

# CMS Monaco

Banking & Finance Team



#### Who's Who Legal Banking

**»» *Olivier Marquet with CMS 'has a very large body of knowledge, which allows him to be very efficient on different matters.' One client effuses that 'thanks to his strong experience and efficiency, we always have a good chance to win.'***

#### Legal 500 : Commercial, Corporate and M&A (Monaco)

**»» *The one and only full-service law firm in Monaco with an international network. There is no alternative to CMS in the jurisdiction.***

#### Chambers & Partners : Corporate, Commercial, Dispute Resolution (Monaco)

**»» *One client enthuses: 'They are the best lawyers we have had,' particularly highlighting that 'we never found a gap in their knowledge and they are extremely good negotiators.'***

# Our Banking & Finance Team

For over fifteen years, our firm has been providing expert advice and assistance to Monegasque and international financial institutions operating, or wishing to operate, in Monaco, and has established a reputation as the Principality's leading law firm in this field.

Having dealt with a vast number of matters, we have built up extensive experience and in-depth knowledge of the very specific requirements of market participants, enabling us to provide our clients with a comprehensive and innovative range of services.

## **A complete service covering all aspects of banking and finance law**

We are committed to ensuring complete satisfaction for our clients, meeting all of their legal and judicial requirements in every area of banking law, including tax, regulatory, compliance, disciplinary, and criminal law matters, while also offering assistance with financing, negotiation, and proprietary trading. In addition, we defend our clients' interests in litigation and assist them with the process of enforcing guarantees to secure payment, particularly in real estate matters.

## **A team of experts**

Our Banking & Finance Team is comprised of specialists in Monegasque law, with experience in Monaco, Luxembourg, or France, possessing advanced technical expertise. Some of them have been working with regulators. Our team members are profoundly familiar with the issues our clients face and how these issues impact their sector, whether in Monaco or worldwide. We also have a strong local network and considerable, specific experience of their market. Our aim is to provide our clients with innovative, effective and creative solutions, anticipating challenges and identifying the most efficient solutions.

## **A "one-stop shop" legal service**

We are able to offer you the combined know-how of our different teams, ensuring each and every one of your specific requirements is met expertly. We work hand-in-hand not just with our employment law team to address the issues specific to companies, but also with our tax and Private Clients teams, to support our clients in building productive relationships with their own customers.

## **A global network at your service**

Since April 2017, our firm has been part of the global CMS network of over 75 offices in 43 countries across Europe, Asia, Central and South America, Africa, and the Middle East. Through the CMS network, we are able to assist our clients with all kinds of matters requiring international expertise, providing a high level of service whenever and wherever needed, with a consistent level of responsiveness.

## **Our Partner**



### **Olivier Marquet**

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# How can we help you?

With around thirty banks and some fifty management companies concentrated within a little over two square kilometres, the Monegasque banking and financial centre enjoys an excellent global reputation. The specific regulatory environment makes it a unique place for all market participants.

Monaco's banking and financial law is a composite body of regulations, a blend of domestic legislation passed by Monegasque lawmakers, and that of their French and European counterparts. Under the numerous treaties between Monaco and France and the EU, a constantly growing and increasingly complex corpus of laws applies in the Principality.

With over fifteen years' experience in the field, we are able to provide support and assistance to market participants operating in a climate of rising legislative inflation and increasing legal complexity, with significant pressure from regulators and courts.

Our Banking & Finance Team offers both expert advice and litigation services, covering all the needs of our clients in this specialised sector, such as:

**Regulatory  
and Compliance**

**Legal & contractual  
documentation**

**Negotiation  
& financing**

**Collateral  
& derivatives**

**Banking, financial,  
disciplinary and  
criminal litigation**

**Fraud  
& investigations**

**Funds**

**Insurance**

# Our recent experience

Below we present some highlights of our recent experience

## Compliance

- We represented two lending institutions before the Audit Report Review Commission (CERC) following receipt of a notice of grievances.
- We assisted a bank with a project to outsource the group's formalities with respect to the Data Protection Authority of Monaco (CCIN) and its obligations to clients on protecting personal data.
- We were asked to issue legal opinions on the application of anti-money laundering legislation, covering a range of topics including the concept of politically exposed persons, atypical transactions, tax compliance and intra-group data sharing.

## Regulatory

- We advised a banking institution on its regulatory obligations in respect of the payment of variable remuneration, particularly in light of EU Directive no. 2019/878 of 20 May 2019 ("CRD V").
- We helped two banks to outsource some of their activities, including their obligations as critical infrastructure operators to uphold banking secrecy and protect personal data.
- We advised a French lending credit institution seeking to expand its operations to Monaco on the regulatory framework applicable to its establishment, including with respect to registration requirements, Monegasque banking monopoly rules and the various cross-border issues.





## Banking and financial litigation

- We are representing a bank in a civil case brought against it by one of its clients seeking an order directing the bank to conduct a transaction for an amount close to USD 275m, despite sanctions imposed by the US Office of Foreign Assets Control.
- We obtained a judgment by the Monaco Court of Appeal dismissing a claim for compensation of USD 22m made by a client against their bank, for losses sustained on structured product investments.
- We are helping a bank collect a claim of a principal amount of EUR 25m from debtors based in Monaco, France, and other European Union member states.

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## Fraud/ international letters rogatory

- We represented the senior management of a lending institution accused of money laundering, and successfully had the charges dismissed.
- We also represent a banking group and its senior management who are subject to national or international letters rogatory, for offences including money laundering.
- We are assisting several institutions with both the criminal and civil aspects (with respect to clients) of cases of international internal and/or external fraud.

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## Negotiation and financing

- We assisted a Monegasque company with an initial token offering and coin offering in the Principality of Monaco.
- We also advised a Monegasque company on setting up an investment fund in Luxembourg, which aims to invest in projects in Europe.
- We regularly assist banks with bilateral or syndicated loan arrangements (real estate loans/equity investments/group restructuring operations/refinancing).



## Insurance

- We are assisting an insurance company based in Ireland and operating in France on the basis of the freedom to provide services with preparation of a submission to the Business Development Agency seeking approval to provide insurance services in the healthcare sector in Monaco.
- We lobbied the Chambre Monégasque des Assurances (Monegasque Chamber of Insurance) and the Government to obtain clarification regarding how the Insurance Distribution Directive (IDD) applies to foreign insurers operating in Monaco.
- We are assisting various foreign insurance firms to expand their services, particularly life insurance products, on the Monegasque market, and we regularly adapt the documentation for these products to comply with Monegasque law and draft the relevant Monegasque tax information notice.

## Documentation

- We regularly review standard forms of contract, warranty and terms and conditions for several banks and financial institutions in Monaco, as well as, more broadly, some or all of their client contracts to ensure compliance with the requirements of Monegasque legislation.

## Collateral and derivatives

- We issued a cross-jurisdictional legal opinion on whether legal guarantees from France, Monaco and Luxembourg were eligible for the risk mitigation techniques for calculating the own funds requirements of a bank in Monaco.



# Our law firm in Monaco

Our firm was founded in Monaco in 2009, by Christine Pasquier Ciulla, Olivier Marquet and Sophie Marquet.

We joined the CMS network in April 2017, before appointing three new partners: Stephan Pastor in 2018, followed by Raphaëlle Svava and Géraldine Gazo in 2019.

We provide our clients with multilingual teams, organized into seven expert teams, each specializing in a particular sector or area of law.

Our firm now has over 40 legal professionals, assisting, advising, and representing a wide range of clients including individuals and legal entities based in Monaco and around the world.

**Banking  
& Finance**

**Business Law**

**Employment  
Law**

**Real Estate  
& Construction  
Law**

**Private Clients**

**Tax Law**

**Criminal Law**

## Market recognition

Our firm is regularly named by international rankings among Monaco's leading law firms:



**Spotlight**  
Chambers & Partners  
General Business Law  
(Monaco)



**Tier 1**  
Legal500  
Commercial,  
Corporate and M&A  
(Monaco)



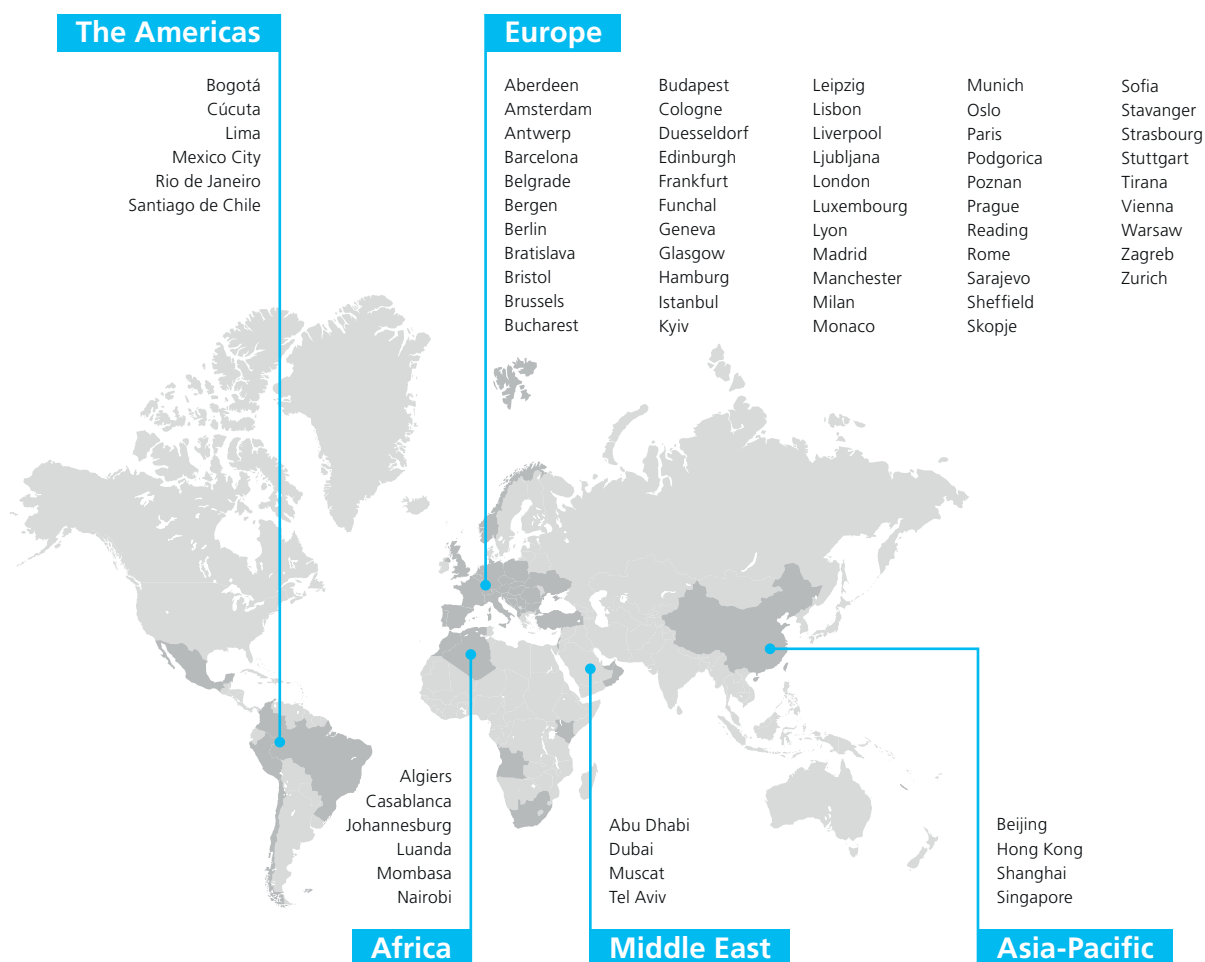
**Band 1**  
Chambers & Partners  
High Net Worth  
(Monaco)



**Tier 1**  
Legal500  
Private Clients  
(Monaco)

# Our global presence

As a top 10 global law firm, CMS is highly qualified to assist you with your projects through its 70+ offices in 43 countries worldwide. With 1,200 partners and over 5,000 lawyers, independent CMS member firms provide you with advice that is tailored to your local and international needs. We are present in Europe, Asia, Central and South America, Africa, and in the Middle East.







## Contact

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Avocats Associés inscrits à l'Ordre des Avocats-Défenseurs et Avocats de la Principauté de Monaco/Partners and lawyers registered with the Legal Bar of the Principality of Monaco : Christine Pasquier Ciulla | Olivier Marquet | Sophie Marquet | Stephan Pastor | Raphaëlle Svava | Géraldine Gazo

Les Avocats Associés constituent un cabinet d'avocats monégasque affilié à un Groupement Européen d'Intérêt Economique, CMS Legal Services EEIG, qui coordonne un ensemble de cabinets d'avocats indépendants, et qui n'assure aucun service auprès de la clientèle. /The Partners and lawyers form a Monegasque law firm, member of CMS Legal Services EEIG, a European Economic Interest Grouping that coordinates an organisation of independent law firms and that provides no client services.

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## CMS locations:

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