



Requirements for Effective STR reporting

An overview

2nd December 2024

Why does STR reporting matter?

'An effective system'

A country's efforts in developing sound laws and regulations and implementing and enforcing them should focus on one goal, the high-level objective of an effective AML/CFT framework:

High Level Objective;

Financial systems and the broader economy are protected from the threats of money laundering and the financing of terrorism and proliferation, thereby strengthening financial sector integrity and contributing to safety and security.

This objective can only be achieved if the components of a country's AML/CFT framework are operating well together.

FATF 4th round Methodology – Immediate Outcomes

- **Immediate Outcome 1** – Money laundering and terrorist financing risks are understood and, where appropriate, actions co-ordinated domestically to combat money laundering and the financing of terrorism and proliferation.
- **Immediate Outcome 4** - Financial institutions, DNFBPs and VASPs adequately apply AML/CFT preventive measures commensurate with their risks, and report suspicious transactions.
- **Immediate Outcome 6** - Financial intelligence and all other relevant information are appropriately used by competent authorities for money laundering and terrorist financing investigations.

IO4 – Characteristics of an effective system

Financial institutions, DNFBPs and VASPs;

- understand the nature and level of their money laundering and terrorist financing risks;
- develop and apply AML/CFT policies (including group-wide policies), internal controls, and programmes to adequately mitigate those risks;
- apply appropriate CDD measures to identify and verify the identity of their customers (including the beneficial owners) and conduct ongoing monitoring;
- adequately detect and report suspicious transactions;
- and comply with other AML/CFT requirements.

This ultimately leads to a reduction in money laundering and terrorist financing activity within these entities.

IO4 – Core issues

How well do financial institutions, DNFBPs and VASPs;

- understand their ML/TF risks and AML/CFT obligations?
- apply mitigating measures commensurate with their risks?
- apply the CDD and record-keeping measures (including beneficial ownership information and ongoing monitoring)? To what extent is business refused when CDD is incomplete?
- apply the enhanced or specific measures for: (a) PEPs, (b) correspondent banking, (c) new technologies, (d) wire transfer rules, (e) targeted financial sanctions relating to TF, and (f) higher-risk countries identified by the FATF?
- apply internal controls and procedures (including at financial group level) to ensure compliance with AML/CFT requirements? To what extent are there legal or regulatory requirements (e.g., financial secrecy) impeding its implementation?
- To what extent do financial institutions, DNFBPs and VASPs meet their reporting obligations on the suspected proceeds of crime and funds in support of terrorism? What are the practical measures to prevent tipping-off?

Recommendations 20 and 21

20. Reporting of suspicious transactions

If a financial institution **suspects or has reasonable grounds to suspect** that funds are the proceeds of a criminal activity, or are related to terrorist financing, it should be required, by law, to report promptly its suspicions to the FIU.

(interpretive note; regardless of transaction size – direct mandatory obligation)

21. Tipping-off and confidentiality

Financial institutions, their directors, officers and employees should be:

- a) protected by law from criminal and civil liability for breach of any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, if they report their suspicions in good faith to the FIU, even if they did not know precisely what the underlying criminal activity was, and regardless of whether illegal activity actually occurred; and
- b) prohibited by law from disclosing (“tipping-off”) the fact that a suspicious transaction report (STR) or related information is being filed with the FIU. These provisions are not intended to inhibit information sharing under Recommendation 18.

Law no. 1.362 of 03/08/2009 – selected provisions

- Articles 3 – 7 + 7-1;
 - Customer Due Diligence – inc. continual verification of customer identity, third parties, and beneficial owners
 - Conduct regularly updated business risk assessments
 - Conduct Enhanced Due Diligence where appropriate (see Articles 12-2 and 14 + 14-1 and 14-2 (high risk countries))
 - Monitor business relationships
 - Draft & maintain risk-based policies & procedures
 - Record keeping (5 or 10 years)
 - Obligations to cease transactions & not establish business relationships

General requirements for effective STR reporting

- Ordonnance Souveraine n° 2.318 du 3 août 2009 – relevant sections
- II – Verification of identity of customers
- III – Identifying Beneficial Owners
- VII – Internal Policies and Procedures
- VIII – Business relationships
- IX – (i) Roles of persons in charge of AML/CFT Departments;
(ii) Staff training and awareness

General requirements for effective STR reporting

- An adequately resourced AML/CFT compliance function independent of the decision making of the rest of the financial institution/DNFBP and able to act on its own initiative
- adequate knowledge, skills and experience to be able to understand the ML/TF risks related to the business' activities and business model, including a thorough understanding of the national legal and regulatory framework relating to the prevention of ML/TF
- Clear policies and procedures setting out when the submission of an STR is appropriate and what the process is, INCLUDING timelines and avoidance of delays
- Clear lines of communication between all staff and managers, and between the AML/CFT function and the rest of the business
- Staff empowered to act on their own initiative within policy guidelines, to raise suspicions of ML/TF activity with management
- Bespoke training to all staff in the AML/CFT function dependent on role, covering both their internal responsibilities and common ML and TF typologies
- Effective harvesting and use of intelligence to improve detection of suspicious activity

STR reporting - Findings in the MER

- a) STRs come primarily from banks which is partly in line with Monaco's risk profile. Historically, professionals in the financial sector are the most inclined to send STRs to SICCFIN (AMSF). The contribution of other risk sectors (such as asset management companies and real estate agents) is still somewhat limited. (Para. 153)
- b) STRs emanating from the non-financial sector are still not sufficiently detailed, and therefore, follow-up information requests must be made. (Para. 158)
- c) Over the last five years, the STRs triggered by negative press articles account on average for 30% of the total, with an increased trend (38%) over the last two years. A significant part of these STRs constitute "defensive reporting", which not only have little financial intelligence value, but are also submitted long after the transaction has been carried out. (Para. 159)
- d) ...the level of reporting by lawyers does not seem to fully reflect the associated risks in Monaco. (Para. 154) The GPO (states) most of the reporting entities file very few reports which are mostly tardy, incomplete, and "defensive" reports. (para 160)
- e) While the quality of STRs seems to vary according to sector, the delays in their submission remain a source of concern. Delays of 40 to 100 days have been noted even for banks. This is not systematic but nor are these isolated cases. (para 162)

STR reporting - Findings of the review group

- IO6, RA 3(ii) - AMSF should: ... (ii) analyse the delays in the submission of STRs and take measures to reduce them significantly...
- 'AMSF has undertaken several actions to reduce delays such as the publication of targeted guidelines, including guidelines for high-risk sectors, the delivery of webinars and training and the creation of a specific feedback section. While actions have been taken, the effectiveness of these measures in reducing delays is unclear, since no comparative data were submitted regarding the downtrend of the delay. Overall, Monaco has started addressing STR delays, however there is not yet sufficient progress.'

Timeliness – when should an STR be submitted

- Law no 1.362, chapter V – Reporting and Information Obligations
- Article 36
 - ‘This declaration must be made in writing, **before the transaction is executed**, and specify the facts that constitute the evidence on which the said organisations or persons rely to make the declaration. It shall indicate, where applicable, the period within which the transaction must be executed. If circumstances so require, the declaration may be preceded by fax or by an appropriate electronic means’.
- Article 37
 - If, due to the seriousness or urgency of the case, the Financial Circuits Information and Control Department deems it necessary, it may object to the execution of any transaction on behalf of the client concerned by the declaration in order to analyse, confirm or reverse the suspicions and to transmit the results of the analysis to the competent authorities.

Timeliness – when should an STR be submitted

- Article 39
 - The organisations and persons referred to in articles 1 and 2 shall refrain from carrying out any transaction which they know or suspect is related to the proceeds of an offence referred to in article 218-3 of the Criminal Code, to the financing of terrorism or to corruption until they have made the declaration provided for in articles 36 or 40. They may then only carry out the transaction in the absence of opposition from the AMSF under the conditions provided for in the last paragraph of article 37.
 - In the event that the organisations or persons referred to in articles 1 and 2 know or suspect that a transaction is related to the proceeds of an offence referred to in article 218-3 of the Criminal Code, to the financing of terrorism or to corruption, but may not make the declaration provided for in articles 36 or 40 before carrying out this transaction, either because its postponement is not possible, or because it would be likely to prevent the pursuit of the beneficiaries of the said offences, these organisations or these persons shall make this declaration **without delay** after having executed the transaction.
 - In this case, they shall also indicate the reason why the declaration could not be made prior to the execution of the transaction.

What is suspicion?

- <https://www.linternaute.fr/dictionnaire/fr/definition/suspicion/>
- Fait de considérer comme suspect, d'avoir un doute, un soupçon, une défiance.
- Exemple : Cette méthode contrevient aussi au droit en vigueur, en nourrissant le soupçon de caisses noires.
- Synonyme : soupçon, défiance, méfiance
- Contraire : confiance, quiétude
- Étymologie : du latin suspicio, lui-même dérivé du verbe suspicere signifiant suspecter ou regarder de bas en haut
- Traduction en anglais : suspicion

Article 218

Versions (5) Links (22)

Consolidation history

1° The following shall be punished by imprisonment of five to ten years and the fine provided for in paragraph 4 of Article 26, the maximum of which may be increased tenfold:

- any person who knowingly assists in the conversion or transfer of property, capital or income which he **knows or suspects** to be, directly or indirectly, of unlawful origin, with the aim of concealing or disguising its origin or of assisting any person involved in the commission of the predicate offence to escape the legal consequences of his or her acts ;
- any person who knowingly participates in the concealment or disguise of the true nature, origin, location, disposition, movement or ownership of property or rights therein which the perpetrator **knows or suspects** to be, directly or indirectly, property, capital or income of unlawful origin;
- anyone who knowingly acquires, holds or uses property, capital or income that he **knows or suspects**, at the time he receives it, is property, capital or income of illicit origin, without prejudice to the provisions relating to concealment;
- any person who knowingly participates in any of the offences established pursuant to this section or in any other association, agreement, attempt or complicity by providing assistance, assistance or advice for the commission of the offence.

The mental element of an offence referred to above may be inferred from objective factual circumstances.

Article 218-2

Versions (3) Links (4)

Créé par la [loi n° 1.161 du 7 juillet 1993](#) ; remplacé par la [loi n° 1.322 du 9 novembre 2006](#) ; modifié par la [loi n° 1.521 du 11 février 2022](#)

Any person who, in breach of his professional obligations, has assisted in any operation of transfer, investment, concealment or conversion of property and capital of illicit origin, shall be punished by imprisonment for a term of imprisonment of one to five years and by the fine provided for in paragraph 4 of article 26, the maximum of which may be increased tenfold, or by one of these two penalties only.

Anyone who assists in any operation of transfer, investment, concealment or conversion of property and capital, when he should have been aware that the said property and capital are of illicit origin, shall be punished with the same penalties.

Remember...

- STR reporting is an integral part of Monaco's AML-CFT mechanism
- STRs are the basis of a large number of ML cases in Monaco
- STR reporting is a legal obligation and there are potential criminal penalties for non-compliance
- Monaco must demonstrate a consistent improvement in the quality and timeliness of STRs
- Continued failure or weakness will result in Monaco remaining on the 'grey list'
- It is the responsibility of Banks, other FIs and DNFBPs to improve their compliance – penalties await those businesses that do not!



Any Questions?

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