arrangements to share information need to be strengthened as well, since the CCAF still lacks the ability formally to exchange information with other Monegasque authorities**. However, in 2002 the Monegasque authorities established a Coordinating Committee to help cooperation and information sharing on a broad range of financial services issues. The Committee comprises representatives of the DEE, Department du Budget et du Trésor, and the SICCFIN. A representative of the CCAF is usually invited as an expert. Given the relevance of this Committee, it would be advisable to include the CCAF as a permanent member of the Committee. The terms of its participation can be crafted so as to safeguard its independence by avoiding any obligation to provide confidential information to a government department but allowing the CCAF to volunteer information if it thinks that this would, for example, assist in preventing wrong-doing.

D. Development of Self Regulation

43. **Since 2002, when there was no self regulatory element in the Monegasque regulation, the authorities have sought to introduce some elements into the system as reflected by the activities of the Association Monégasque des Activités Financières**

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[21] Even within Monaco the approach to cooperation with foreign regulators set out in Art 16 of Act 1.338 is not followed elsewhere. According to SICCFIN, its membership of the Egmont group of over 100 Financial Intelligence Units (FIUs) has removed the need for MoUs and although SICCFIN has 25 in place it is able to exchange information with other Egmont group members with few constraints.

(AMAF) and the Association Monégasque des Professionnels en Administration de Structures Étrangères (AMPA). Pursuant to Article 21 of Act 1.338, all authorized financial companies must now join the AMAF, which originally was the Monegasque banking association. The AMAF makes recommendations on a range of issues governing its members' conduct and expanding on the legislative and regulatory requirements which are often set at a principles-based level. Although not binding, these recommendations are used by the CCAF when conducting inspections as a means of assessing compliance and a firm is required to demonstrate compelling reasons for not following the recommendations. The President of AMAF is a member of the CCAF. The AMPA produces a series of recommendations concerning primarily AML/CFT and corporate governance with which members are expected to comply. Membership is not compulsory but is 'strongly recommended' by the Monegasque licensing authorities. All current CSPs are members. If a CSP is structured as a Société Anonyme its external auditor must sign off annually on the AML controls in the company.

V. Anti-Money Laundering and Combating the Financing of Terrorism [22]

44. **AML/CFT arrangements are a Monegasque responsibility, based on Monegasque law**. The SICCFIN, which is a specialized administrative structure within the Department of Finance and Economy, is the Monegasque FIU. Its main tasks are: (i) receiving and analyzing suspicious transaction reports (STRs) and transmitting them to the judicial authorities; and (ii) overseeing the implementation of AML/CFT legislation and regulations. The SICCFIN has been a member of the Egmont Group since 1997. Monaco ratified the Council of Europe's Criminal Law Convention on Corruption in March 2007 and became the 46th Member State of the Group of States against Corruption in July 2007.

45. **Although the SICCFIN has only a handful of staff, important results have been achieved in raising market awareness about the need for effective AML/CFT prevention mechanisms.** SICCFIN total staff amounts to 9 persons: a director, four staff dealing with financial investigations and analyses, two people assigned to the supervisory function, and two secretarial staff. They are expected to supervise about 114 institutions. On average, the SICCFIN staff conducts eight on-site inspections per year, also with the help of external experts. The overseeing activity is complemented by the distribution of questionnaires, the analysis of which is at the basis of the on-site activity, and the exchange of information with the CB.[23] The last few years have witnessed an increase in the volume of

[22] This section draws extensively from the MONEYVAL assessment that was adopted by its plenary meeting in December 2007.

[23] At the beginning of each year, the CB and SICCFIN agree on a plan of inspections in order to maximize the number of institutions under examination.

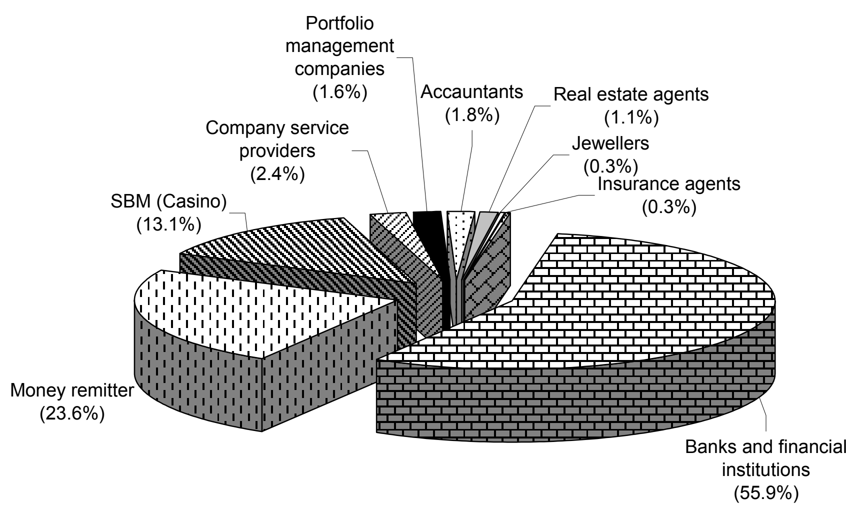
STRs submitted to SICCFIN (Table 5), the bulk of which comes from banks and other financial institutions (Figure 3).

Table 5. Monaco: Suspicious Transaction Reports; 2005–2007

	1995	2000	2004	2005	2006	2007
Suspicious transaction reports (STRs)	37	210	341	375	395	381
Requests to conduct investigations and information received from foreign agencies	11	28	55	63	60	66
Total number of cases	48	238	396	438	455	447
Of which : Cases referred to the prosecution service	0	12	18	13	17	13
Representing the following number of STRs	0	21	40	20	31	22
Requests to conduct investigations and information sent to foreign agencies by SICCFIN	34	157	140	183	143	180

Source: SICCFIN.

Figure 3. Monaco: Sector Breakdown of Suspicious Transactions Reports; 2007

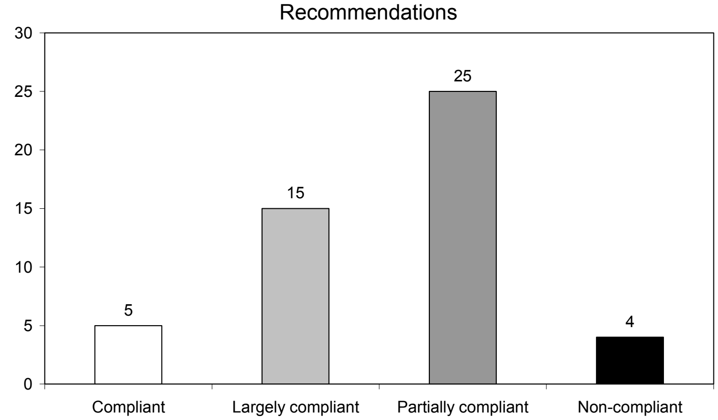


46. **MONEYVAL's recent mutual evaluation of compliance with the FAFT 40+9 Recommendations acknowledged that Monaco has a satisfactory AML/CFT legal framework, but identified a range of issues requiring further action by the authorities** (Figure 4).[24] While terrorist financing offences encompass most of the international requirements, the restrictive definition of money laundering has hindered prosecutions and gaps in legislation limit the authorities' ability to freeze, confiscate or recover criminal or

[24] For more details, see the AML/CFT ROSC that supplements this AFSSR.

terrorist assets. Albeit fairly satisfactory overall, Customer Due Diligence requirements as well as preventive measures applicable to Designated Non-Financial Businesses and Professions have also to be enhanced to fully match international best practices. The scope of criminal penalties and the range of administrative sanctions need to be adjusted and broadened. While measures for domestic cooperation and coordination are generally comprehensive, international cooperation mechanisms ought to be further strengthened.

Figure 4. Monaco: Compliance with 40+9 FATF Recommendations



Source: MONEYVAL.

47. **The authorities have expressed their commitment to implement MONEYVAL's recommendations**. In particular, three intra-ministerial working groups have been established with the aim of filling the legislative gaps detected by the MONEYVAL assessors. Consultations with the associations of market participants are expected to start in April. The authorities indicated their ambitious plan of presenting most of the necessary legislative changes by June.

48. **Although SICCFIN staff is highly professional, supervision of the financial institutions, in particular on-site supervision, needs to be strengthened**. The number of staff assigned for this purpose is limited and certain types of designated nonfinancial businesses and professions are not being subjected to AML/CFT requirements. Relying on on-site inspections by the CB to detect potential suspicious transactions is suboptimal since their main purpose is to safeguard financial stability. However, market participants are of the view that SICCFIN staff is highly professional and very dedicated and on-site inspections are conducted in a thorough way. Nonetheless, the SICCFIN plans to add two new inspectors in the coming months and has also expressed the intention to draw more on external experts to carry out on-site inspection. Yet, given the number of institutions to be supervised and the growing variety of methods used to raise funds and move money within and between organizations for illegal and/or terrorist purposes, there is a case for increasing SICCFIN resources even beyond what is already planned.

APPENDIX I: STATUS OF IMPLEMENTATION OF THE 2002 RECOMMENDATIONS

<table>
<tr><th>2002 Observations and Recommendations</th><th>2008 Status of Implementation</th></tr>
<tr><td colspan="2">Information Sharing</td></tr>
<tr><td>Ongoing work, especially with respect to information-sharing with foreign supervisors, remains necessary.
• The planned MoU between SICCFIN and the CB should be completed as soon as possible.
• Work on establishing MoUs with foreign supervisory authorities should be intensified.</td><td>An MoU between the SICCFIN and the CB was signed in October 2003.

In addition to the MoU with the AMF, the CCAF, which was created by merging the two previous commissions, has signed MoUs with the CONSOB (Italy), the CSSF (Luxemburg), and the CBFA (Belgium). Discussions have begun with the UK FSA and the Swiss authorities.</td></tr>
<tr><td>The Coordination Committee established in September 2002 is an important information sharing mechanism. However, the Supervisory Commission for Mutual Funds is not represented.
• A formal agreement for information exchange should be developed between SICCFIN and the Supervisory Commission for Mutual Funds.</td><td>The CCAF is not a permanent member of the Coordination Committee but it is invited when appropriate as an expert.

The CCAF still lacks the ability formally to exchange information with the SICCFIN.</td></tr>
<tr><td>Information sharing between the Supervisory Commission for Portfolio Management and the CB depends on the dual roles of the Director of Budget and Treasury.
• To provide, in the medium term, for possible changes in industry structure, to strengthen the cooperative base and enhance regulatory reputation; arrangements for information exchange between these parties should be formalized.</td><td>No MoU has been signed. The CCAF does not see further formal information sharing arrangements with the CB accruing any additional benefits beyond what they can already achieve through existing communication channels.</td></tr>
<tr><td>There is legal provision for information sharing between the Supervisory Commission for Portfolio Management and foreign supervisory authorities provided a formal arrangement is in place. Similar provisions were not made for the mutual funds supervisory commission.
• The mutual funds law should be amended to allow for information sharing with foreign supervisory authorities.</td><td>The concern has been resolved following the merging of the two previous Commissions.</td></tr>
<tr><td colspan="2">Mutual Funds and Portfolio Management</td></tr>
<tr><td>The legal framework is comprehensive and is supported by a system of reporting and inspections. The Supervisory Commissions bring important skills to the regulatory structure.
• To enhance soundness of regulation and establish a system compatible with international practices, in the short term, serious consideration should be given to a merger of the two Commissions and, in the medium term, greater independence of the regulator.
• Additional attention to transparency and accountability, and the development of conflicts of interest policies would enhance the quality of the regulatory structure.</td><td>The two Commissions have been merged.

Transparency and accountability of the CCAF have been improved.

The issue of conflicts of interest of CCAF members and staff has been partially addressed by Act 1.338 and its associated Sovereign Order (SO) 1.284 that impose certain restrictions on members of the Commission.</td></tr>
</table>

2002 Observations and Recommendations	2008 Status of Implementation
AML/CFT	
Terrorism financing is being brought into AML framework, but is not a predicate offense for money laundering. • The financing of terrorism should be made a predicate crime for money laundering, and the list of predicate offenses should be reviewed to ensure that all serious offenses are included.	The list of money-laundering predicate offenses has been extended by law n°1.322 of November 9, 2006. It now includes all serious offenses, including the financing of terrorism although not within the overall meaning of the recommendations and their interpretative notes.
Customer due diligence arrangements are in place and observed but could benefit from some enhancement. • Increased due diligence for higher risk customers, especially politically exposed persons, their families, and associates.	SO 632 (August 10, 2006), which amended SO 11.160 (January 24, 1994), has strengthened Monegasque regulation on politically exposed persons.
SICCFIN's supervisory role is expanding and the AML/CFT workload is very heavy. • A comprehensive review of SICCFIN's ongoing work should be undertaken, preferably no later than in the second half of 2003.	The SICCFIN plans to strengthen its staff resources and to draw more on external experts to carry out on-site inspection.
Legislation on confiscation of assets does not include confiscation of "instrumentalities" (i.e. assets used in the commission of a crime) and does not provide for confiscation of assets of equivalent value. • The legislation on confiscation should be modified to provide for confiscation on instrumentalities of a crime and for confiscation of assets of equivalent value.	While the confiscation of "instrumentalities" is now included, under Monegasque law, it is not possible to confiscate property of corresponding value or property which cannot or can no longer be identified as such among the convicted offender's assets.
DEE is responsible for general CSP oversight but SICCFIN assumed responsibility for AML/CFT in CSPs in the July 2002 AML law. • Ensure that new arrangements for dividing supervisory responsibilities between DEE and SICCFIN are well executed.	The allocation of responsibility is clear.