

# AML Tuesday's Session #4 on:

The 2023 TCSP Sectorial Risk Assessment

March 5, 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:

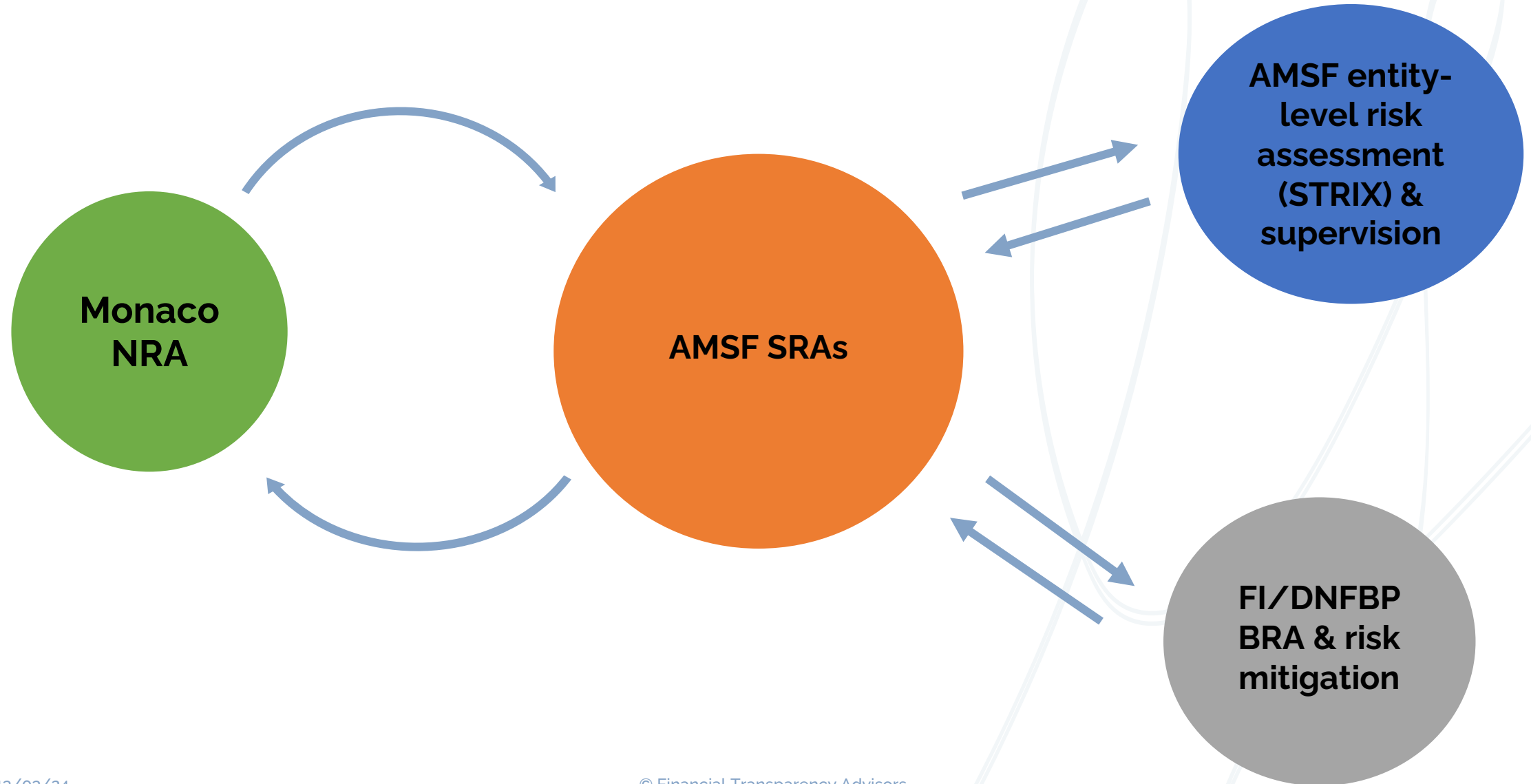
- **Countries** are required to identify, assess and understand the ML/TF risks to which they are exposed, and take effective action to mitigate these risks
- **FIs and DNFBPs** should be required to take appropriate steps to identify, assess and understand their ML/TF risks and take measures to manage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

### Recommendation 26:

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

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

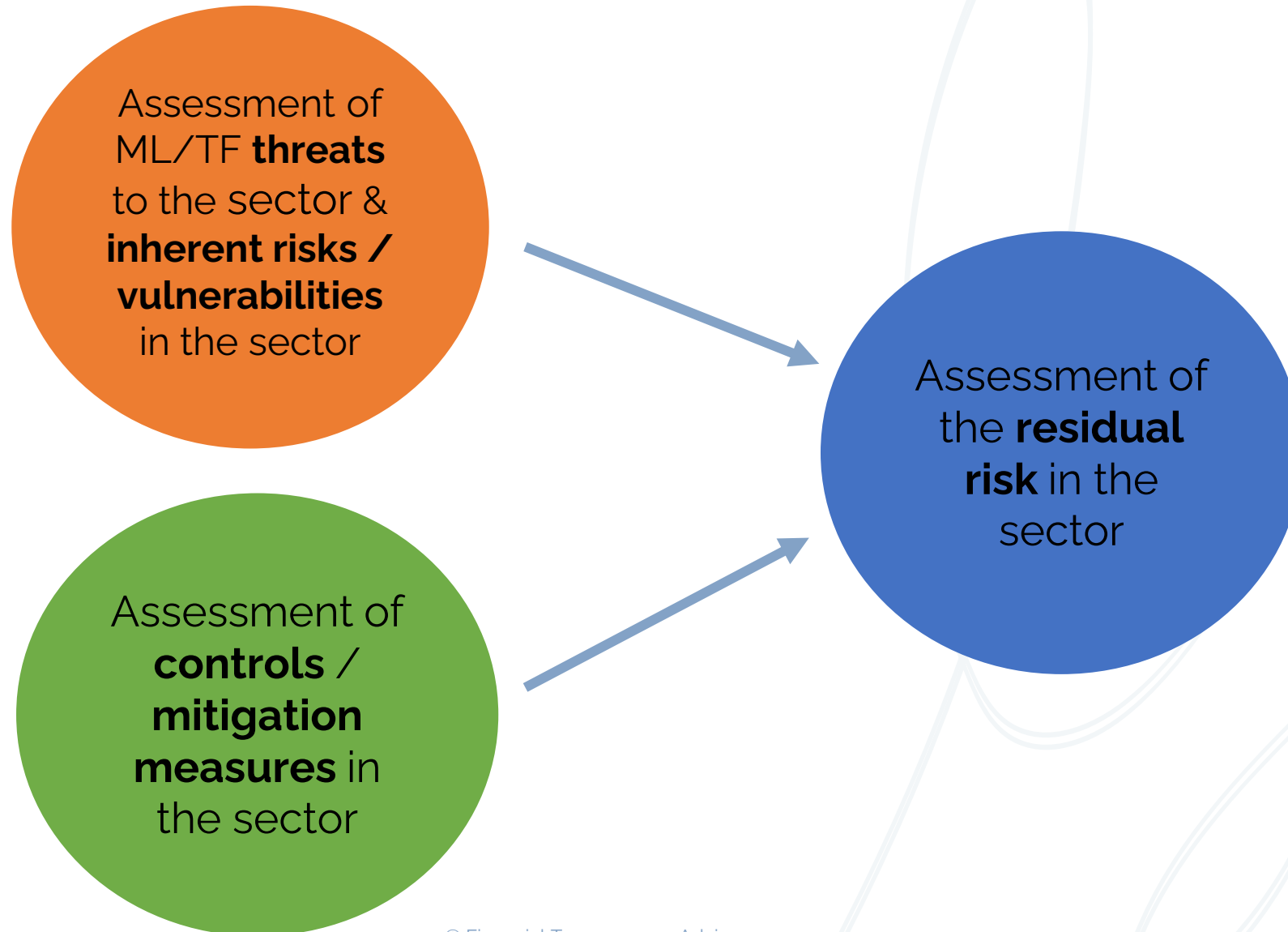
# Key functions of SRAs and links to other risk assessments



# Why is the SRA relevant to the private sector?



# Key components of an SRA



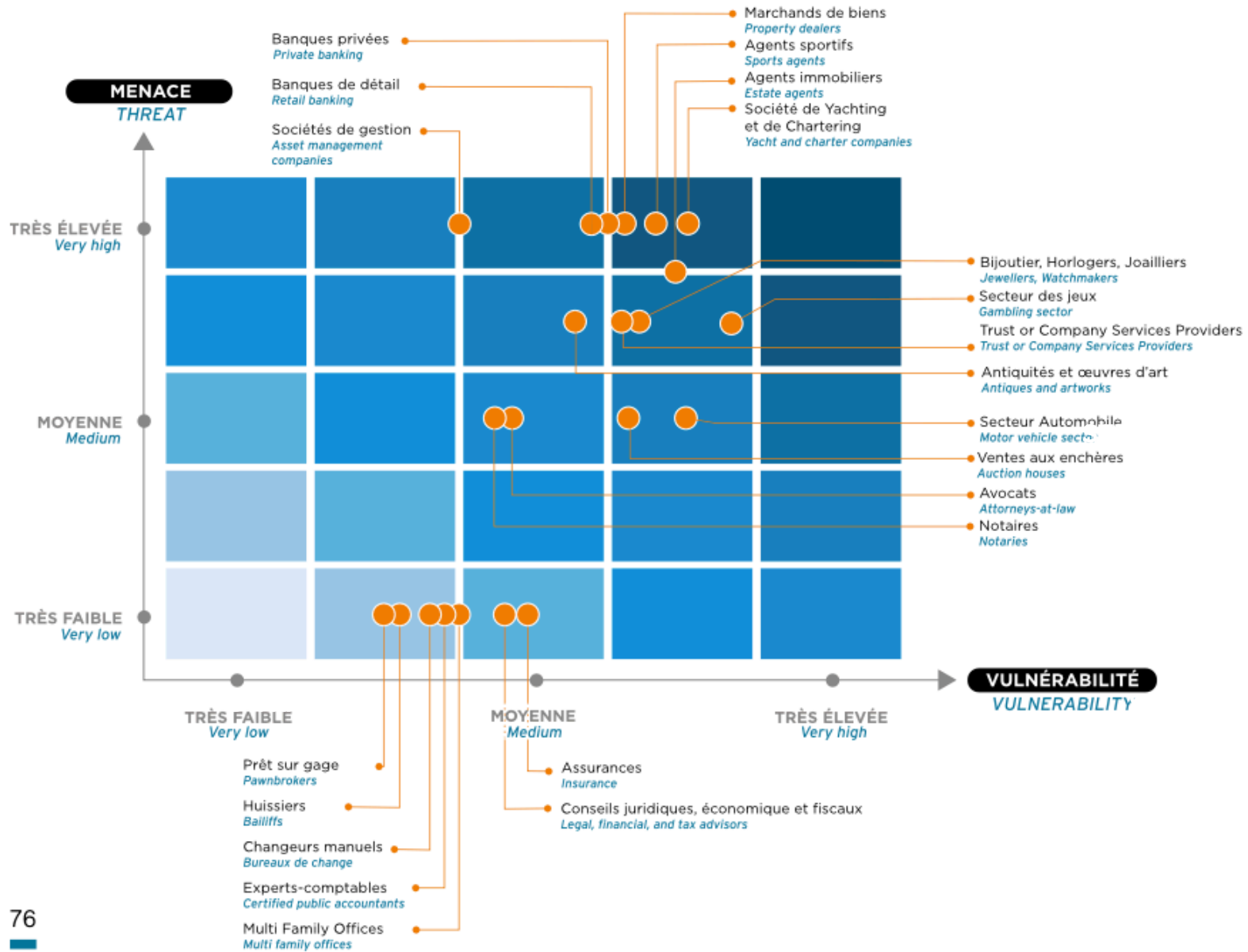
# Monaco – SRAs as part of NRA 2

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



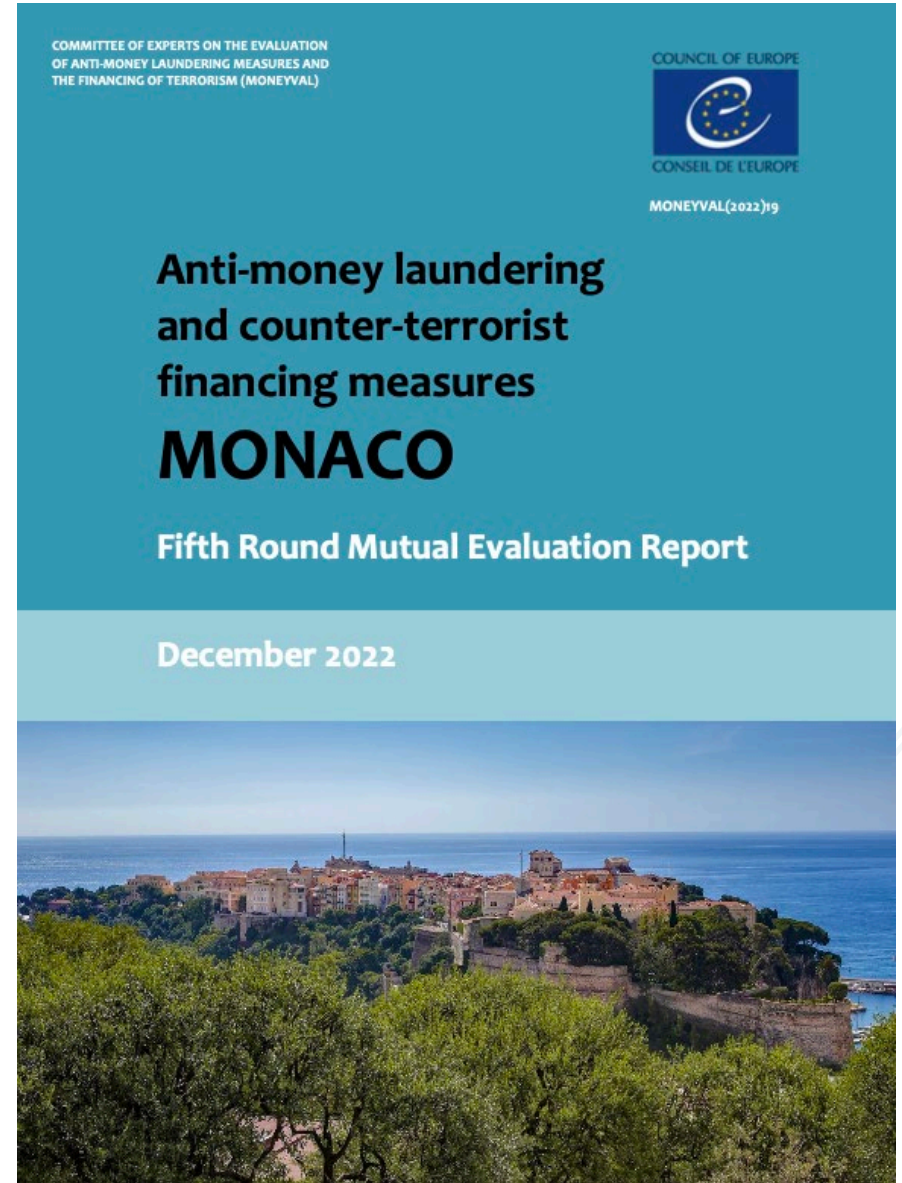


# Relevant MONEYVAL findings

“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 2022 Supra-National ML/TF Risk Assessment (sNRA):** The ML risks relating to companies and to trusts & other legal arrangements are all 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 have **no exposure** to risks relating to VAs.
- **Legal Entities and Legal Arrangements Risk Assessment:** Residual risk level associated with Monaco's legal entities is determined to be **medium-high**. 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** 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**

Assessed in NRA 2 as "moderately high" risk



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## **Trustees**

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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

# Focus on high inherent customer risks

Majority of customers of TCSPs are legal persons (LPs)

Substantial portion of TCSP customers is formed by offshore trusts

Significant exposure to higher-risk jurisdictions

Significant exposure to (foreign) PEPs

Significant exposure to (foreign) HNWIs

Some exposure to customers from high-risk TF countries

Failures to distinguish whether customers are from higher-risk industries or sectors

Failures to distinguish whether customers are from higher-risk sectors

Failures to distinguish whether customers are involved in payments or instruments with a high potential for anonymity

# SRA results – TCSP companies: controls

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

## Areas of substantial compliance

(av. score > 2,5 out of 5)

- + Record-keeping
- + Business Risk Assessment
- + AML/CFT Control Environment
- + Oversight by Board & senior management

## Areas of moderate compliance

(av. score between 2 – 2,5)

- +/- Targeted Financial Sanctions
- +/- Monitoring
- +/- Suspicious Transaction Reporting

## Areas of weak compliance

(av. score < 2)

- KYC/CDD & Customer Risk Assessment
- Enhanced Due Diligence

# Focus on weak customer-related controls

In light of the high inherent customer risks, it is of particular concern that the customer-related control measures (customer risk assessment, CDD/EDD) are lagging behind:

Tendencies to underestimate exposure to customer risk

Incoherent customer profiling and categorisation

Incorrect implementation of EDD measures

Insufficient measures to investigate and record the customers' business and risk profile

➤ **AMSF expects** that TCSP companies will take urgent action to enhance controls relating to customer risk assessment, CDD and enhanced due diligence, to better manage their exposure to high customer risks.

# Focus area: interactions between banking & TCSP sectors

1. TCSPs as customers of Monegasque banks

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

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

4. Customers/object structures of TCSPs with foreign bank accounts

# Ad 3. 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.

- **AMSF expects** that TCSPs apply adequate mitigation measures to control risks associated with the administration of structures for which the BO or a third party has sole signatory over the bank account.



# Ad 4. 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 residual risks relating to such clients/structures are higher than for those with Monegasque bank accounts.

Risks are particularly elevated in case of bank accounts located in **higher-risk jurisdictions**.

- **High AMSF expectations** in relation to the TCSP's controls (awareness of location of bank account, reason for foreign bank account, identification of links to higher-risk jurisdictions, etc.).
- Where locations of the address of the customer/structure and address of their bank seem unconnected and no valid explanation can be given for the disparate addresses, this is a **red flag** that should raise the TCSP's suspicions.

# 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

At time of first STRIX return, BCs had been brought into scope of the AML/CFT regime only recently and compliance with new AML/CFT obligations was still **non-existent to basic**:

Gaps in collection of information on customers/BOs

No AML/CFT training programmes for staff

Only one third of BCs conducts sanctions screening

Only 20% of BCs conducts BRA and CRA

- **AMSF's expectation** is that business centres have already moved to ensure that they develop, adopt and implement adequate policies and procedures to meet the legal AML/CFT requirements. To be verified in next round of STRIX data collection + inspections.

# 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. Most trustees are regulated entities from sectors known to apply moderate controls at the least.
- Extensive disclosure obligations for the trustee to the Register of Trusts maintained by DDE in relation to parties to the trust + screening by DDE

# SRA results – Ratings across sub-sectors

	<b>TCSP companies</b>	<b>Business centres</b>	<b>Trustees</b>
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
<b>Overall Inherent risk</b>	Medium-High	Medium-Low	Low
<b>Controls</b>	Moderate	Weak	Substantial
<b>Residual risk</b>	<b>Medium-High</b>	<b>Medium-Low</b>	<b>Low</b>


# Follow-up to the SRA

## **AMSF follow-up actions to 2023 SRA:**


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




# Risks flagged in the SRA – What should DNFBPs 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 i

# SRA Response – Examples for the TCSP sub-sectors

## **TCSP companies**

- Take action to enhance compliance with CRA and EDD requirements
- Ensure timely sanctions screening for all relevant parties to transactions
- Review risk rating of customers (with structures) without Monegasque bank account
- Consider to file STRs in case of structures with disparate addresses

## **Business centers**

- Urgently develop, adopt and implement appropriate AML/CFT procedures and controls
- Collect sufficient KYC/CDD data for all customers and report data in next STRIX round
- Implement screening for targeted financial sanctions
- Assess exposure to SCIs and their compliance with BO disclosure requirements

## **Trustees under Art. 3 of Law No. 214**

- Ensure compliance with registration requirements with DDE
- Inform AMSF in case of non-testamentary foreign trusts to be transferred to Monaco

# SRA Response – for other DNFBP sectors

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

Assess risks and apply appropriate measures in case of reliance on TCSP companies for CDD

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

Assess risks and apply appropriate measures in case TCSPs are used as introducers for business

Require valid documentation for trustee clients

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



*Thank you for your  
time*

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## Next Session:

26.03.2024

## Topic:

AMSF Supervisory  
Findings 2023

Today's Host: Tamar Goderdzishvili

Today's Presenter: Suzanna van Es