

<p style="text-align: center;"><b>SECTION OF FINANCIAL INTELLIGENCE AND INTERNATIONAL CO-OPERATION</b></p>
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*ADDRESS - FEE COLLOQUIUM OF 18<sup>th</sup> APRIL 2012*

We would like first to thank the FEE and the Professional Order of Chartered Accountants of Monaco, represented today by its Vice-President, François BRYCH.

We thank him to have accepted to be our speaker, first of all to apologize to you to have been unable to attend your Colloquium for reasons independent of our will, and we have wished through M. BRYCH to make this address which has the only purpose to show our interest in the subject matter dealt with by your Colloquium.

**PREFACE**

As you know, our small country shows great singularities: the Principality of Monaco is a constitutional Monarchy characterized by a great economic and political stability.

Its small size of 2 km<sup>2</sup> makes it the second smallest country after the Vat, with a population of 35.646 inhabitants. Nationals represent a minority with only 8.346 Monegasque citizens (23 % of the population).

As everyone knows, the Principality of Monaco went through an economic growth at the end of the 19<sup>th</sup> century with the construction of the railway which enabled to connect Monaco with the surrounding region and to develop the infrastructure of hotels and casino games at a time when the Riviera attracted the wealthy tourists.

Today, games represent less than 4% of the income of the State which is especially depending on the income from the diverse commercial and industrial activities. Monaco has thus become a big employment centre for the south of France with more than 40.000 trans-border workers.

There are not only banks and bank accounts. There are 35 banks in the Principality, representing assets of 73 Billions of euros. But there are also 5.078 enterprises and more than 48.000 trans-border salaried workers come daily to work in the Principality.

In addition to tertiary activities, the chemical, pharmaceutical, para-pharmaceutical and cosmetic industry is especially represented.

The image of Monaco as an ideal land for money launderers is over. Obviously, our country is certainly attractive like other lower taxation countries.

Yet, Monaco is not, never was, and does not intend to be an outlaw country. Regarding the fight against money laundering, the financing of terrorism and the corruption, the Principality has set up a legal framework and an administrative service, The Service for Control and Intelligence of the Financial Circuits (SICCFIN) which constitutes its operational branch. This Service, in co-operation with the local professionals, including the Chartered Accountants, works, either at national level or at international level, against this kind of criminality.

In order to understand the extent of this international co-operation, we have wished to introduce the main legal instrument which enables the international action of the Monegasque authorities, before addressing more specifically the role and function of our CRF.

## **I – THE LEGAL ENVIRONMENT**

### **1) The main ideas of the 2009 reform**

The 2009 legislative reform, with mainly the Law n° 1362 and the Sovereign Order n° 2318, jointly promulgated on 3rd August 2009, has made it possible to put together in a framework-law, to be detailed by further regulations, some provisions which were previously located in numerous instruments, and the reading and understanding of which was more difficult for the professionals.

In addition this purely formal purpose, the reform now in force for two years and a half had two fundamental purposes:

**- in the first instance, an enlargement of the scope of the fight against money laundering**, through the adoption of more serious legal infringements underlying the criminalization of money laundering, and through the application of the money laundering mechanism to new non-financial professions

The enlargement of the scope of offences which are able to produce money laundering has led to the enlargement of the international co-operation, at the level of the exchange of administrative intelligence by the CRF and at the level of judicial inquiries by judicial or police authorities;

- in a second instance, **a strengthening of legal obligations** for professions subject to legal obligations, around three main points:

- **an increase of identification obligations** and of knowledge of the client, applicable to financial and non-financial professions alike. The local professionals have been led to know the approach by risk and the idea that this approach includes the knowledge of the economic background of the client with his professional situation and the professional purposes which he seeks;

- **a strengthened formalism** because each professional subject to the law has to set up internal procedures to fight against money laundering, the financing of terrorism and the corruption. These obligations include to keep all probative documents during five years. This obligation enables to trace the diligences made and the effectiveness of the measures taken by the professional.

- **a strengthening of the administrative sanctions** which would apply to the professionals who would not have complied with their obligations. The Ministry may choose as sanction between the reproach, the suspension or the withdrawal of the license to exercise the activity in the Principality, notwithstanding criminal sentences by the judge in case of prosecution.

The SICCFIN has also organized training sessions for non-financial professions, including the Chartered Accountants of the Principality.

The new legal framework depends on the co-operation with the local professionals. The SICCFIN congratulates the Order of Chartered Accountants for its active participation. Indeed, the Chartered Accountants had to comply with two obligations:

- organizing their own internal procedures, with vigilance over their clients

- evaluating the internal procedures set up by their clients

This last mission relies on the fact that the profession has a good knowledge of their professional clients through the accounts.

## **2) The Chartered Accountants, instrument of regulation**

**As a profession subject to the legal obligations, the Chartered Accountants** have an active declaring role which they had before the 2009 reform.

• **The « declaring » Chartered Accountants.**

As part of their general mission of surveillance, the Chartered Accountants have made 17 declarations in 2010 and 13 in 2011.

The banks have made 384 declarations in 2010 and 399 in 2009.

• **The « evaluating » chartered Accountants**

The Chartered Accountants and the Notaries are traditionally the best placed for the self-regulation of the economic activities. They have established for long a dialogue with the administration.

According to 'article 2 of the Law n° 1.231 of 12th July 2000 relating to the profession of Chartered Accountants, as to the subsidiary activities:

*« ... The Chartered Accountant may be appointed as expert or umpire or be commissioned by the administrative or judicial authority, for any inquiry, study or control mission in matters under his competence. »*

This competence includes to analyze the functioning of entities under their accounting control, at economic, tax, legal or financial level.

This general framework assumes concerted actions with the Government in the public interest.

The joint purpose is to avoid the risk of bad reputation if a grave case of money laundering occurred.

Pursuant to Article 33 of the Law n° 1.362, the Chartered Accountants have a supervisory mission over certain categories of professionals (insurance, trustee, legal or fiscal Counsel, Art dealers, etc). these professionals must have a Chartered Accountant making a report which evaluates the application of the Law and the measures taken for its execution. A copy of this report must be sent to the SICCFIN.

This report relates to the presence of a money-laundering responsible and the way the diverse legal obligations have been implemented (identification of clients, measures of vigilance, training of staff).

The analysis of these reports enables the SICCFIN to concentrate on the professionals where problems have been identified and to deepen the investigations.

The liability of the Chartered Accountants is the ordinary one, that is damages. But the entity which would not have complied with its obligations faces the abovementioned administrative sanctions.

## **II – THE INTERNATIONAL ACTION OF FIU**

The mission of SICCFIN is one of a classical FIU, with an administrative nature. We are in charge of the treatment of suspicion declarations, and of the control of professionals about their compliance with their obligations in the fight against money laundering, the financing of terrorism and the corruption.

### **1) A double mission**

Set up in 1994, the SICCFIN is an autonomous administrative authority under the control of the Department of Finances and Economy, which comes under the definition of FIU.

The SICCFIN is composed of 13 agents.

The staff of SICCFIN has a banking professional background, with additional legal knowledge or audit specialization. Some exchanges are organized with the French TRACFIN or the Belgian CTIF in order to confront our respective experience.

#### **• Main missions**

- **As for the main missions**, the SICCFIN gathers, analyzes and forwards to the judicial authorities the information relating to money laundering, the financing of terrorism and the corruption. The investigations lead to contacts with foreign colleagues.

Within that framework, the Service receives, analyzes and processes the suspicion declarations forwarded by the professionals under the Law n° 1.362, and if this examination shows a serious suspicion, informs the Attorney General.

The SICCFIN has also to register and process the declarations regarding the trans-border transport of cash money which are received by the Direction of Public Security as part of the controls at the borders of the Principality.

**More generally**, the Service is in charge of the control of the application of the Law n° 1.362 and the measures taken for its execution. The Service is also designated, since 2002, as specialized authority in the fight against corruption by the Criminal Convention on corruption by the Council of Europe of 27<sup>th</sup> January 1999.

- **Related missions**

The SICCFIN has got wide investigative powers and may ask for communication of all information detained by the professionals under the Law n° 1.362.

The Service can also block any suspected financial operation during 48 hours, and the Attorney General may confirm this blockage, for a further period.

The SICCFIN may propose any legal or regulatory evolution if it finds it necessary in its interventions.

Finally, the SICCFIN is engaged into the awareness of all professionals in respect of the fight against money laundering, the financing of terrorism and the corruption. In that respect, the Service promotes the circulation of information and regularly meets the professionals.

## **2) The international co-operation**

The international co-operation is vital in the fight against money laundering and the financing of terrorism.

This co-operation is first manifested by regular and reciprocal exchanges of information with the equivalent of SICCFIN and by joint participation to groups of experts specialized in the fight against money laundering, the financing of terrorism and the corruption.

- **The bi-party co-operation**

The Law n° 1.362 enables the SICCFIN to reciprocally exchange information with foreign correspondents. In that respect, the SICCFIN has signed 32 agreements and should sign a 33<sup>rd</sup> with South Africa next July.

The Service is thus in charge of answering to requests of information from foreign correspondents, provided that these correspondents are subject to comparable obligations of professional secret and have enough procedural guarantees that the information will not be used for other purposes than the fight against money laundering, the financing of terrorism and the corruption.

The same ability to exchange information is provided for the control of the application of the Law, subject to reciprocity.

In 2011, the SICCFIN has received 91 requests from foreign SFI (89 in 2010), which have all been answered. In the same time, the SICCFIN made 22 requests to foreign correspondents (41 in 2010).

The first semester of 2012 shows 20 requests made to SICCFIN.

The investigations by SICCFIN through co-operation with foreign FIU may enable to gather vital information to the success of the enquiries.

Regarding the fight against the financing of terrorism, 8 declarations have been made in 2011 relating to people or entities subject to economic sanctions within the fight against the financing of terrorism or within the sanctions decided by UN resolutions for violation of human rights.

#### **• The multi-lateral co-operation**

The SICCFIN is part to 3 international organizations, including 2 within the Council of Europe, and another group which gathers the FIU of the whole world.

#### **- The Egmont Group**

The SICCFIN co-operates with its correspondents members of the Egmont Group, representing around 180 countries.

The Egmont Group is an international forum gathering, at the worldly level, the 180 services in charge to receive and process the suspicion declarations for money laundering and financing of terrorism.

One of the main purposes of the Egmont Group is to develop international co-operation by the exchange of information and increase the efficiency of SFI with programs of exchange and training for staff.

In that perspective, the members commit at their registration to promote the exchanges of information through a securized computer network which enables to ensure an efficient co-operation between FIU.

This organization is thus an important instrument for SICCFIN to exchange experience and expertise with other FIU operatives.

### **- The Council of Europe**

Within the Council of Europe, the SICCFIN is the permanent delegation of the Principality to two committees of experts, the MONEYVAL Committee and the State Group against Corruption (GRECO). Thus, SICCFIN participates to exchanges of expertise.

#### **The Moneyval Committee**

The SICCFIN participates to general meetings where the mutual evaluation reports are analyzed and approved, according to the methodology of GAFI and IMF.

Monaco has just gone through its second progress report of the 3<sup>rd</sup> cycle of evaluation which led to a program of modification to the legal framework in order to be more pursuant to the guidelines of GAFI.

One of the agents of SICCFIN participated as financial auditor to the evaluation of the Principality of Andorra within the framework of the 4<sup>th</sup> cycle of evaluation.

#### **The GRECO**

The representatives of SICCFIN participate as well to the various general meetings of this institution regarding the fight against corruption.

At these general meetings, are analyzed and discussed the evaluation reports of various countries within the mutual evaluations conducted by the GRECO.

At the last meeting, proposals about corruption and political parties should serve as an instrument of reflection in order to amend the pending draft law on corruption. This is another application of the international co-operation.



## CONCLUSION

The abovementioned ways of international co-operation are rooted in various supports but contribute to the strengthening of the international co-operation. They are the guarantee for a better operative efficiency for the SFI.

This efficiency is also grounded at the legal level in a process of harmonization of norms, only able to guarantee effectiveness to the fight against the criminality of money laundering, of the financing of terrorism and of the corruption, because of the international nature of the criminal schemes and networks of these financial offences.

Finally, I would like to quote the words of **Our Sovereign Prince Albert II**, during his accession to the throne speech in 2005: « .... Ethics should always guide the action of the Monegasque authorities. *Ethics is not divided. Money and virtue must be permanently associated. The importance of the financial position of Monaco requires an extreme vigilance in order to avoid the development of financial activities which are not welcome in our country. In order to avoid wrongdoings Monaco must operate in harmony with the organisms which have the same purpose... »*

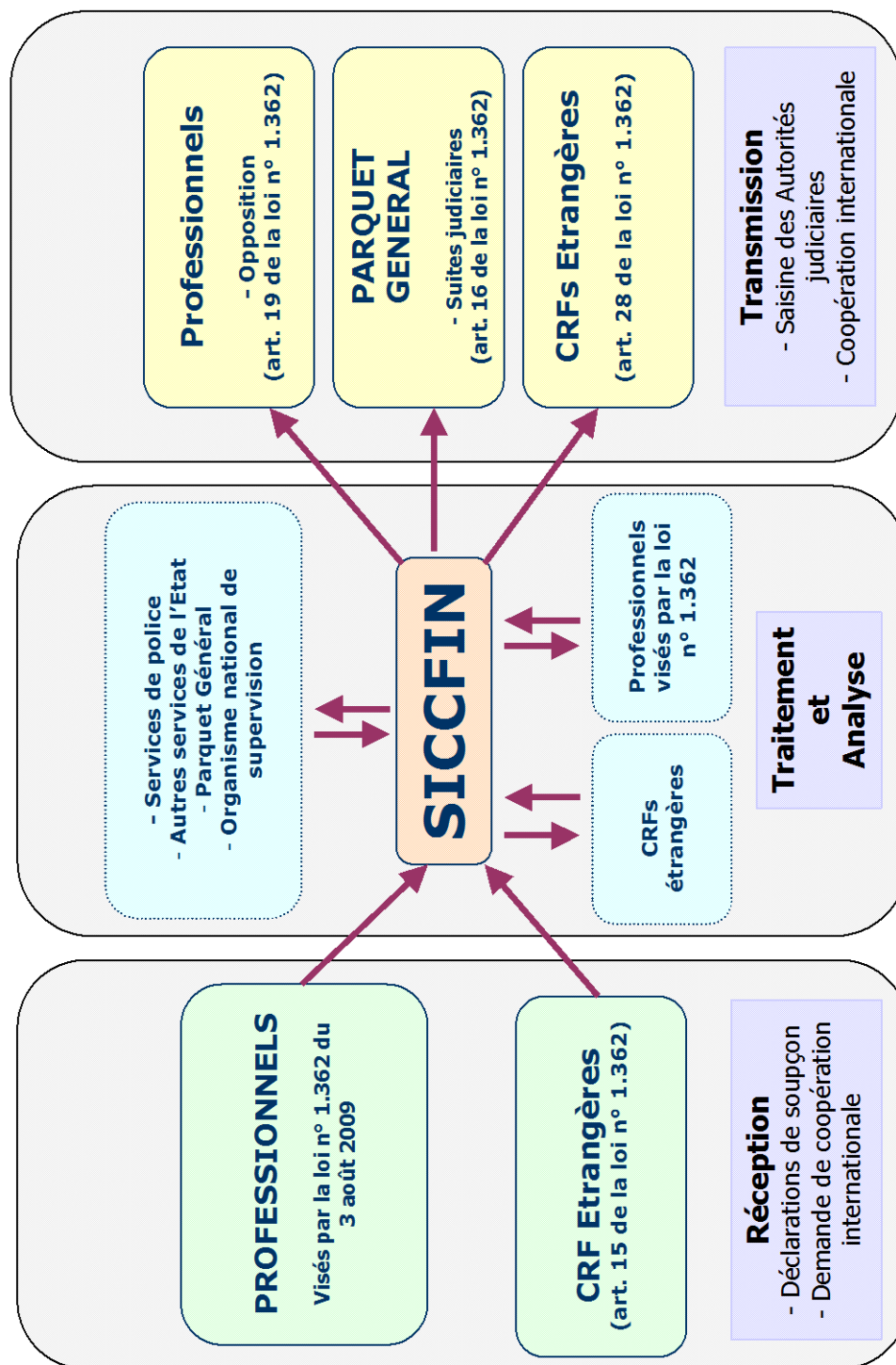
We thank you for your attention.

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## ANNEXES

**Traitement des déclarations de transactions suspectes et des demandes de coopération internationale**

**Schéma récapitulatif**



Accords bilatéraux signés de 1994 à ce jour

	<b>CRF</b>	<b>DATES</b>
1	- France (TRACFIN)	17.10.1994
2	- Belgique (CTIF)	20.10.2000
3	- Espagne (SEPBLAC)	12.12.2000
4	- Portugal (DCITE/BIB)	21.03.2001
5	- Luxembourg (Parquet du Luxembourg)	03.04.2001
6	- Grande-Bretagne (SOCA)	03.08.2001
7	- Suisse (MROS)	24.01.2002
8	- Liechtenstein (EFFI)	05.09.2002
9	- Panama (UAF)	26.11.2002
10	- Slovénie (OMLP)	29.01.2003
11	- Liban (SIC)	20.05.2003
12	- Italie (UIC)	16.09.2003
13	- Irlande (MLIU)	13.11.2003
14	- Malte (FIAU)	05.02.2004
15	- Pologne (GIIF)	16.04.2004
16	- Andorre (UIF)	04.05.2004
17	- Ile Maurice (FIU Mauritius)	22.06.2004
18	- Slovaquie (UFP-SR)	24.06.2004
19	- Canada (FINTRAC)	25.10.2004
20	- Pérou (UIF)	30.11.2004
21	- Thaïlande (AMLO)	04.04.2005
22	- Roumanie (ONPCSB)	24.05.2005
23	- Russie (FMC)	30.06.2005
24	- Saint Marin (AIF)	Nov. 2005
25	- Macédoine (DSPP)	20.11.2008
26	- Emirats Arabes Unis (UAE FIU)	28.05.2009
27	- Bahamas (FIU)	28.05.2009
28	- Bermudes (FIA)	20.10.2009
29	- Ukraine (SCFM)	09.11.2009
30	- Sénégal (CENTIF)	30.06.2010
31	- Moldavie (SPCSB)	12.10.2010

SICCFIN  
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