



Thematic guidance:

Politically Exposed Persons (PEP)

and

Anti-money laundering, combatting the terrorist financing and the proliferation of weapons of mass destruction and corruption (AML/CFT-P-C)

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I. Introduction

These Guidelines aims to promote the understanding by Supervised entities¹ of their AML/FT-P-C obligations regarding the identification of Politically Exposed Persons (PEP). It also sets out the factors and measures that Supervised Entities should take into account and exercise in respect of customers who are PEPs.

The scope of these Guidelinee is purely informative. The only legally binding documents are the legislative and regulatory texts governing the anti-money laundering, counter-terrorism and proliferation financing, and corruption framework in Monaco. All obligations and their details are therefore not addressed herein: solely applying the measures presented in these Guidelines does not ensure that the institution fully complies with current legal obligations. For more information, please refer to the Generic Guidelines:

https://amsf.mc/content/download/1786/file/AMSF_Lignes%20directrices%20g%C3%A9n%C3%A9riques_210722_V1.pdf?inLanguage=fr-FR&version=1

The purpose of these Guidelines to assist Supervised Entities in understanding and complying with their AML/CFT obligations relating to the treatment of clients who are PEPs pursuant to Law 1.362 as amended and Soverain Ordinance No. 2.318 as amended. These Guidelines takes into account standards and guidance issued by the Financial Action Task Force (“FATF”) and industry best practices.

This guidance is based on the AML/FT-P-C law and regulations in force **on September 30, 2023.**

II. Context

Studies undertaken by the FATF and other international organizations identified that the positions held by PEPs are vulnerable to abuse for the purposes of committing money laundering (ML) and related predicate offences, including corruption and bribery, as well as conducting activity relating to terrorist financing (TF). The higher ML/TF risks posed by PEPs can be mainly justified due to the positions that such persons hold and the influence they exercise, which could be abused for private gain. Therefore, customers and beneficial owners who are PEPs and transactions involving PEPs receive special attention under the Monegasque legal and regulatory framework and the FATF standards as they bear a higher risk of involvement in certain proceed-generating offences. In the Second National Risk Assessment conducted by Monaco, corruption and influence peddling were identified as one of the most prevalent predicate offences for money laundering.

¹ As defined by Articles 1 and 2 of the Law 1.362 of 3 August 2009, as modified

III. Definition of PEP

By means of Article 17 of the Law 1.362 as amended, the Supervised entities are required apply enhanced due diligence measures, when the client, the beneficial owner or their representative is:

- ❖ a politically exposed person;
- ❖ a person who is or has been entrusted with a prominent function by an international organization;
- ❖ a family member of the two aforementioned categories;
- ❖ a close associate to the two aforementioned categories.

For the purposes of these Guidelines, the reference to politically exposed persons (hereafter “PEP”) is to be understood as covering also a person who is or has been entrusted with a prominent function by an international organization.

The Monegasque AML/CFT Law and Sovereign Ordinance (hereafter “SO”) mentioned above, in line with the FATF Standards, defines a PEP as someone who holds or has held important public positions, in particular, but not limited to:

- ❖ Heads of state.
- ❖ Members of governments.
- ❖ Members of parliamentary assemblies.
- ❖ Members of supreme courts, constitutional courts or other high jurisdictions whose decisions are not subject to appeal, save in exceptional circumstances.
- ❖ Officials and leaders of political parties.
- ❖ Members of courts of auditors and central bank councils.
- ❖ Ambassadors, *chargés d'affaires*² and high-ranking officers in the armed forces.
- ❖ Members of the administrative, management or supervisory bodies of state-owned companies.
- ❖ Directors, deputy directors and board members of an international organization, or persons who hold an equivalent position therein³.

² Defined as covering diplomatic functions in the case of absence or unavailability of an ambassador

³ An illustration thereof could be the list of prominent public functions published by the European Commission in November 2023. [Official Journal of the European Union, Prominent public functions at national level, at the level of International Organisations and at the level of the European Union Institutions and Bodies, 10 November 2023](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202300724). chrome-extension://efaidnbmninnibpcjpcglclefindmkaj/https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C_202300724

This list is by no means exhaustive. Supervised 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 Law 1.362 as amended and Article 24 of the SO 2.318 as amended. 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. For example, a mayor, while not being specifically mentioned in the list foreseen by Article 24 of the SO 2.318, could also qualify as a PEP, based on different circumstances such as the degree of the power held, and/or the size of the budget he oversees, etc.

The PEP regime in Monaco applies to all PEPs, both domestic and foreign.
The PEP status is simply indicative of a person holding a prominent public function hence exposed at a greater risk but does not automatically imply any wrongdoing (corruption, bribery, or other criminal activity).

Close Associates and Family Members of a PEP

All Supervised Entities are required to perform enhanced due diligence on close associates and family members.

Pursuant to Article 24 of the SO, **Family members** are deemed to be:

- ❖ the spouse or person living in a marital relationship with a politically exposed person.
- ❖ the partner bound by a contract to live together or by a partnership contract registered under foreign law.
- ❖ direct ascendants or descendants of a politically exposed person as well as their spouse or partner bound by a cohabitation contract or by a partnership contract registered under a foreign law.

Close associates are deemed to include widely and publicly known business partners or associates, notably those that share (beneficial) ownership of legal persons and arrangements with the PEP or who are otherwise connected (e.g. through joint membership of a company broad). To identify other persons that may qualify as close associates, Supervised Entities may look into the type of relationship. This analysis should take into account the social, economic and cultural context, that may also play a role in determining how close the relationship generally is.

Article 24 of the SO as modified, describes such individuals as:

- ❖ natural persons identified as the beneficial owner of a legal entity or of a mutual fund, investment fund, trust or comparable legal arrangement under foreign law jointly with a politically exposed person, or as having any other close business relationship with such a person.
- ❖ natural persons who are the sole beneficial owners of a legal entity, mutual fund, investment fund, trust or comparable legal arrangement under foreign law known to have been set up for the benefit of a politically exposed person.

Potential risks posed by a family member or close associates of a PEP

While family members and close associates may not themselves have any direct power or influence over government actions, they may nevertheless present higher risks to supervised entities, as a result of their relationship with a PEP. They could be used in the following ways:

- ❖ PEPs, knowing that their financial transactions will be subject to scrutiny, may use family members or associates to carry out illicit transactions or collect illicit funds, in an attempt to hide their involvement in a transaction and their illicit gains. In many countries where corruption is an issue, PEPs themselves may nominally possess few assets, while their family members and associates openly display their wealth.
- ❖ Illicit actors seeking to persuade a PEP to take certain actions may seek to achieve this goal by paying off the people close to the PEP, the PEP's family members and close associates. These payments may be made with or without the knowledge or consent of the PEP.

Time limits of the PEP status

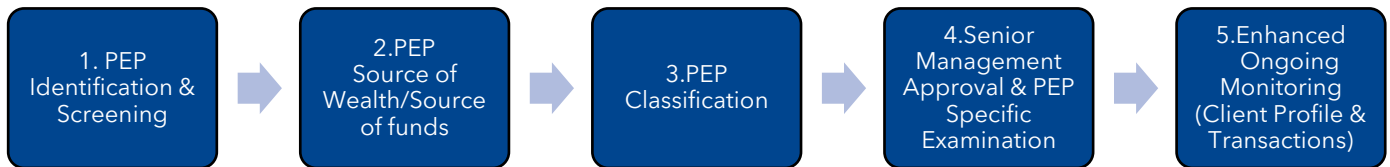
Pursuant to Article 17-2 of the Law 1.362, a PEP who is no longer entrusted domestically or at an international level with a prominent public function does not automatically lose its PEP status. The PEP status is only to be changed when the **person is deemed to no longer pose a risk**. This is determined by the Supervised Entity, through a risk assessment, by taking into account the risks that the person still poses, and applying adequate measures, until the person is deemed to no longer pose a risk. This is also applicable to family or close associates of the PEP (Article 17-3 of the Law 1.362).

Possible risk factors to consider when reviewing a PEP who no longer holds a prominent public function

- ❖ The level of influence that the individual could still exercise.
- ❖ The seniority of the position that the individual held as a PEP.
- ❖ The corruption potential of the customer's previous role. Where there was greater opportunity for illicit gain, it is more likely that the customer's source of funds will continue to be corrupt proceeds for some time after the customer leaves office.
- ❖ Whether the individual's previous and current function are linked in any way (e.g., formally by appointment of the PEP's successor, or informally by the fact that the PEP continues to deal with the same substantive matters).
- ❖ The customer's relationship to the PEP. For example, a customer who was formerly the close associate of a PEP, but who severed the business relationship some time ago, may present reduced corruption risk.

IV. What are your obligations in relation to PEPs?

PEP Business Relationship Process



1. PEP Identification and screening

The AML/CFT Law requires Supervised Entities to implement appropriate **internal procedures** to determine whether a customer, beneficial owner or representative, as needed, is a PEP. In this respect, Supervised Entities are mainly required to:

- ❖ **Identify the customer, the beneficial owner or the representative to determine whether they qualify as PEP ;**
- ❖ **Conduct background checks** as part of CDD procedures using means, data and information which are of reliable and independent source, be it publicly available, private or external specialised providers. For instance, the Supervised Entity can make use of public or private databases; or of commercially available background investigation services (for example, a detailed PEP background report provided by an external specialized provider). Reliance on publicly available information is permitted, on the condition that the Supervised Entities consider and assess the reliability of the sources and duly document and retain all the research conducted. These checks are to be conducted at the on-boarding stage or while conducting transactions for occasional customers and, following a risk-based approach, for existing customers, for which screening can take place alongside on going monitoring, or when a business relationship is reviewed.



Screening systems can be manual or automated, depending mainly on the size of the client base. The adequacy of the chosen mechanism should allow the Supervised Entity to identify all PEPs, be it new clients or to ascertain any changes to the status of an existing customer.

The PEP status of the beneficial owner of a legal entity

If a legal entity is a customer with links to a PEP (beneficial owner or representative), this needs to be considered within the **customer risk assessment**, and the **legal entity's activity** and **transactions** should be scrutinized and **enhanced due diligence measures** should be applied. Given that legal entities can be used by PEPs to hide illegally obtained assets, the Supervised Entities pay particular attention to legal entities that lack significant assets, commercial activities or employees.

2. Take appropriate measures to determine the source of funds and the source of wealth

Supervised Entities should take adequate measures to establish the source of wealth and source of funds, which are to be used in the business relationship, to ensure that they are not proceeds derived from corruption or any other criminal activity that could be associated with a PEP. They should at least consider the activities that have generated the total net worth of the customer (activities that produced the customer's funds and property, for example, ownership of a business or inheritance) and the origin and means of transfer for funds that are involved in the transaction. Supervised entities should also evaluate the legitimacy of the source of funds and source of wealth, which may include making reasonable investigations into the individual's professional and financial background. For further information, Supervised Entities are encouraged to refer to the Generic Guidelines.

Source of Wealth vs Source of Funds

Source of wealth: The source of the customer's overall wealth (total assets). Essentially, it analyses the activities of the PEP customer that have contributed to the individual's total wealth (for example, family inheritances, investments, business ownership, an income from employment etc).

Source of funds: The direct source of the funds that are used to initially fund the account, and the source of other specific or linked transactions occurring through the business relationship (i.e. sale of a real estate property, savings, sale of shares, business profits, corporate dividends etc).

The source of funds is to be interpreted as the origin of the assets/money used in a particular transaction while the source of wealth represents the origin of all assets/money that a customer has accumulated over his lifetime.

3. Obtain senior management approval before establishing or continuing an existing business relationship

Supervised Entities should formalize all the identified elements and each step of the analysis.

Based on Article 17 of the Law 1.362, senior management should be notified and their approval obtained:

- ❖ Before establishing a business relationship with a new customer who has been identified as a PEP.
- ❖ When an existing customer becomes, or is newly identified as a PEP, whenever a business relationship is reviewed and the CDD information is updated.



The supervised entity must ensure that the approval of a PEP relationship (a new one or a pre-existing one) is conducted by Senior Management who is appropriately skilled as to the ML/TF risk exposure of the supervised entity and having sufficient decision-making power in these regards. This person needs not necessarily be a member of the board of directors. The decision making process should be duly formalized, according to internal policy and procedures.

4. Enhanced ongoing monitoring of the relationship

A. On-going monitoring of the business relationship

Pursuant to Article 24 (paragraph 4) of the SO 2.318, supervised entities are required to monitor such customers by performing enhanced due diligence:

- ❖ Screening PEP customers and, if applicable, their family members or close associates, is necessary to ensure that any new or emerging information that could affect the risk assessment is identified in a timely manner. As mentioned above, with regards to the PEP status, the screening could be either manual or automated, depending notably on size of the client base.
- ❖ Reviewing and updating the customer file more frequently, as well as performing a transaction activity analysis (*for example, every six months or annually*).

B. On-going monitoring of the transactions

All Supervised Entities are required to monitor on an on-going basis the transactions conducted, either manually or through an automated system (Article 5 of the Law 1.362). Further detail could be found in the Generic Guidelines.

However, it is worth noting that a number of categories of Supervised Entities are bound to have in place automated transaction monitoring systems (Article 28 of the SO 2.318 - credit institutions, payment institutions, financing companies, asset managers, insurance intermediaries, trustees, TCSPs, MFOs). An exemption can be warranted by the AMSF to any of the aforementioned categories of Supervised Entities, as foreseen by Article 28 of the SO 2.318, namely if it can be demonstrated that the nature and the volume of the transactions can be monitored by other means.

AML/CFT Policies and Procedures

Supervised Entities should have in place appropriate policies and procedures in place which clearly set out the criteria and methods allowing to determine whether a new client meets the definition of a PEP or whether existing customers may subsequently become a PEP during the course of a business relationship. All the aforementioned points should be formalized in the AML/CFT policies and procedures of a Supervised Entity, in a manner that would allow for an effective practical implementation in line with the activity conducted.

Training of Employees

The AML/CFT training programs should address effective ways of determining whether customers are PEP and to understand, assess and handle the potential risks associated with PEPs. To ensure effectiveness, such training programs should be subject to regular review and updating.

Suspicious Reporting (new or existing business relationship)

The PEP status alone need not automatically amount to an STR submission. Supervised Entities are encouraged to refer to the STR Guidelines and Practical Guidance for detailed information on the implementation of the STR requirements.

V. Specific Case of Life Insurance Policies

Credit institutions, financing companies, asset managers and insurance intermediaries must take reasonable measures to determine whether the beneficiaries or beneficial owner of a beneficiary of a life insurance policy or of another type of investment-linked insurance are politically exposed or higher-risk persons. If identified as a PEP, supervised entities must inform senior management before pay-out of those policies, or prior to the exercise of any rights related to them. Supervised entities must also thoroughly examine the overall business relationship and consider whether a suspicious transaction report should be filed with the FIU (Article 17-1 of the Law 1.362).

VI. PEP Red Flags/ Indicators

These PEP red flags are not an exhaustive list and are complementary to the usual ML red flags that a Supervised entity may be using. The methods of those PEPs that engage in illicit activity change and therefore indicators of their activity will do so as well.

A. PEP attempting to shield their identity:

- ❖ A PEP uses corporate vehicles (legal entities and legal arrangements) to obscure the (beneficial) ownership or without valid business reason.
- ❖ A PEP uses family members or close associates as legal owner.
- ❖ A PEP uses intermediaries when this does not match with normal business practices or when it is used to shield the identity of the PEP.

B. PEP and his behavior:

- ❖ A PEP makes inquiries about the institution's AML policy or PEP policy.
- ❖ A PEP seems generally uncomfortable to provide information about source of wealth or source of funds or provide inaccurate or incomplete information; or the information that is provided by the PEP is inconsistent with other (publicly available) information, such as asset declarations and published official salaries.
- ❖ A PEP is or has been denied entry to the country (visa denial).

C. PEP's position or involvement in businesses:

- ❖ A PEP has a substantial authority over or access to state assets and funds, policies and operations, controls or influences over, government or corporate accounts.
- ❖ A PEP has control over regulatory approvals, major public procurement contract, including awarding licenses and concessions.
- ❖ A PEP has the formal or informal ability to control mechanisms established to prevent and detected ML/TF.
- ❖ A PEP (actively) downplays importance of his/her public function, or the public function s/he is relates to associated with.
- ❖ A PEP does not reveal all positions (including those that are ex officio).
- ❖ A PEP (partially) owns or controls financial institutions or DNFBPs, either privately or ex officio, that is a counter part or a correspondent in a transaction.

D. PEP business relationship and PEP transactions:

- ❖ Multiple STRs have been submitted on a PEP.
- ❖ A PEP holds a mortgage or loan account and makes high-value payments into the account.
- ❖ A PEP uses the bank accounts of dependents living in another country to move funds.
- ❖ A PEP has significant holdings in bank term deposits and other high-wealth products such as shares and investment portfolios in another country.
- ❖ A PEP's account shows high-volume account activity involving significant cash transactions.
- ❖ A PEP uses multiple bank accounts for no apparent commercial or other reason.
- ❖ A PEP is associated with, or undertakes transactions involving, large unexplained amounts of money.
- ❖ A PEP is unable or reluctant to provide details or credible explanations for establishing a business relationship, opening an account or conducting transactions.
- ❖ A PEP receives multiple cash deposits into their bank account from third parties within a short time frame. The cash deposits may consist of foreign currency.
- ❖ A PEP receives multiple international funds transfers from different beneficiaries within a short time frame or on the same day.
- ❖ A PEP uses legal entity structures to undertake transactions for no apparent commercial or other reason.
- ❖ A PEP uses multiple bank accounts for no apparent commercial or other reason.
- ❖ Cash deposits made in Monaco by a PEP or an associate of a PEP, followed by funds withdrawals from the account, conducted in high-risk jurisdictions.
- ❖ International funds transfers where a PEP is both the ordering and beneficiary customer.
- ❖ Large cash withdrawals from a foreign PEP's Monaco-based bank account, where the account has been funded by transfer sent from a high-risk jurisdiction.
- ❖ Large incoming transaction inconsistent with the PEP's profile.
- ❖ Large withdrawals using bank cheques, made payable to the PEP or a third party.
- ❖ Personal and business-related money flows are difficult to distinguish from each other.
- ❖ Ownership of property is the PEP's only link to Monaco.

E. Industry/sector with which a PEP is involved:

- ❖ Arms trade and defense industry.
- ❖ Banking and finance.
- ❖ Businesses active in government procurement, i.e., those whose business is selling to government or state agencies.
- ❖ Construction and (large) infrastructure.
- ❖ Development and other types of assistance.
- ❖ Human health activities.
- ❖ Mining and extraction.
- ❖ Privatization.
- ❖ Provision of public goods, utilities.

F. Examples of products, service, transaction or delivery channels that are additionally vulnerable when they are used by PEP:

- ❖ Businesses that cater mainly to (high value) foreign clients.
- ❖ Trust and company service providers.
- ❖ Wire transfers, to and from a PEP account that cannot be economically explained, or that lack relevant originator or beneficiary information.
- ❖ Correspondent and concentration accounts.
- ❖ Dealers in precious metals and precious stones, or other luxurious goods.
- ❖ Dealers in luxurious transport vehicles (such as cars, sports cars, ships, helicopters and planes);
- ❖ High end real estate dealers.

VII. PEP Country Risk Factors

The FATF Recommendations (Interpretative Note to Recommendation 10) contain examples of higher risk country or geographic risk factors, irrespective of the type of customer. In addition to these general higher risk country or geographic risk factors⁴, the following red flags and indicators can be taken into account when doing business with a PEP⁵:

- ❖ The foreign or domestic PEP is from a higher risk country⁶ ;
- ❖ Additional risks occur if a foreign or domestic PEP from a higher risk country would in his/her position have control or influence over decisions that would effectively address identified shortcomings in the AML/CFT system.
- ❖ Foreign or domestic PEPs from countries identified by credible sources as having a high risk of corruption (*for example, Corruption Perceptions Index by Transparency International*⁷) ;
- ❖ Foreign or domestic PEPs from countries that have not signed or ratified or have not or insufficiently implemented relevant anti-corruption conventions, *such as the UNCAC, and the OECD Anti-Bribery Convention.*
- ❖ Foreign or domestic PEPs from countries with a mono economy (economic dependency on one or a few export products), especially if export control or licensing measures have been put in place.
- ❖ Foreign or domestic PEPs from countries that are dependent on the export of illicit goods, such as drugs.
- ❖ Foreign or domestic PEPs from countries (including political subdivisions) with political systems that are based on personal rule, autocratic regimes, or countries where a major objective is to enrich those in power, and countries with high level of patronage appointments.
- ❖ Foreign or domestic PEPs from countries with poor and/or opaque governance and accountability.
- ❖ Foreign or domestic PEPs from countries identified by credible sources as having high levels of (organized) crime.

⁴ FATF Recommendations, Interpretative Note to Recommendation 10: <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>

⁵ [https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Peps-r12-r22.html#:~:text=FATF%20Guidance%3A%20Politically%20Exposed%20Persons%20\(Rec%2012%20and%2022\)&text=A%20politically%20exposed%20person%20\(PEP,such%20as%20corruption%20or%20bribery](https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Peps-r12-r22.html#:~:text=FATF%20Guidance%3A%20Politically%20Exposed%20Persons%20(Rec%2012%20and%2022)&text=A%20politically%20exposed%20person%20(PEP,such%20as%20corruption%20or%20bribery)

⁶ (i) FATF List of countries under increased monitoring, as last modified; and (ii) Monegasque List of High-Risk Countries as per l'Arrêté Ministériel n°2021-703 of the 8th of November 2021, as last modified

⁷ List of www.transparency.org as last modified

VIII. Case scenarios involving PEPs

PEP Case Scenario 1 - Use of cash to buy a high-value good

A PEP, domiciled overseas in High Risk Jurisdiction A, buys a high-value good (i.e. a watch or jewelry) from a merchant, located in Monaco, using cash. He states his wealth originates from activities in international trade. He also declares receiving a bonus in cash from one of his businesses, whose activity is located in High-Risk Jurisdiction B, to justify his use of cash.

In the course of this transaction with an occasional customer, Internet searches carried out by the Supervised entity reveal the client's PEP status, discrepancies in the PEP's claims as well as allegations of corruption found in several press articles.

The Supervised Entity may rely on publicly available information, namely through internet searches, provided it carefully evaluates the reliability of the sources and thoroughly documents and retains all the conducted research. In addition to conducting thorough checks, the Supervised entity should assess the transaction itself, notably by analyzing the source of funds, the potential links with high-risk jurisdictions, the purpose of the transaction, the chosen method of payment or the client's behavior and carefully document its findings.

Depending on the reliability of the information gathered and the results of its analysis, the Supervised entity may decide to not carry out the transaction and/or consider reporting it to AMSF.

PEP Case Scenario 2 - Use of professional facilitators

Professionals such as lawyers, accountants, real estate agents, financial advisers and trust and company service providers are known as 'gatekeepers' because they provide an entry point for those seeking to access financial products and services, to purchase real estate, and to establish companies and trusts. In addition to family and close associates, PEPs may resort to professional facilitators to undertake transactions on their behalf or help obscure the PEP's role in transactions, as it is the case in the following case scenario:

1. Suspect A is a senior government official in country X.
2. Company ABC, based in country Y, wants to secure a lucrative government infrastructure contract in country X.
3. Suspect A receives cash bribes from company ABC. In return, suspect A secures the lucrative government infrastructure contract for company ABC.
4. Suspect A gives the cash bribe, in a foreign currency, to his legal practitioner.
5. The cash is deposited into the legal practitioner's trust account and later transferred to various bank accounts held in the name of the legal practitioner's business.
6. The legal practitioner is instructed to transfer the funds to companies and bank accounts controlled by suspect A's family and associates.
7. The funds are used to fund suspect A's lifestyle and to buy high-value assets.

IX. Reminder of Monegasque AML/CFT Law and Sanctions provisions

The main reference texts which define all AML/CFT obligations are:

- ❖ Law n°1.362 of August 3, 2009, amended.
- ❖ Sovereign Ordinance No. 2.318, amended,
- ❖ Ministerial Decree n°2022-358 of July 6, 2022, amending Ministerial Decree n°2021-703 of November 8, 2021 relating to the list of States or territories whose anti-money laundering systems, the financing of terrorism or corruption presenting strategic deficiencies,
- ❖ Ministerial decree n° 2018-926 of September 28, 2018 amending Ministerial Decree n° 2011-237 of April 15, 2011 and implementing articles 14 and 41 of Law n°1.362 of August 3, 2009, amended, relating to the fight against money laundering, terrorist financing and corruption, targeting the **Democratic People's Republic of Korea**.
- ❖ Ministerial Decree n°2018-927 of September 28, 2018 repealing the Ministerial Decree n° 2009-432 of August 14, 2009, and implementing articles 14 and 41 of Law No. 1.362 of August 3, 2009, amended, relating to the fight against money laundering, terrorist financing and corruption, targeting the **Islamic Republic of Iran**.
- ❖ Ministerial Decree No. 2022-553 of October 20, 2022, setting out the terms and conditions for communicating questionnaires established by the AMSF.
- ❖ Ministerial Decree n° 2010-175 of April 1, 2010, relating to the declaration form provided for in Chapter VI of Law n°1.362 of August 3, 2009, relating to the fight against money laundering, terrorist financing and corruption.

Sanctions falling under the AMSF authority are divided in two types:

- ❖ Those referred to in Article 64-7 of Law n°1.362 and which correspond to defects in voluntary procedures: failure to transmit the risk assessment, the annual activity report, transmission of procedures in French, the annual questionnaire, etc.
- ❖ Those referred to in Article 65-1 of the said law and which target the shortcomings noted during on-site inspection missions carried out by the AMSF.

AMSF now includes a department in charge of sanctions.

At the end of control operations, or in the absence of regularization of his situation by the person concerned after having been given formal notice, or in application of the last paragraph of article 64-8, the Service exercising the function of supervision of the Authority transmits to the service exercising the Sanction function of the Authority the control report referred to in Article 54 or a statement of the breach(es) observed outside of any control, accompanied by the documents based on for establishing the said report or statement.

The Department exercising the sanctioning function of the Authority examines the control report, or the statement of the breach(s), and the attached documents.

After examination of the inspection report or the statement of the breach(s) and the attached documents, a sanction procedure may be initiated against the person concerned.

The administrative sanctions regime is governed by the procedural guarantees described in Section I - Administrative sanctions of Sub-Section I - Sanctions under the Monegasque Financial Security Authority of Chapter XI of Law n°1.362.

The following sanctions may be imposed:

- 1°) a warning.
- 2°) a reprimand.
- 3°) an injunction ordering the natural or legal person to put an end to the conduct in question and prohibiting them from repeating it.
- 4°) the ban on carrying out certain operations.
- 5°) an injunction to take appropriate measures to comply with their obligations.
- 6°) an injunction to report regularly to the supervisory authority on the measures it takes.
- 7°) a financial penalty the amount of which cannot exceed one million euros, or 10% of the net banking income or the annual turnover excluding tax of the organization or person concerned, or, when the The advantage gained from the breach can be determined at double the latter, the highest amount being retained. For the organizations and persons referred to in figures 1°) to 4°) and 24°) to 28°) of Article 1, the financial penalty may be increased to an amount of up to ten million euros. When the company is a subsidiary of a parent company, the income to be taken into consideration is that which results from the consolidated accounts of the parent company during the previous financial year.
- 8°) temporary suspension or revocation of the work permit.

- 9°) the suspension or deprivation of effect of the declaration of activity, the temporary suspension or revocation of the authorization to practice, or of the authorization to constitute the company, or of the approval of activities relating to services on digital assets or crypto assets, excluding services approved by the Commission for the Control of Financial Activities;
- 10°) the ban on holding salaried employment within the sector of activity in question or carrying out an activity.
- 11°) a decision of temporary suspension from exercising management functions within the organizations or persons referred to in Article 1 for a period not exceeding ten years, or of automatic dismissal, with or without appointment of a provisional administrator, when direct and personal responsibility for the breaches is established against the managers of the said entities or the members of their administrative body;
- 12°) publication of the sanction decision.

The decision to publish is itself governed by Article 69 of Law n°1.362: "The AMSF may decide to publish its decision in the Journal de Monaco, on its website and, where applicable, on any other paper or digital medium. However, administrative sanctions imposed by the Monegasque Financial Security Authority are published anonymously in the following cases:

- 1°) when publication in a non-anonymous form would compromise an ongoing criminal investigation.
- 2°) When it appears from objective and verifiable elements provided by the sanctioned person that the harm which would result for him or her from a publication in a non-anonymous form would be disproportionate.

When the situations mentioned in figures 1°) and 2°) are likely to cease to exist within a legal period, the Monegasque Financial Security Authority may decide to defer publication during this period. It may also decide to charge the sanctioned person all or part of the publication costs referred to in the first paragraph, as well as the costs incurred by the control measures which made it possible to establish the sanctioned facts. »

X. Glossary

<u>Termes</u>	<u>Definitions</u>
Client / Customer	A Client (identical meaning to Customer) should be understood as a Natural Person or a Legal Person/entity with whom the reporting entity has a business relationship or for whom the reporting entity carried out an occasional transaction. In this context, clients refer to all existing clients with whom the entity has had a business relationship within the reporting period including occasional (walk-in) clients who have been serviced during the reporting period. Reference to clients is made in respect of those that were provided with a relevant activity or relevant service that falls under AML/CFT regulations by the reporting entity.
Government / Public Sector	Government/public entity is an organization or body providing services to the public on behalf of the government or another public entity.
FATF	Financial Action Task Force, OECD
Funds or other assets	The term funds or other assets means any assets, including, but not limited to, financial assets, economic resources (including oil and other natural resources), property of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such funds or other assets, including, but not limited to, bank credits, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts, or letters of credit, and any interest, dividends or other income on or value accruing from or generated by such funds or other assets, and any other assets which potentially may be used to obtain funds, goods or services.
Legal Person	Legal persons refer to any entities other than natural persons that can establish a permanent customer relationship with a financial institution or otherwise own property. This can include companies, corporate bodies, foundations, institute, partnerships, or associations and other relevantly similar entities.

Politically Exposed Persons (PEPs)	<p>Foreign PEPs are individuals who are or have been entrusted with prominent public functions by a foreign country, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state-owned corporations, important political party officials. Domestic PEPs are individuals who are or have been entrusted domestically with prominent public functions, for example Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials. Persons who are or have been entrusted with a prominent function by an international organisation refers to members of senior management, i.e. directors, deputy directors and members of the board or equivalent functions.</p>
Proceeds	<p>Proceeds refers to any property derived from or obtained, directly or indirectly, through the commission of an offence.</p>
Property	<p>Property means assets of every kind, whether corporeal or incorporeal, moveable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in such assets.</p>
Senior Management	<p>Senior management is an officer or employee with sufficient knowledge of the institution's money laundering and terrorist financing risk exposure and with sufficient seniority to take decisions affecting its risk exposure, and who need not, in all cases, be a member of the board of directors.</p>

XI. Relevant Documents

- ❖ FATF Publication on Politically Exposed Persons :

[https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Peps-r12-r22.html#:~:text=FATF%20Guidance%3A%20Politically%20Exposed%20Persons%20\(Rec%2012%20and%2022\)&text=A%20politically%20exposed%20person%20\(PEP,such%20as%20corruption%20or%20bribery](https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Peps-r12-r22.html#:~:text=FATF%20Guidance%3A%20Politically%20Exposed%20Persons%20(Rec%2012%20and%2022)&text=A%20politically%20exposed%20person%20(PEP,such%20as%20corruption%20or%20bribery)

- ❖ AMSF Generic Guidelines :

<https://amsf.mc/publications/lignes-directrices-generiques-a-destination-des-professionnels-monegasques>