

AML Tuesday's Session #3 on:

The 2023 TCSP Sectorial Risk Assessment

27 February 2024

Discussion Topics

01

Purpose and relevance of the SRA

02

SRA process and sources

03

SRA results

04

Follow-up to the SRA

Purpose and relevance of the SRA

FATF International standards on combating ML and TF

Recommendation 1:

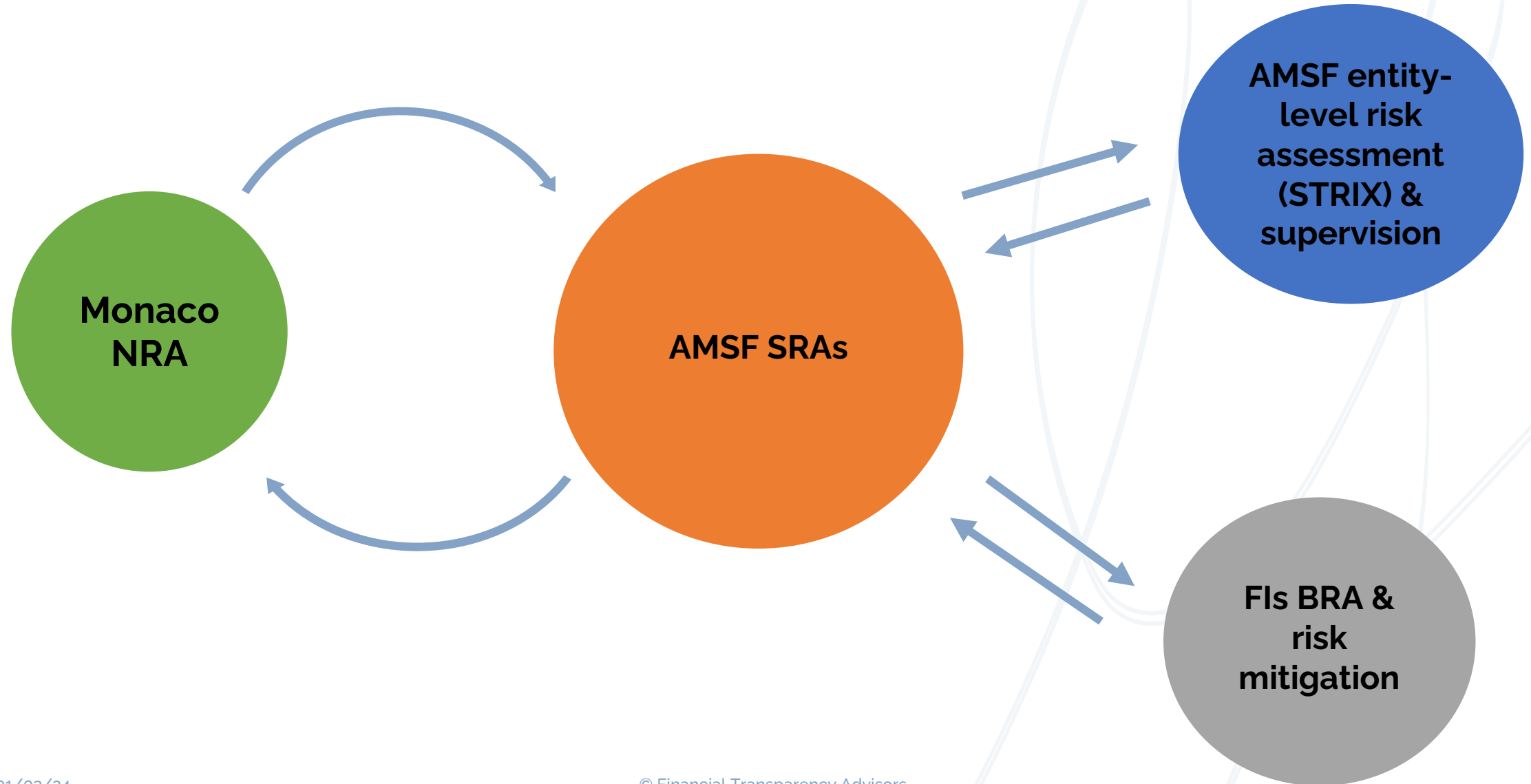
- **Countries** are required to identify, assess and understand the ML/TF risks to which they are exposed, and take effective action to mitigate these risks
- **FIs** should be required to take appropriate steps to identify, assess and understand their ML/TF risks and take measures to manage and mitigate them

Recommendation 26:

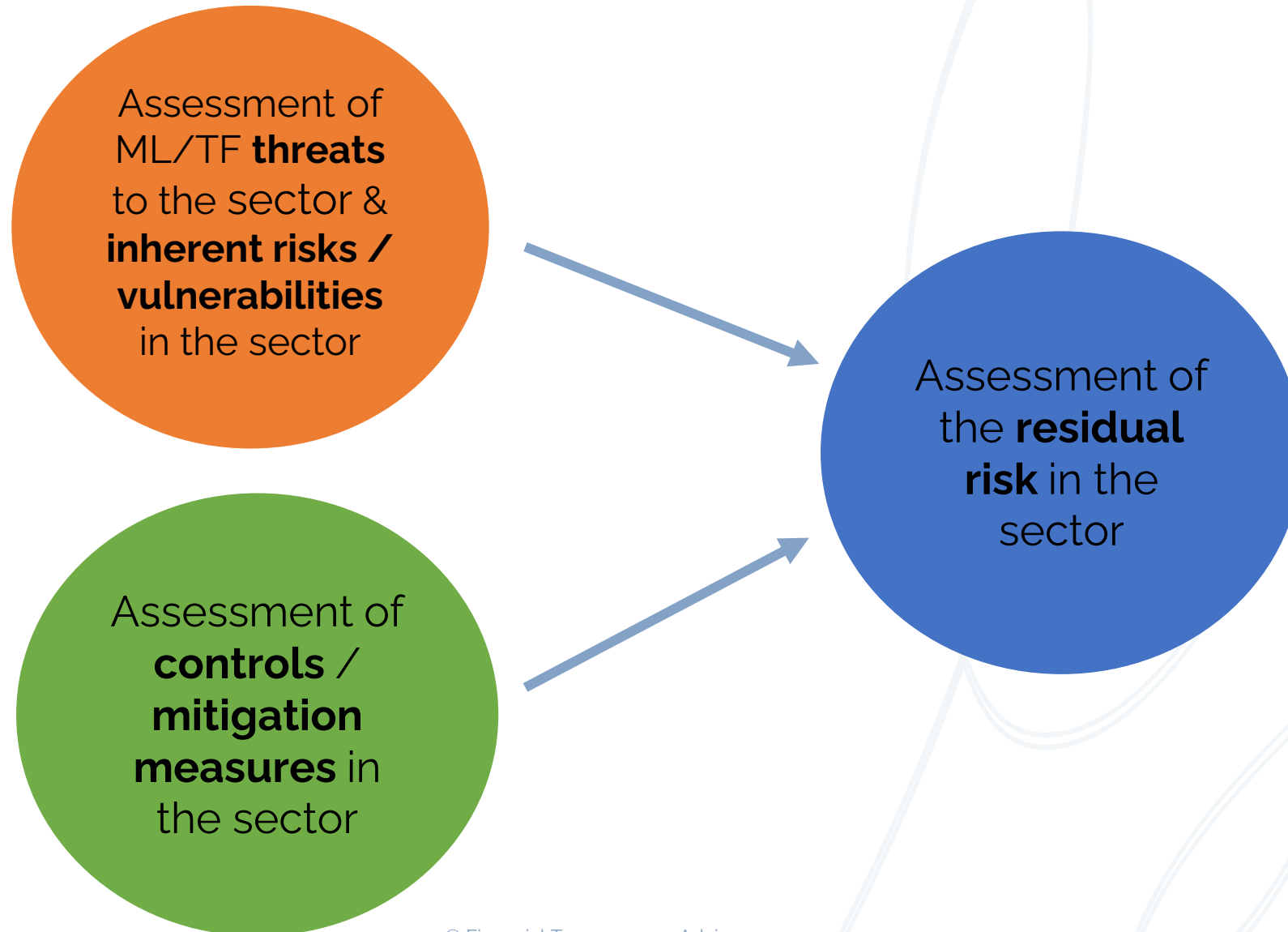
- **Supervisors** should apply a risk-based approach to the supervision of AML/CFT compliance by FIs

Sectorial Risk Assessments conducted by supervisors are an important tool to help implement these recommendations.

Key functions of SRAs and links to other risk assessments



Key components of an SRA



Why is the SRA relevant to the private sector?



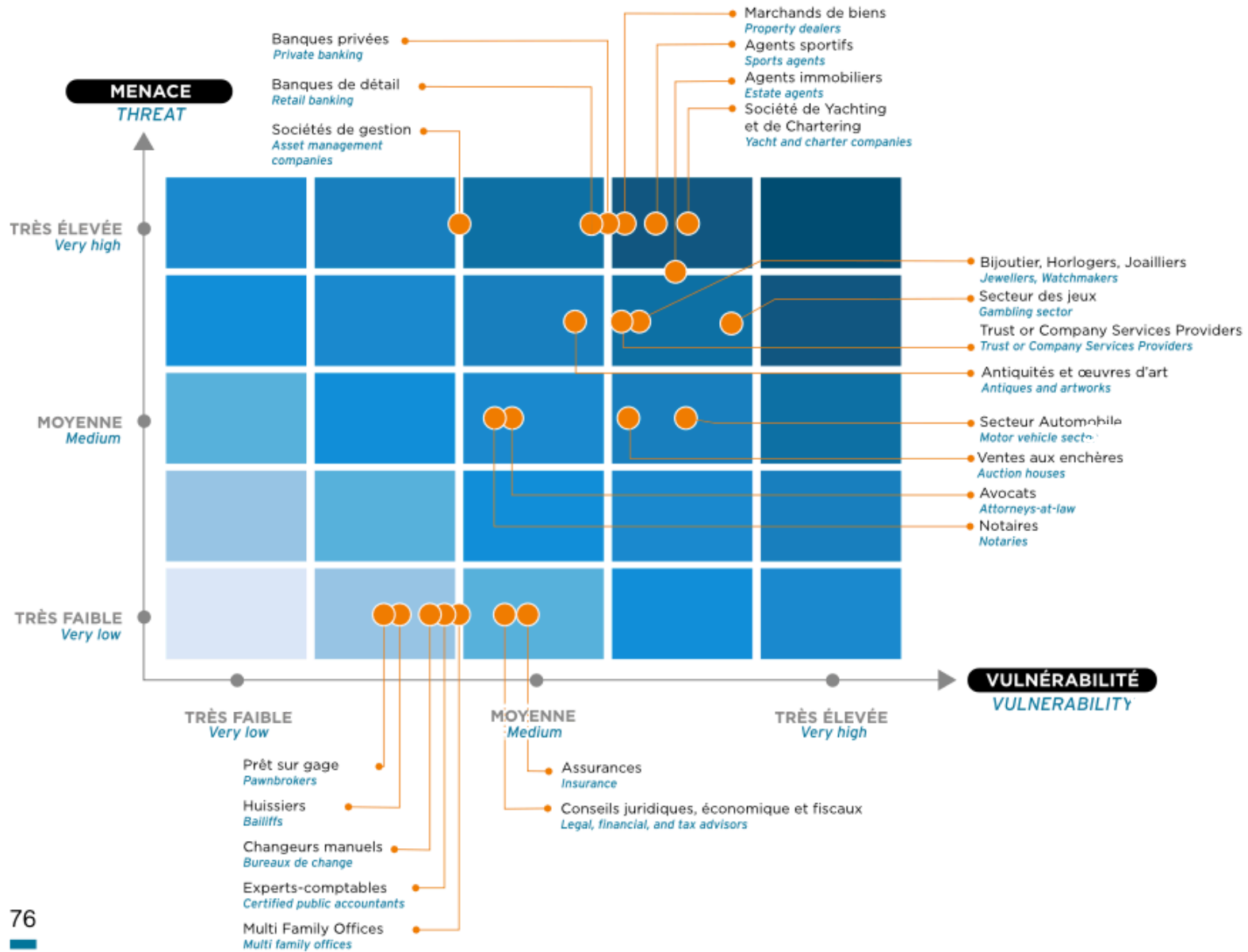
Monaco – SRAs as part of NRA 2

See **Chapter 2.III** (Threats by sector) & **Chapter 4** (Sectorial vulnerabilities) of **NRA 2** (2021)

**ÉVALUATION
NATIONALE
DES RISQUES** #
2
DE BLANCHIMENT
DE CAPITAUX
ET DE FINANCEMENT
DU TERRORISME
**NATIONAL
RISK
ASSESSMENT**
OF MONEY
LAUNDERING
AND TERRORIST
FINANCING



Monaco - Sectorial risk distribution in NRA 2



Relevant MONEYVAL findings

“Monaco has done a considerable amount of work to identify the ML/TF risks to which it is exposed. (...) However, **further analysis is needed regarding some sectors** (casino, CSPs, **trusts/trustees** and virtual assets) and threats (organised crime, external threats).”

“No full assessment has been carried out to understand **the risks deriving from the interaction between the banking sector and CSPs.**”

“The authorities should ensure that **reporting entities carry out risk assessments** appropriate to the nature, size and other characteristics of their business, analyse in depth the ML and TF vulnerabilities and threats specific to Monaco.”



SRA process and sources

AMSF conducted two SRAs in 2023 to follow up on MONEYVAL's recommendation for further in-depth analysis regarding certain sectors:

- one for the **TCSP/trustee sector**, including specific analysis of risks arising from the interaction between the banking & TCSP sectors
- one for the casino sector

Another relevant development: **business centres** (providing domiciliation activities which fall into FATF's definition of TCSP services) came into scope of Monaco's AML/CFT Law in December 2022.

2023 SRA TCSP sector – covering 3 sub-sectors



TCSP companies

Assessed in NRA 2 as "moderately high" risk



Business centers

Providing domiciliation services
Brought in scope of AML/CFT regime in
December 2022



Trustees

Under Art. 3 of Law No. 214
Administering common-law trusts
settled in Monaco

2023 SRA TCSP sector - main sources

International and regional reports (e.g. FATF, EC, Egmont Group)

AMSF intelligence

Law enforcement information

STRIX survey results and analysis

NRA 2 & recent national-level topical risk assessments

AMSF inspection findings

Register on Trusts (DDE)

Information on trustees maintained by PP & Court of Appeals

SRA results

Public summary of the results has been published on AMSF website

[Accueil](#) > [Publications](#) > [Évaluation des risques pour le secteur des TCSP](#)

Évaluation des risques pour le secteur des TCSP

Ci-dessous l'évaluation des risques pour le secteur des TCSP :

AMSF_Evaluation des risques sectoriels 2023_TCSP_V2FR

PDF
236 kB



AMSF_Evaluation des risques sectoriels 2023_TCSP_V2GB

PDF
213,5 kB



SRA results - International & regional reports

- **FATF 2019 Guidance for a Risk-Based Approach for TSCPs:** TCSP services run high risks to be exploited by criminals.
- **FATF and Egmont Group's 2018 Report on Concealment of Beneficial Ownership:** TCSPs represent the highest proportion of professional intermediaries involved in the establishment of legal persons, legal arrangements and related bank accounts used in schemes to obscure beneficial ownership.
- **FATF's 2022 Report on the State of Effectiveness Compliance with FATF Standards:** TCSP sectors are among the poorest performing sectors regulated for AML/CFT purposes worldwide
- **European Commission's 2021 Supra-National ML/TF Risk Assessment (sNRA):** The ML risk relating to trusts and other legal arrangements is assessed as "very high".
- **2023 Transparency International Report investigating company and real estate ownership in France:** A substantial proportion of French real estate (incl. in the Côte d'Azur) is owned through (foreign) SCIs which allow for BOs to remain anonymous.

SRA results – NRA 2 findings

NRA 2 sections on TCSP sector considered threats & risks relating to 38 TCSP companies.

Some of the main findings:

- The level of threat to the sector is assessed as **medium-high**. The sector featured in a number of investigations or proceedings in the reference periods for NRA 1 & NRA 2.
- The level of vulnerability of the sector is also assessed as **medium-high**.
- **Customer risk** contributed significantly to the level of vulnerability.
- TCSP companies were found to have an uneven understanding of how to categorise customers by risk.

SRA results – Findings of 2023 topical NRAs

- **Terrorist Financing Risk Assessment:** TCSPs, together with banking and real estate sectors, have **medium-high** residual risks in relation to the scenario of customers or BOs being terrorism financiers due to the truly international customer base, including exposure to nationals of high-risk TF jurisdictions
- **Tax Risk Assessment:** Monaco's private sector is exposed to **medium-low** residual risks in relation to customers entering into a business relationship with Monegasque FIs or DNFBPs with the intention to use it for tax-related ML. The banking and real estate sectors contribute more heavily to this risk than the TCSP sector.
- **Virtual Assets Risk Assessment:** TCSPs do not have exposure to risks relating to VAs.
- **Legal Entities and Legal Arrangements Risk Assessment:** Cases involving Monegasque legal entities reflected a high level of sophistication in the way the ML scheme was set up, and all involve significant sums. In all cases the relevant Monegasque legal entity held at least one bank account in Monaco and in several cases, the **services of a Monegasque TCSP** or notary were utilized to create or manage the entity.
- **Threat Assessment:** Overall inherent threat level for Monaco is **medium** and extent threat level is **high**. For TCSP sectorial findings on threats, see next slide.

SRA results – Threats to the sector

Up-to-date information from intelligence and law enforcement shows that the threat level for the TCSP sector can still be assessed as **moderately high**.

As per 2023 ML Threat Assessment:

- The largest threat Monaco faces from a money laundering perspective is from **overseas nationals residing outside Monaco**, followed by **overseas nationals with Monaco residency**. These profiles are also the main customer base of Monegasque TCSPs.
- ML cases involving **Monegasque legal entities** reflected a high level of sophistication in the way the ML scheme was set up, and all involve significant sums. In several cases, the services of a Monegasque TCSP were utilized to create or manage the Monegasque legal entity.
- A substantial number of ML cases feature funds moved through **overseas registered legal entities** with accounts held with Monegasque banks, which in some cases have been set up and are managed by Monegasque TCSPs.

SRA results – 3 sub-sectors



TCSP companies

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SRA results - TCSP companies: inherent risks

High customer risks

- + Internationally oriented customer base
- + High numbers of PEP & HNWI clients and BOs
- + Significant exposure to higher-risk countries

Medium-High risks relating to products, services & transactions

- + Creation and administration/management of Monegasque structures
- + Creation and administration/management of foreign structures, including trusts and including in higher-risk jurisdictions
- Limited use of cash

Low risks relating to delivery channels

- Limited use of introducers
- Limited use of non-face-to-face onboarding
- No use of third parties for CDD

SRA results – TCSP companies: controls

The overall controls score is determined to be “**Moderate**” for the sub-sector

In particular the **customer-related control measures** (customer risk assessment, CDD/EDD) are lagging behind.

Hence, it cannot be determined that the high inherent customer-related risks in the sub-sector are mitigated to a sufficient extent.

Focus area: interactions between banking & TCSP sectors

TCSPs as customers of
Monegasque banks

TCSPs as introducers of
clients of banks / Banks
relying on CDD
conducted by TCSPs

The roles of TCSPs in
relation to bank accounts
of object structures

Customers/object
structures of TCSPs with
foreign bank accounts

TCSPs as customers of Monegasque banks

Given the moderately high risks associated to the TCSP, it is very important that banks adequately assess and mitigate any risks posed by forming a business relationship with a TCSP.

AMSF expects that banks take into account in their risk assessment and controls framework whether their customers are TCSPs.

2023 STRIX results for the banking sector indicate that there may be gaps in this respect, as **only half of the banks report that they distinguish whether customers are TCSPs.**

Around one third of banks reports to have business relationships with TCSPs (but see previous point, there may be underreporting).

TCSPs as introducers of clients of banks / Banks relying on CDD conducted by TCSPs

In other European financial centres, TCSPs often act as gatekeepers/introducers for banking business, and banks sometimes rely on CDD performed by TCSPs which may be incomplete or inaccurate.

In Monaco, it appears that:

- The **TCSP sector does not act as important gatekeeper** to the Monegasque banking system
- There are **limited risks in relation to CDD third-party reliance**, including with regard to information chains

The roles of TCSPs in relation to bank accounts of object structures

TCSPs in Monaco are **prohibited from holding nominee bank accounts** for their clients since 2012. Hence, it is not possible for clients or BOs to conduct banking activity “hidden” behind a TCSP.

TCSPs often have a role in managing the bank accounts of the structures that they administer for their customers.

If a TCSP administers a structure for a customer whereby the beneficial owner or a third party has sole **signatory over the bank account**, this raises ML/TF risks, since the TCSP will have limited visibility or influence on transactions and/or has knowledge of transactions only once they are executed.

Customers/object structures of TCSPs with foreign bank accounts

A portion of TCSP's clients and TCSP's object structures reportedly do not have a Monegasque bank account.

In these cases, there is **no “double layer” of CDD** carried out in Monaco by both the TCSP & a bank.

Hence, high AMSF expectations in relation to the TCSP's controls (awareness of location of bank account, reason for foreign bank account, links to higher-risk jurisdictions, etc.).

SRA results – Business centers: inherent risks

Medium-High customer risks

- + High exposure to SCIs which can be used to hide BO over real estate
- + Lack of customer related data collected by business centres, e.g. unknown BO, unknown jurisdiction of incorporation
- + Limited understanding of high-risk customers (PEP, HNWI, VASP, etc.)

Medium-Low risks relating to products, services & transactions

- + More inclined than the TCSP company sub-sector to accept cash
- No virtual asset transactions
- Limited range of relevant services (domiciliation only)

Low risks relating to delivery channels

- Limited use of third parties for CDD and only domestically
- Limited use of foreign agents

SRA results – Business centers: controls

The overall controls score is determined to be “**Weak**” for the sub-sector

Business centers were brought into scope of the AML/CFT regime only very recently (December 2022)

Level of compliance with new AML/CFT obligations is still **non-existent to basic.**

SRA results – Trustees sub-sector

Trustees for Trusts covered by Title I of Law No. 214:

- **Law No. 214** was introduced in Monaco in the 1930s, allowing for Monegasque residents from common-law countries to create or transfer trusts under foreign law which are to be settled in Monaco.
- **Many legal conditions** apply in these cases, including the requirement to appoint a trustee who is mandated by the Court of Appeals in Monaco for these matters, and who should be either a Monegasque entity, or a foreign trustee with a local Monegasque representative.
- The list kept by the Court currently includes **26 trustees** under Law No. 214: 15 domestic trustees and 11 foreign trustees.

SRA results – Trustees sub-sector: inherent risks

Low customer risks

- Settlers are only Monegasque residents with strong historic presence in Monaco
- Strong knowledge of customer and BO by trustee

Low risks relating to products, services & transactions

- Low attractiveness of using testamentary trusts for ML/TF purposes
- Limited number of active products

Medium-Low risks relating to delivery channels

- + Elevated risks in case of foreign trustees (no direct AMSF supervision)
- All local representatives of foreign trustees are regulated for AML/CFT purposes and under AMSF supervision
- No links to higher-risk jurisdictions

SRA results – Trustees sub-sector: controls

The overall controls score is determined to be “**Substantial**” for the sub-sector:

- Strict rules apply regarding the acquisition of Monaco residency, including criminal background checks.
- Deeds must be in line with Monegasque law on wills or gifts.
- Deed needs to be executed before a notary with testimony from a certified lawyer regarding the applicable foreign trust law.
- Trusts must be administered by a trustee who is registered on a list that is kept by the Court of Appeal upon proposal of the Public Prosecutor. Extensive checks apply before a trustee is approved.
- Disclosure obligations on the trustee to the Register of Trusts maintained by DDE.

!! Potentially less strong controls in case of trustees which are not AML/CFT regulated entities (= rare)

SRA results – Ratings across sub-sectors


	TCSP companies	Business centres	Trustees
Inherent risks relating to customers	High	Medium-High	Low
Inherent risks relating to products, services & transactions	Medium-High	Medium-Low	Low
Inherent risks relating to delivery channels	Low	Medium-Low	Medium-Low
Overall Inherent risk	Medium-High	Medium-Low	Low
Controls	Moderate	Weak	Substantial
Residual risk	Medium-High	Medium-Low	Low

Follow-up to the SRA


AMSF follow-up actions to 2023 SRA:

- Thematic/targeted inspections
- Guidance and outreach
- Data collection and analyses
- Review of individual risk profiles
- Periodic updating of SRA


Risks flagged in the SRA – What should FIs do in Practice




BRA Review
Review BRA in light of SRA findings



Review CRA
Is there a need to introduce new risk factors



Review Transactions and Customers
Select customer profiles
Select transactions based on risks reported in SRA



Review Existing Controls
Are sufficient controls in place to address Risks in relation to TCSP sector

SRA Response

Assess and mitigate any risks posed by forming a business relationship with a TCSP

Monitor cash operations by TCSP customers

Distinguish in CRA whether customers are TCSP companies, business centers or Trustees under Law No. 214

Re-assess risks and measures in case TCSPs are used as introducers

Re-assess risks and measures in case of reliance on TCSPs for CDD

Consider the range of signatories of bank accounts of structures set up/managed by TCSPs

Reconsider documentation required for trustee clients, e.g. proof of registration of trust in RoT & approval of trustee by the Court

Review any customers set up/managed by Monegasque TCSPs which do not have a Monegasque bank account



*Thank you for your
time*

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Next Session:

19.03.2024

Topic:

AMSF Supervisory
Findings 2023

Today's Host: Tamar Goderdzishvili

Today's Presenter: Suzanna van Es