



**EASTERN AND SOUTHERN  
AFRICA ANTI-MONEY  
LAUNDERING GROUP**

**MUTUAL EVALUATION OF THE**

**REPUBLIC OF SEYCHELLES**

**EXECUTIVE SUMMARY**

**AUGUST 2008**

## **Executive Summary**

### ***Background Information***

1. This report summarises the anti-money laundering (AML)/combating the financing of terrorism (CFT) measures in place in Seychelles as of the time of the on-site visit (20 November -01 December 2006), and shortly thereafter. The report describes and analyses those measures and provides recommendations on how certain aspects of the system could be strengthened. It also sets out Seychelles' level of compliance with the Financial Action Task Force (FATF) 40+9 Recommendations (see the attached table on the Ratings of Compliance with the FATF Recommendations).

2. Seychelles is a small island economy in the Indian Ocean. Economic growth, since its independence, has been led by the tourist sector, which employs about 30% of the labour force and provides more than 70% of hard currency earnings, and by the tuna fishing industry. In recent years, the government has encouraged foreign investment to upgrade hotels and other services. At the same time, the government has moved to reduce the dependence on tourism by promoting the development of farming, fishing, and small-scale manufacturing.

3. The offshore sector is another emerging player in the Seychelles economy. In 2006, the Seychelles witnessed a substantial increase in its international business level namely with the registration of 8237 international business companies (IBCs). This represents an increase of 16% over the year 2005. As at the date of the mutual evaluation there were over 30,000 IBCs registered in the Seychelles. The Seychelles offshore sector is estimated to be generating a turnover of over USD25 million annually.

4. The risk of money laundering is perceived as low by the authorities and private sector in Seychelles and there is a general consensus among operators in the private sector (other than banks) that money laundering, if at all in Seychelles, could only be conducted through the banks.

### ***Legal systems and related Institutional measures***

5. The Seychelles adopted its first AML legislation in 1996 with the enactment of the Anti-Money Laundering Act 1996. Seychelles has recently enacted a number of legislations to modernise and strengthen its AML/CFT legal framework. In 2006, it enacted a new Anti-Money Laundering Act 2006 (AML Act) which replaces the Anti-Money Laundering Act of 1996. The AML Act transposes into the AML/CFT framework several requirements of the revised recommendations of the FATF.

6. Money laundering is criminalised under the AML Act. The money laundering offence covers the conversion or transfer, concealment or disguise, acquisition and possession of property in a manner largely consistent with the 1988 UN Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the 2000 UN Convention against Transnational Organised Crime (Palermo Convention).

7. Seychelles has adopted a threshold approach to define the scope of predicate offences. Any act or omission against any law of Seychelles punishable by imprisonment for life or for a period exceeding 12 months or by a fine exceeding R6500 will constitute a predicate offence. Money laundering applies to both natural and legal persons, and proof of knowledge, intent or purpose can be derived from surrounding facts. Natural persons are liable to a fine of R. 3,000,000 and/or imprisonment for 15 years, while a body corporate is liable to a fine of R. 5,000,000 and/or revocation of business licence.

8. Assets used in the commission of a crime that are property of the offender may be forfeited upon conviction. In cases of money laundering, the courts may forfeit money or property constituting the proceeds of crime: all money and property in the possession of the person convicted for Money laundering are deemed to have been derived from money laundering. Forfeiture of substitute assets is possible, but it is not clear whether this is also possible for assets of equivalent value. Assets may be temporarily seized as evidence, but the AML Act does not stipulate special provisions for temporary seizures.

9. The statistics indicate that in 2006 there were 41 suspected money laundering cases. Most of these investigations are still underway and 2 are pending before the court.

10. The new AML Act also provides for the establishment of a Financial Intelligence Unit within the Central Bank of the Seychelles and extends the list of reporting entities covered under the law to include a range of DNFBPs such as accountants, auditors, lawyers, real estate agents, casinos, dealers in precious stones or metals and offshore banks.

11. Seychelles has also taken significant legislative steps to fight terrorism and terrorist financing with the adoption of the Prevention of Terrorism Act in 2004. There have been no reported incidences of terrorist acts or indications of terrorist financing in Seychelles. The UNSCR 1267 lists of designated persons and entities are circulated to Banks which are required to report to the Central Bank of the Seychelles on a positive or negative report. So far, no positive match with the 1267 designations has been identified.

12. Several institutions participate in the national fight against ML and TF. These include:

***Financial Intelligence Unit (FIU)***

13. The Financial Intelligence Unit became operational in July 2006. It is the focal point for receiving, analyzing, and disseminating reports of transactions related to money laundering or the financing of terrorism to the appropriate law enforcement and supervisory agencies in Seychelles. The FIU also conducts examinations of the reporting entities and, may in consultation with supervisory authorities, issue guidance related to customer identification, identification of suspicious transactions, and record keeping and reporting obligations. No such guidelines had been issued by the FIU at the time of the onsite visit.

### ***Central Bank of Seychelles***

14. The FIU operates as a unit within the Central Bank of Seychelles. The board of the Central Bank is responsible for the FIU and the director of the FIU reports to the Board on the exercise and performance of his powers and duties under the AML Act. The Central Bank is also responsible for licensing and supervising Banks and other financial institutions and has a duty under the law to report any suspicious transactions to the FIU.

### ***Attorney General's Office***

15. The Attorney General's office has been involved in drafting of the AML/CFT legislation with the aim to strengthen the AML/CFT framework in the Seychelles. The Attorney General is the central Authority for mutual legal assistance and also initiates prosecution in cases involving money laundering.

### ***Seychelles International Business Authority (SIBA)***

16. SIBA is an independent authority set up to monitor, supervise, and co-ordinate the conduct of international business from within Seychelles and to promote Seychelles as a centre for international business activities. It is also responsible for licensing and supervising Trust and Corporate Service Providers. As the supervisory authority for the offshore sector, SIBA must report suspicious transactions to the FIU.

### ***Seychelles Police***

17. The police are responsible, *inter alia*, for general policing duties, preventing and interdicting crime and implementation of public and state security policy. A special team within the police comprising of four police officers is responsible for investigating money laundering and other financial crimes. In 2006 there were 41 suspected money laundering cases. Most of these investigations are still underway and 2 were pending before the courts at the time of the onsite visit.

### ***Customs Division***

18. The Customs in Seychelles is headed and controlled by the Comptroller of Trades Tax. All goods imported from the time of importation until removal for home consumption and all goods for exportation until the time of exportation are under the control of Customs. Further all goods on board any ship, boat or aircraft whilst within the limits of any port or airport are subject to the control of customs. The FIU has authority under the section 19(c) of the AML Act to request information from any law enforcement agency including the Comptroller of Trades Tax. The FIU must also send any report, any information derived from such report or any other information it receives to the Comptroller of Trades Tax if on the basis of its analysis and assessment the FIU has reasonable grounds to suspect that the transaction is unlawful.

### ***Preventive measures-Financial Institutions***

19. Not all the categories of financial institutions as defined in the FATF Recommendations operate in the Seychelles. The financial services sector in the Seychelles is relatively small and comprises of 6 commercial banks, 2 bureaux de change, one Credit Union, 2 insurance companies, a specialised development bank and a housing finance company. In 2006, finance and services represented 11% of the GDP at current market prices.

20. The Central Bank of the Seychelles is responsible for the supervision of the commercial banks, the bureaux de change and the Credit Union. Banks and bureaux de change are licensed and supervised under the Financial Institutions Act 1994. The Development Bank of Seychelles is set up under statute and has no designated supervisor. It falls within the oversight of the Ministry of Finance.

21. Insurance companies are governed by the Insurance Act 1994 and fall under the supervision of the Insurance Authority, which is established under the Insurance Act. The main areas of business are general insurance and life insurance. A person may with the approval of the Insurance Authority provide services as an insurance broker or as an insurance agent. There are 8 insurance brokers and 40 insurance agents operating in Seychelles.

22. Seychelles intends to establish a Non-Bank Financial Services Authority that will serve as an autonomous statutory body that will regulate and supervise the non-bank financial services institutions including insurance companies, the securities industry and mutual funds.

23. One of the commercial banks operating in the Seychelles is also licensed by the Central Bank under the Financial Institutions Act 2004 to provide offshore banking business. Offshore banking business is defined under the Financial Institutions Act 2004 as banking business solely conducted with non-residents in currencies other than the Seychelles Rupee.

24. There are 4 offshore insurance companies licensed by the Insurance Authority under the Insurance Act 1994 to provide non-domestic insurance business, that is, insurance business exclusively carried on outside Seychelles for the issue of offshore policies.

25. Considering that Seychelles has enacted AML legislation since 1996, the level of AML awareness amongst financial institution is relatively low. Insurance entities have not implemented the requirements of the AML Act. The commercial banks in the Seychelles have to some extent adopted and implemented AML/CFT policies and procedures.

26. The verification of identity of the customers is largely undertaken by banks; however there is no level playing field in the manner in which this is applied. This is mainly due to lack of guidance and in the absence of such guidance the international banks apply Group AML/CFT standards as opposed to adherence to the provisions of the AML Act. Some of the banks are still guided by the Guidance Notes issued by the CBS under the 1996 AML Act.

27. There is no express provision under the AML Act which requires financial institutions to identify the beneficial owner as defined under the FATF Recommendations and to take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source. However, under section 4(2)(c)(ii) of the AML Act, where a transaction is conducted by a legal entity, the financial institution must obtain information relating to the principal owners and the beneficiaries and the control structure. Regrettably, the AML Act does not define the terms principal owners or beneficiaries.

28. In the absence of such definitions in the AML Act or any guidelines the practice amongst most financial institutions is to verify and identify the identity of the registered shareholder who may or may not be the beneficial owner. The practice amongst commercial banks is not consistent. The two commercial banks which were interviewed by the team were both subsidiaries of international banks and had different requirements under their internal policies. These internal policies were basically modelled on the AML/CFT manual of the parent company. One of the commercial banks identified and verified the identity of all shareholders whilst the other identified and verified the identity of shareholders holding 25% or more in a company.

29. The FIU has a compliance monitoring function under the AML Act. It is tasked with the responsibility for ensuring that all financial institutions comply with the requirements of the AML Act. As at the date of the onsite visit the FIU had undertaken only one onsite inspection.

30. Financial institutions and their directors and officers are liable to criminal sanctions for failure to comply with the requirements of the AML Act. No sanctions had been applied as at the date of the mutual evaluation.

### ***Preventive measures-Designated Non-Financial Businesses and Professions***

31. Despite its relatively small size, the full range of DNFBPs styles conducts business in Seychelles.

32. The legal framework provided by the AML Act applies to all the categories of DNFBPs operating in the Seychelles. In practice, DNFBPs (other than TCSPs) have recently been brought within the scope of the AML law with the enactment of the AML Act in 2006. While the FIU is the designated competent authority no supervision was being undertaken at the time of the onsite visit and compliance with the provisions of the AML Act is not effective.

33. The TCSPs were relatively more aware of their AML/CFT obligations. However, the level of compliance by TCSPs with the requirements of the AML Act appeared to be minimal. The general view held by the TCSPs interviewed by the mutual evaluation team was that the requirements of the AML Act were far too onerous and could not be implemented by the TCSPs bearing in mind the size of their operation. The banks were viewed to have the resources to fully implement the AML/CFT procedures. Consequently, not all TCSPs have adopted and

implemented internal AML/CFT policies and procedures in line with the requirements of the Act.

### ***Legal Persons and Arrangements & Non-Profit Organisations***

#### ***Legal persons***

##### ***Companies***

34. Domestic companies may be formed and registered under the Companies Act 1972. As at the date of the on-site visit there were 3,500 companies registered with the Registrar of Companies. Company records kept with the registrar of companies are available for public inspection. There is no requirement under the Companies Act for a company to keep records of beneficial owners.

35. In addition to issuing ordinary and preference shares, a company registered under the Companies Act may with the permission of the Financial Secretary issue bearer share certificates or bearer debentures. Bearer shares and bearer debentures are negotiable instruments and title to those shares and debentures may be transferred by delivery. Where a company issues a bearer share or a bearer debenture it must provide for the payment of dividends or interests by the issue of coupons to bearer. Such coupons are also negotiable instruments.

36. Information on beneficial owners of domestic companies may not always be available with the authorities in Seychelles.

##### ***International Business Companies (IBCs)***

37. IBCs are registered with the Registrar of International Companies (the functions are carried out by the SIBA) through Registered Agents-which are licensed corporate service providers. There is no requirement for upfront disclosure of the beneficial owners of IBCs with the SIBA. The practice amongst some of the CSPs is to sell bulk IBCs to intermediaries overseas. The intermediaries are not always supervised and regulated for AML/CFT purposes. The CSPs have indicated that they do not always hold information on the beneficial owners of the IBCs sold in bulk to intermediaries. Shelf IBCs are also sold online by some of the CSPs operating in the Seychelles.

38. While the FIU seems to have extensive powers under section 23 of the AML Act, it does not appear from the provisions of the International Business Companies Act or the AML Act that the FIU may have access to the registers that an IBC is required to keep under the IBC Act unless the IBC consents to it. In addition, the deficiencies in the application of CDD measures by CSPs in practice undermine the ability of competent authorities to have access to accurate information on the beneficial ownership and control of an IBC.

### ***Companies holding a Special Licence under the Company (Special Licences) Act 2003***

39. A company which proposes to apply for a special licence under the Company (Special Licences) Act 2003 ('CSL Act') must be registered by the Registrar of Companies under the Companies Act 1972 through the SIBA. An IBC or a company incorporated under the laws of a jurisdiction outside the Seychelles may continue as a company incorporated in accordance with the provisions of the CSL Act.

40. For the purposes of an application, an applicant must provide SIBA with the name and addresses of the directors and shareholders of the proposed company and where the any shareholder is a nominee the name and addresses of the person on whose behalf the shares are held by the nominee must be also be provided to SIBA.

41. There is no requirement under the Act to provide information to the SIBA where there is a change in the beneficial ownership of the company. A CSL is prohibited from issuing bearer shares.

42. SIBA is bound by a duty of secrecy under the CSL Act and is permitted to disclose information only as permitted under the law. This may undermine timely access to beneficial ownership and control information by competent authorities.

### ***Trusts***

43. The legal framework for domestic trusts does not exist in the Seychelles.

### ***International Trusts***

44. An international trust may be established under the International Trust Act 1994 (ITA). An international trust is defined under the ITA as a trust or constructive trust in respect of which-

- (a) the settlor is not any time during the duration of the trust a resident of the Seychelles;
- (b) at all times at least one of the trustees is a resident of Seychelles, an IBC (authorised by the SIBA) or a financial institution.

45. As at the date of the mutual evaluation there were 160 trusts on the Register of International Trusts.

46. A resident trustee must file a declaration of trust with the SIBA-which in turn is required to file the declaration in a Register of International Trusts and give the declaration a reference number. The reference number of a declaration of trust is the reference by which the international trust is identified and can be used officially to refer to the international trust. In accordance with the provision of the ITA, the declaration of trust must not contain the name of the settlor or beneficiary unless the beneficiary is a Seychellois or a body corporate resident in Seychelles.

47. A trust service provider (TSP) is a reporting entity for the purposes of the AML Act and is required to undertake CDD measures in accordance with the

provisions of the AML Act. There is however, no specific guidance in the AML Act or issued by the FIU on CDD measures that must be applied with respect to trusts. There is no express requirement to keep details of the settlor, trustees, or any protector. However, one of the TSP interviewed by the team indicated that it did undertake CDD measures with respect to the settlor, beneficiary and protectors with respect to an international trust.

48. Information on the beneficiaries and settlors of international trusts may not always be available and the duty of confidentiality under the IT Act may undermine the availability of timely information to competent authorities.

### ***Non-profit organisations***

49. NPOs must register with the Registration of Associations Act (RA Act). An association may be formed for a number of purposes provided that it is not contrary to law, morality and public policy. As at the date of the mutual evaluation there were 214 associations registered with the Registrar. There has been no risk assessment of the sector for AML/CFT purposes. While the Registration of Associations Act enacted in 1959 and has been amended from time to time, Seychelles has not conducted a review of the adequacy of the laws and regulations that related to NPOs. There has been no systematic gathering of information regarding the risk of misuse of NPOs for terrorist financing. Seychelles has not conducted outreach for the NPO sector with a view to protecting the sector from terrorist financing abuse.

### ***National and International Co-operation***

50. With the Mutual Assistance in Criminal Matters Act, the Extradition Act and the Prevention of Terrorism Act Seychelles has in place comprehensive laws that enable it to provide a wide range of assistance at the request of a foreign state. Both ML and TF are extraditable offences. These laws have however not been used in AML/CFT matters. Their effectiveness could not therefore be assessed by the team.

51. The Republic of Seychelles acceded to the United Nations Convention Against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and has signed and ratified the United Nations Convention Against Transnational Organized Crime (Palermo Convention) and International Convention for the Suppression of the Financing of Terrorism in 2003 and 2004 respectively..

### ***Other issues***

52. Overall, the Republic of Seychelles has put into an adequate legal and regulatory regime to address ML and TF threats that it can build on in the years ahead to develop a robust AML/CFT system that meets the international standards set by the FATF.

53. The Republic of Seychelles would need to address the deficiencies identified in this evaluation report in strengthening the legal and institutional framework it has developed and making it effective in the short and medium term.

54. As a jurisdiction which is committed to expanding its offshore financial services sector, Seychelles needs to take concerted actions to address the AML/CFT deficiencies identified to enable the country to benefit from a well regulated offshore sector in the years ahead.

The capacity of the institutions involved in the fight against ML and TF to implement all the AML/CFT measures on their own is limited. They will therefore require technical assistance to build this capacity over time. This report provides an opportunity to technical assistance providers to engage with the Republic of Seychelles in assisting the institutions to implement AML/CFT measures in a prioritised way which takes account of the capacity challenges that they face.

**Table 1. Ratings of Compliance with FATF Recommendations**

<b>Forty Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating<sup>1</sup></b>
<b>Legal systems</b>		
1. ML offence	PC	<ul style="list-style-type: none"> <li>• Although the offence of ML extends to all types of property regardless of value, in the absence of a judicial pronouncement it cannot be ascertained that when proving that property is the proceeds of crime it would not be necessary that a person be convicted of a predicate offence.</li> <li>• There has been no money laundering conviction under the new law and therefore the effectiveness of the legislation cannot be assessed.</li> </ul>
2. ML offence – mental element and corporate liability	LC	<ul style="list-style-type: none"> <li>• The legislation meets all the essential criteria, however, there has been no money laundering conviction under the new law and therefore the effectiveness of the legislation cannot be assessed.</li> </ul>
3. Confiscation and provisional measures	PC	<ul style="list-style-type: none"> <li>• The AML Act and the PTA do not expressly provide powers to law enforcement agencies for the tracing or identification of property that may become subject to confiscation or is suspected of being proceeds of crime.</li> <li>• The AML Act is silent on the issue of whether an application for seizure may be made ex parte.</li> <li>• The application of the law has not been tested therefore the effectiveness of the regime cannot be assessed.</li> </ul>
<b>Preventive measures</b>		
4. Secrecy laws consistent with the Recommendations	PC	<ul style="list-style-type: none"> <li>• There is some difficulty to reconcile the statutory duty of confidentiality of the CBS under the FIA with its duty to</li> </ul>

▪ <sup>1</sup> These factors are only required to be set out when the rating is less than Compliant.

		<p>report suspicious transactions to the FIU under section 11 of the AML Act.</p> <ul style="list-style-type: none"> <li>• There is some difficulty to reconcile the statutory duties of confidentiality and secrecy of the SIBA with its duty to report suspicious transactions to the FIU under the AML Act.</li> <li>• The current legal framework does not allow for any gateway for the exchange of information by the SIBA with competent authorities domestically or internationally.</li> </ul>
<p>5. Customer due diligence</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• The concept of beneficial owner is not well articulated under the law and there is no express requirement under the AML Act to take reasonable measures to verify the identity of the beneficial owner using relevant information or data obtained from a reliable source.</li> <li>• Criterion 5.5.1 is not met as the AML Act applies only to customers who are natural persons and where the reporting entity has reasonable grounds to believe that the person is undertaking the transaction on behalf of another person.</li> <li>• There is no express requirement under the law to obtain information on the natural persons that ultimately own or control or who ultimately effectively control the legal person or arrangement</li> <li>• There is no specific requirement regarding the verification of identity to be undertaken where the client is a trust.</li> <li>• Criterion 5.7.1 is not fully met as the requirement under the</li> </ul>

		<p>AML Act, does not make reference to the risk profile or the customer or to source of funds.</p> <ul style="list-style-type: none"><li>• Financial institutions are not required to ensure that documents, data or information collected under the customer due diligence process are kept up-to-date and relevant by undertaking reviews of existing records.</li><li>• Even if section 4(1) of the AML Act permits a financial institution to complete the verification of identity within a reasonable time after entering into a business relationship it does not specify the conditions under which this may occur.</li><li>• There is no requirement on financial institutions to adopt risk management procedures with respect to business relationships established prior to completion of the verification of identity of the customer.</li><li>• There is no requirement on financial institutions to perform CDD measures on existing customers if they have anonymous accounts or accounts in fictitious names.</li><li>• There is no requirement for reporting entities to apply enhanced due diligence measures with respect to higher risk categories of customers.</li><li>• Financial institutions are not required to ensure that documents, data or information collected under the customer due diligence process are kept up-to-date and relevant by</li></ul>
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		<p>undertaking reviews of existing records.</p> <ul style="list-style-type: none"> <li>• AML/CFT policies and procedures have not been adopted and implemented by insurance entities and the bureaux de change as at the date of the mutual evaluation.</li> <li>• International banks operating in the Seychelles appear to be more focused on applying the group standards rather than adhering to the local requirements under the AML Act.</li> <li>• There is no evidence that local banks are effectively implementing AML requirements under the AML Act. The FIU had undertaken only one on-site inspection.</li> <li>• No comprehensive guidance had been provided to financial institutions by the FIU to meet the gaps in the AML Act.</li> </ul>
<p>6. Politically exposed persons</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• There is no requirement under the AML Act for financial institutions to obtain senior management approval to continue a business relationship where a customer has been accepted and the customer or beneficial owner is subsequently found to be or consequently becomes a PEP.</li> <li>• There is no requirement to take reasonable measures to establish the source of wealth and the source of funds of beneficial owners identified as PEPs.</li> <li>• There is a low level of implementation of the</li> </ul>

		<p>requirements of the AML Act with respect to PEPs amongst the banks.</p> <ul style="list-style-type: none"> <li>Insurance entities and bureaus de changes have not implemented the requirements of the AML Act regarding PEPs.</li> </ul>
7. Correspondent banking	PC	<ul style="list-style-type: none"> <li>The requirement under Section 4(5)(a) of the AML Act, to gather sufficient information about the nature of the business of the person has been couched in general terms and does not indicate that at the end of the information gathering exercise the financial institution should “fully understand” the nature of the respondent’s business.</li> <li>There is also no specific requirement on the financial institution to determine whether the respondent has been subject to a money laundering or terrorist financing investigation or regulatory action.</li> <li>While under section 4(5)(a)(iv) of the AML Act, a financial institution is required to assess the respondent’s anti-money laundering and terrorist financing controls, the financial institution is not required to ascertain that these measures are adequate and effective.</li> <li>In practice there is no effective implementation of the requirements of the AML Act by the banks.</li> </ul>
8. New technologies & non face-to-face business	NC	<ul style="list-style-type: none"> <li>There are no requirements under the AML Act for financial institutions to have policies or take appropriate measures to prevent the misuse of technological developments</li> </ul>

		<p>in money laundering or terrorist financing schemes.</p> <ul style="list-style-type: none"> <li>Financial institutions are not required to have policies and procedures in place to address any specific risks associated with non-face to face business relationships or transactions when establishing customer relationships and when conducting ongoing due diligence.</li> </ul>
<p>9. Third parties and introducers</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>Criterion 9.1 is not met as the deficiencies identified with respect to criteria 5.3 to 5.6 above will also apply here. <ul style="list-style-type: none"> <li>The AML Act does not expressly specify that the third party or intermediary must be regulated and supervised for AML/CFT purposes as required under Recommendations 23 and 24 nor does it indicate that the supervisors should have adequate regulatory and supervisory powers as required under Recommendation 29.</li> </ul> </li> <li>There is no requirement for the financial institution to satisfy itself that the intermediary or third party has measures in place to comply with the CDD requirements as set out in Recommendation 5.</li> <li>There is no determination from competent authorities in the Seychelles on which countries the third parties that meet the conditions must be based.</li> <li>There is no express requirement under the AML Act to remind financial institutions that the ultimate responsibility of ensuring customer identification and verification remains with them.</li> <li>There is no evidence to show that the requirements of the</li> </ul>

		AML Act have been effectively implemented in practice.
10. Record keeping	PC	<ul style="list-style-type: none"> <li>• There is no requirement for the transaction records to be maintained to also include the customer's and beneficiary's name and address.</li> <li>• There is no requirement under the AML Act to keep records of account files and business correspondence.</li> <li>• There is no effective compliance with the requirements of the AML Act by Insurance entities and bureau de change</li> <li>• There is no provision which will enable a competent authority to require records to be kept for a longer period in specific cases.</li> <li>• The wordings of the section 6(2) of the AML Act are ambiguous to reconcile in practice as they provide for different retention periods depending on the nature of the records.</li> <li>• At the time of the onsite visit the record retention requirements under the AML Act had not been tested and there is therefore no evidence to conclude that there is effective implementation of these requirements.</li> </ul>
11. Unusual transactions	PC	<ul style="list-style-type: none"> <li>• There is no specific retention period for which the required records must be kept by financial institutions.</li> <li>• Not all financial institutions have put into place measures to comply with this requirement</li> <li>• Insurers and insurance intermediaries are not aware of their obligations under the AML Act.</li> </ul>

		<ul style="list-style-type: none"> <li>• There is no requirement to make these records available to auditors.</li> </ul>
12. DNFBP – R.5, 6, 8-11	NC	<ul style="list-style-type: none"> <li>• The same deficiencies apply for DNFBPs as for financial institutions with respect to Recommendations 5, 6, 8-11 and 17.</li> <li>• DNFBPs (other than TCSPs) have not adopted and implemented the requirements of the AML Act.</li> <li>• DNFBPs (other than TCSPs) are generally not aware of their obligations under the AML Act.</li> <li>• While the TCSPs were relatively more aware of their obligations under the AML Act the level of compliance by TCSPs with the requirements of the AML Act was minimal as they found the obligations too onerous.</li> </ul>
13. Suspicious transaction reporting	PC	<ul style="list-style-type: none"> <li>• There is no obligation to make a report upon suspicion that funds are the proceeds of a criminal activity</li> <li>• There is no requirement to report suspicious transactions that involve tax matters</li> <li>• There is a low level of AML/CFT awareness amongst financial institution that makes it difficult for them to identify suspicious transactions to enable them to make a report to the FIU.</li> <li>• Insurance entities have not implemented AML/CFT procedures which will enable them to make a suspicious transaction report to the FIU.</li> </ul>
14. Protection & no tipping-off	C	This recommendation is fully met
15. Internal controls, compliance & audit	NC	<ul style="list-style-type: none"> <li>• Insurance entities have not implemented AML/CFT systems and procedures</li> <li>• There is no effective compliance</li> </ul>

		<p>by international banks with the requirements of the AML Act. International Banks applied their respective Group standards.</p> <ul style="list-style-type: none"> <li>• There is no requirement to ensure that the Compliance and Reporting Officer and other staff have timely access to customer identification data and other CDD information, transaction records and other relevant information.</li> <li>• There is no effective implementation for the requirement of the audit function to test their AML/CFT systems and procedures.</li> <li>• The financial institutions do not have an in house AML/CFT training programme to ensure that all their relevant employees are trained on an ongoing basis.</li> </ul>
16. DNFBP – R.13-15 & 21	NC	<ul style="list-style-type: none"> <li>• Similar technical deficiencies in the AML Act relating to Rec. 13, 15 and 21 that apply to financial institutions also apply to DNFBPs.</li> <li>• Although DNFBPs are covered by the scope of the AML Act, in practice little has been done to implement the provisions within the DNFBP sector (other than TCSPs) and thus practical application is extremely limited.</li> <li>• There are no requirements concerning the implementation of internal controls by reporting entity who is an individual and who in the course of carrying on his or her business, does not employ or act in association with any other person.</li> </ul>
17. Sanctions	PC	<ul style="list-style-type: none"> <li>• While there are criminal sanctions that apply the supervisory authorities are not empowered to take effective, proportionate and</li> </ul>

		<p>dissuasive regulatory action against financial institutions and their officers or employees that fail to comply with AML/CFT requirements.</p> <ul style="list-style-type: none"> <li>• It is difficult to gauge the effectiveness of the sanctioning powers under the AML Act as these powers have not been used and tested.</li> </ul>
18. Shell banks	PC	<ul style="list-style-type: none"> <li>• While there are some provisions regarding correspondent banking relationships, there is no express provision prohibiting financial institutions to enter into, or continue correspondent banking relationships with shell banks.</li> <li>• There is no requirement for financial institutions to satisfy themselves that respondent financial institutions in a foreign country do not permit their accounts to be used by shell banks.</li> </ul>
19. Other forms of reporting	NC	<ul style="list-style-type: none"> <li>• The authorities in the Seychelles have not considered the feasibility and utility of implementing recommendation 19.</li> </ul>
20. Other NFBP & secure transaction techniques	PC	<ul style="list-style-type: none"> <li>• Seychelles has not taken sufficient steps to encourage the development and use of modern and secure techniques for conduction financial transactions that are less vulnerable to ML.</li> </ul>
21. Special attention for higher risk countries	NC	<ul style="list-style-type: none"> <li>• There is no effective implementation by all financial institutions of the requirements of the AML Act.</li> <li>• There are no measures to ensure that reporting entities are advised of concerns about weaknesses in the AML/CFT systems of other countries.</li> <li>• There is no requirement to</li> </ul>

		<p>make these records available to auditors.</p> <ul style="list-style-type: none"> <li>• AML/CFT framework does not make provision for the possibility to apply appropriate counter measures where a country continues not to apply or insufficiently applies the FATF Recommendations.</li> </ul>
22. Foreign branches & subsidiaries	NA	<ul style="list-style-type: none"> <li>• Financial institutions in the Seychelles do not for the time being have branches or subsidiaries conducting business overseas.</li> </ul>
23. Regulation, supervision and monitoring	PC	<ul style="list-style-type: none"> <li>• While there is a designated competent authority with responsibility to ensure that financial institutions adequately comply with the requirements to combat money laundering and terrorist financing it has just started its operations and much work has to be undertaken by the FIU to meet its statutory duties and obligations.</li> <li>• Insurers and Insurance Intermediaries are not subject to the IAIS Core principles.</li> <li>• The criteria to be satisfied for the fit and proper test for insurers and insurance intermediaries are not defined.</li> <li>• There is no requirement for money or value transfer operators to be licensed or registered under the laws in Seychelles.</li> <li>• There is no effective monitoring of money or value transfer operators to ensure compliance with AML/CFT requirements.</li> <li>• Not all financial institutions have implemented the requirements of the AML Act.</li> </ul>
24. DNFBP - regulation, supervision and monitoring	NC	<ul style="list-style-type: none"> <li>• There is no effective implementation of this recommendation in the DNFBP sector.</li> </ul>

		<ul style="list-style-type: none"> <li>• There is no actual supervision of the DNFBP sector in practice.</li> <li>• Same deficiencies relating to Rec. 17, 29 and 30 with respect to the FIU that apply to financial institutions also apply to DNFBPs.</li> </ul>
25. Guidelines & Feedback	NC	<ul style="list-style-type: none"> <li>• No guidelines have been issued by the FIU to assist DNFBPs to implement and comply with their respective AML/CFT requirements.</li> </ul>
<b>Institutional and other measures</b>		
26. The FIU	PC	<ul style="list-style-type: none"> <li>• The FIU is a new institution with very little experience in implementation of AML/CFT requirements under the new law.</li> <li>• No guidelines had yet been developed for reporting entities.</li> <li>• Although the FIU has sufficient powers to access information effectiveness could not be measured as these powers had not been used and tested at the time of the mutual evaluation.</li> <li>• The FIU had not acquired operation independence. At the time of the onsite visit it was still very reliant on CBS-sharing its computer system, budget, and office premises.</li> <li>• Although the legal framework meets the criteria for Egmont Group membership the FIU was not an Egmont member. The application for membership was under consideration.</li> <li>• While the legal gateway for exchange of information has been provided under the AML Act, the procedure is time consuming as other authorities must be consulted before information is shared.</li> </ul>

<p>27. Law enforcement authorities</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• Although the Police are statutorily mandated to investigate ML and TF cases, the Financial Fraud Squad which was recently established has limited capacities, skills and equipment to successfully investigate ML and TF offences.</li> <li>• There are no measures in place to allow police officers to postpone or waive the seizure of money for the purpose of identifying persons involved in ML activities or for evidence gathering.</li> <li>• Given that the AML law was recently enacted there is no method of evaluating the effectiveness of the program at the present time.</li> </ul>
<p>28. Powers of competent authorities</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• Police officers have powers to investigate and seize and obtain evidence.</li> <li>• Police officers have the power to take witness statements on for use in investigation and prosecution of ML, TF and other underlying predicate offences.</li> <li>• A low level of AML/CFT awareness amongst law enforcement agencies and lack of trained personnel and supporting equipment however undermine the quality of investigations.</li> </ul>
<p>29. Supervisors</p>	<p>PC</p>	<ul style="list-style-type: none"> <li>• The powers of the FIU have not been sufficiently tested as these powers have not been used extensively. The FIU had conducted only one on-site inspection at the time of the mutual evaluation.</li> <li>• The FIU is under staffed to sustain its statutory duties and functions.</li> <li>• The staff members (other than the Director) have no previous experience on AML/CFT and have to undergo extensive training to be able to effectively undertake onsite</li> </ul>

		<p>inspections and the compliance monitoring function.</p> <ul style="list-style-type: none"> <li>• Not all Financial Institutions have implemented the requirements of the AML Act.</li> </ul>
30. Resources, integrity and training	NC	<ul style="list-style-type: none"> <li>• There is limited capacity across all the agencies in Seychelles to address AML/CFT issues.</li> <li>• The FIU is under staffed to sustain its statutory duties and functions.</li> <li>• The staff members (other than the Director) of the FIU have no previous experience on AML/CFT and have to undergo extensive training to be able to effectively undertake onsite inspections and the compliance monitoring function.</li> <li>• As the FIU is still reasonably new and is reliant of the CBS for establishment, Board decisions and budget, it is too soon to tell whether they will be in a position to operate freely without any undue interference or influence.</li> </ul>
31. National co-operation	NC	<ul style="list-style-type: none"> <li>• The Task Force had just been set up and there was no evidence as at the date of the mutual evaluation that it is effective.</li> <li>• The FIU had not entered into any agreement or arrangement with domestic authorities for exchange of information.</li> </ul>
32. Statistics	NC	<ul style="list-style-type: none"> <li>• Authorities in Seychelles do not review the effectiveness of their systems for combating ML and TF on a regular basis.</li> <li>• Comprehensive statistics are not maintained by all competent authorities.</li> </ul>
33. Legal persons – beneficial owners	NC	<ul style="list-style-type: none"> <li>• There is no access in a timely fashion to adequate, accurate and current beneficial ownership and</li> </ul>

		<p>control information for all companies.</p> <ul style="list-style-type: none"> <li>• There is no central registry system that keeps records of ownership and control details for IBCs.</li> <li>• Due to deficiencies in the implementation of Recommendation 5 information on beneficial ownership and control information is not always available.</li> <li>• The secrecy provision relating to the shareholder information under the CSL Act undermines timely access to beneficial ownership and control information with respect to CSL as a court order is required.</li> <li>• There are no controls in place to ensure that bearer shares are not misused for ML purposes and that information on the identity of bearer shareholders is available.</li> </ul>
<p>34. Legal arrangements – beneficial owners</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• There is no adequate mechanism to ensure that there is adequate transparency concerning beneficial ownership and control information on trusts.</li> <li>• Only a declaration of trust, which does not disclose information on the settlor and beneficiary of an international trust, must be filed with the SIBA.</li> <li>• Deficiencies in the implementation of Recommendation 5 undermine the availability of adequate, accurate and current information on international trusts from TSPs.</li> <li>• Competent authorities (other than the FIU) are not able to obtain or have access to adequate, accurate and current information on the beneficial ownership and control of trusts.</li> </ul>

<b>International Co-operation</b>		
35. Conventions	PC	The relevant provisions of the Vienna and Palermo Conventions have not been fully implemented.
36. Mutual legal assistance (MLA)	PC	<ul style="list-style-type: none"> <li>• The assessment team was not in a position to make an assessment of the timeliness and efficiency of processing AML/CFT requests given that no statistics of such requests were made available.</li> <li>• Confidentiality provisions under the offshore legislation may hinder disclosure of information by SIBA.</li> <li>• The MACM Act does not specifically make provision for avoiding conflicts of jurisdiction when determining the best venue for the prosecution of a defendant in the interests of justice and in cases that are subject to prosecution in more than one country.</li> <li>• Lack of effective implementation in AML matters</li> </ul>
37. Dual criminality	LC	<ul style="list-style-type: none"> <li>• The assessment team was not in a position to make a determination on the effectiveness of these measures in relation to AML/CFT matters in practice. At the time of the onsite visit Seychelles had not received any such request.</li> </ul>
38. MLA on confiscation and freezing	PC	<ul style="list-style-type: none"> <li>• There is no express reference under the MACM Act regarding requests relating to property of corresponding value</li> <li>• There are no arrangements for coordinating seizure and confiscation actions with other countries as at the date of the onsite visit.</li> <li>• Seychelles has not established an asset forfeiture fund into which the confiscated property will be deposited.</li> <li>• There are no provisions in the law regarding the sharing of confiscated assets when confiscation is directly</li> </ul>

		<p>or indirectly a result of coordinated law enforcement actions.</p> <ul style="list-style-type: none"> <li>• Lack of effective implementation</li> </ul>
39. Extradition	PC	<ul style="list-style-type: none"> <li>• There is no evidence to support that the measures and procedures adopted allow extradition requests and proceedings relating to ML to be handled without undue delay.</li> <li>• The assessment team was not in a position to make a determination on the effectiveness of these measures in relation to AML/CFT matters in practice. At the time of the onsite visit Seychelles had not received any such request.</li> </ul>
40. Other forms of co-operation	PC	<ul style="list-style-type: none"> <li>• SIBA has no gateways for exchange of information with foreign counterparts.</li> <li>• The FIU has no express powers to conduct inquiries on behalf of foreign counterparts</li> <li>• The CBS and SIBA are not permitted under domestic law to conduct investigations on behalf of foreign counterparts.</li> <li>• There are no controls or safeguards in place to ensure that information received by all competent authorities is used only in an authorized manner.</li> <li>• Lack of effective implementation</li> <li>• No statistics have been provided to show that requests may be dealt with promptly.</li> </ul>
<b>Nine Special Recommendations</b>	<b>Rating</b>	<b>Summary of factors underlying rating</b>
SR.I Implement UN instruments	PC	<ul style="list-style-type: none"> <li>• The ICSFT has not been fully implemented.</li> <li>• The procedures in place for UNSCR 1267 and 1373 are not in line with the standard and UNSCR 1267 is not implemented in a satisfactory manner.</li> </ul>
SR .II Criminalise terrorist financing	PC	<ul style="list-style-type: none"> <li>• There is no express reference made to terrorist acts, a terrorist organisation and an individual</li> </ul>

		<p>terrorist</p> <ul style="list-style-type: none"> <li>• The PTA does not provide for the definition of the term “fund” as set out in the TF Convention. The absence of such a definition may undermine the offence of TF under section 5 of the PTA.</li> <li>• The PTA does not expressly provide that the TF offence apply regardless of whether the person alleged to have committed the offence(s) is in the same country or a different country from the one in which the terrorist(s)/terrorist organisation(s) is located or the terrorist act(s) occurred/will occur.</li> <li>• The PTA does not expressly provide that the intentional element of the offence of TF may be inferred from objective factual circumstances.</li> <li>• Effectiveness cannot be assessed.</li> </ul>
<p>SR. III Freeze and confiscate terrorist assets</p>	<p>NC</p>	<ul style="list-style-type: none"> <li>• The procedures in place are not effective and would not enable the freezing without delay funds and other assets of persons designated under UNSCR 1267.</li> <li>• There are no effective procedures in place to freeze without delay terrorist funds or other assets of persons designated in the context of UNSCR 1373.</li> <li>• There is no system in place for communicating actions taken under the freezing mechanisms to the financial sector immediately upon taking such action.</li> <li>• No guidance has been provided to financial institutions and other persons or entities that may be</li> </ul>

		<p>holding targeted funds or other assets concerning their obligations in taking action under freezing mechanisms.</p> <ul style="list-style-type: none"> <li>• There are no effective and publicly known procedures for considering de-listing requests and for unfreezing the funds or other assets of de-listed persons or entities in a timely manner consistent with international obligations.</li> <li>• There are no effective and publicly known procedures for unfreezing, in a timely manner, the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated person.</li> </ul>
SR IV Suspicious transaction reporting	PC	<ul style="list-style-type: none"> <li>• Insurance entities have not implemented AML/CFT procedures that will enable them to make a suspicious transaction report to the FIU.</li> <li>• There is a low level of AML/CFT awareness amongst financial institution that makes it difficult for them to identify suspicious transactions to be able to report them to the FIU.</li> </ul>
SR. V International co-operation	PC	<ul style="list-style-type: none"> <li>• The assessment team was not in a position to make an assessment of the timeliness and efficiency of processing CFT requests given that Seychelles had received no such request at the time of the onsite visit.</li> <li>• Confidentiality provisions under the offshore legislation may hinder disclosure of information by SIBA.</li> <li>• The MACM Act does not specifically make provision for avoiding conflicts of jurisdiction</li> </ul>

		<p>when determining the best venue for the prosecution of a defendant in the interests of justice and in cases that are subject to prosecution in more than one country</p> <ul style="list-style-type: none"> <li>• There is no express provision regarding requests relating to property of corresponding value.</li> <li>• There are no arrangements in place in Seychelles for coordinating seizure and confiscation actions with other countries.</li> </ul>
SR VI AML requirements for money/value transfer services	NC	<ul style="list-style-type: none"> <li>• There are no requirements for MVT operators to be licensed or registered in Seychelles.</li> <li>• The other relevant FATF Recommendations which are applicable are not wholly satisfied under the requirements of the AML Act.</li> <li>• There is no requirement to maintain a current list of agents which must be made available to designated competent authority.</li> <li>• The FIU does not have proper procedures in place to adequately monitor compliance by MVT operators with FATF requirements</li> </ul>
SR VII Wire transfer rules	PC	<ul style="list-style-type: none"> <li>• There is no requirement for the receiving intermediary financial institution to keep a record for five years of all the information received from the ordering financial institution where technical limitations prevent the full originator information accompanying a cross- border wire transfer from being transmitted with a related domestic wire transfer.</li> <li>• It is not clear who is responsible for monitoring compliance of financial institutions with the wire transfers requirements.</li> </ul>

		<ul style="list-style-type: none"> <li>• It is not clear whether the Circular Letter is enforceable and therefore whether criteria 17.1-17.4 will apply in relation to the obligations regarding financial institutions.</li> </ul>
<i>SR VIII Non-profit organisations</i>	NC	<ul style="list-style-type: none"> <li>• No review of adequacy of laws and regulations to ensure that NPOs are not being misused for TF by virtue of their activities</li> <li>• No outreach conducted to NPO sector regarding threat of TF</li> <li>• No effective supervision or monitoring of NPOs</li> <li>• No sanctions applied to NPO for failure to comply with the provisions of the RA Act</li> <li>• No record keeping requirement applicable to NPOs</li> <li>• No gateways for sharing non public information with domestic authorities</li> </ul>
SR. IX Cross Border Declaration & Disclosure	NC	<ul style="list-style-type: none"> <li>• There is no disclosure or declaration requirement in place in the Seychelles. Even though this requirement can to some small degree be dealt with through exchange control thresholds, this will not be enough to meet this criterion.</li> <li>• A reporting system to the FIU on suspicious cross border transportation of cash or other negotiable instruments has not yet been put into place.</li> <li>• In the absence of a disclosure or declaration system to detect physical transportation of currency and negotiable instruments in Seychelles international cooperation will be difficult to implement.</li> <li>• There is no explicit requirement to report unusual cross border movement of gold or diamonds to competent authorities of other countries.</li> </ul>

**Table 3: Authorities' Response to the Evaluation**

Relevant Sections and paragraphs	Country Comments
15	<p><i>AG's Office</i>            Since the beginning of 2008, a legal expert undertook a review of the Criminal Justice System and a report of his findings was later submitted to the President of the Republic. A review of the current criminal justice system is to take place based on the recommendations contained in the report.</p>
17, 284	<p><i>Seychelles Police</i>            Since 2007, a reorganization of the Seychelles Police has begun. This includes the creation of an Anti-Corruption Unit, an AML Unit, Anti-Terrorist &amp; Intervention Unit and a Criminal Intelligence Unit. The Seychelles Police Force Act is in the process of being amended.</p> <p><i>National Drugs Enforcement Agency</i>            A National Drugs Enforcement Agency was created in 2007 to lead and co-ordinate the national effort against drug-trafficking. It has been successful in the interception of local as well as foreign individuals involved in drug trafficking.</p>
18	<p><i>Seychelles Customs</i>            The Customs Management Act is in being amended and expected to be presented to Parliament soon. In March 2008, the ASYCUDA System was implemented.</p>
75	<p>The Non-Bank Financial Services Authority has been replaced by the Financial Market and Securities Division which will be regulating the same financial services and institutions.</p>
26, 28,241, 416, 481, 512, 522, 598, 603, & R. 25	<p><i>Lack of Guidance and banks apply group AML/CFT.</i>            The Guidelines on AML/CFT for Reporting Entities in Seychelles was disseminated to all Reporting Entities in December 2007. During on-site examinations, examiners from the FIU verify whether the Reporting Entities have indeed received it, that the staff have read and understood its contents and are complying with its requirements. One of the recommendations made by the examiners is that the banks have to produce an AML/CFT Manual for internal use based on the requirements of the AML Act 2006. During on-site inspections, examiners from the FIU request for such a copy and review it to verify whether it conforms to the requirements of the Act. This includes the appointment of the Compliance &amp; Reporting Officer and his/her duties and whether these are being carried out.</p> <p>During on-site inspection of reporting entities, examiners from the FIU verify that the requirement on verification of the identity of customers is being complied with. The records of the various Reporting Entities examined so far are physically verified.</p>

	<p>During on-site inspections of the 5 Domestic Banks and 1 Offshore Bank, examiners from the FIU have reviewed their AML/CFT Procedural manuals to see whether they contain the requirements of the AML Act 2006. In instances whereby some requirements are lacking, the bank is given a time limit of four weeks during which it has to amend the procedural manual and submit an amended copy to the FIU for its records.</p>
29, 32, 602, 678 & 680	<p><i>The FIU has undertaken the inspection of only one bank/ Compliance with the provisions of the AML Act is not effective</i></p> <p>In addition to the inspection of 1 Domestic and 1 Offshore Bank in August 2006, examiners from the FIU have to-date conducted and completed the inspection of 4 other Domestic banks, one Bureau de Change, 2 MVT's and 44 CSPs to verify compliance with the requirements of the AML Act 2006. Once the inspection program of the CSPs is over, the FIU will inspect the remaining reporting entities including DNFBNs.</p>
38	<p><i>Does not appear that the FIU may have access to registers of an IBC</i></p> <p>Under Sec. 23 (1) of the AML Act, the FIU is authorized to enter any premises and examine records of reporting entities to ensure compliance with the requirements of the Act. During on-site inspection of CSP's, examiners from the FIU have requested for and verified registers of IBC's to ensure compliance to the AML Act 2006.</p> <p>Under Sec. 19 (c), the FIU can request for information from Reporting Entities which has been done on several occasions and the CSP's have complied with the requests within forty eight hours.</p>
242  648 & 657	<p><i>The reporting form does not cater for multiple or complex transactions</i></p> <p>Since 2007, STRs have been submitted to the FIU on the designated reporting form which has been disseminated to all Reporting Entities. The reporting form has been refined and reporting Entities have been asked to submit additional material that will be of assistance to the FIU.</p> <p><i>a reporting form has not been provided to other Reporting Entities</i></p> <p>A new reporting form specifically for DNFBNs and Other Non-Financial Reporting Entities has been designed and was disseminated on August 7, 2008 to all such reporting entities.</p>
249	<p><i>FIU has powers to obtain additional information. What is of concern is lack of procedures to do so.</i></p> <p>The procedures are contained in the FIU'S Operational Manual which was completed in December 2007</p>
263 & 264	<p><i>Not prepared an annual report</i></p> <p>In March 2007 and 2008, the FIU submitted an Annual Report on its activities the previous year to the Board of CBS in accordance with the requirements of the AML Act. The Secretary of the Board then submitted a copy to the National Assembly as is required under the legislation.</p>
	<i>Membership of Egmont Group</i>

265	<p>Approaches to the Egmont Group have already been made by the main sponsors, the Mauritius FIU and the French FIU, TracFin. The Director of the FIU participated in the 16<sup>th</sup> Egmont Annual Plenary Meeting which was held from May 25<sup>th</sup> to 29<sup>th</sup>, 2008, in Seoul, Korea where our application for membership was being considered. The two sponsors will be making an on-site visit to the FIU in early December of this year following which a report will be submitted to the Egmont Outreach Working Group. It is expected that Seychelles will be admitted as a member at the next annual plenary in May 2009.</p>
276 & 279	<p><i>FIU should develop procedures and registers to keep track of requests for additional information &amp; protect the confidentiality thereof</i></p> <p>Individual files on all requests received from financial institutions have been maintained by the Bank Supervision Division of CBS since 1998 and were all kept under security. A database of all STR s received was` maintained and when the FIU was established in 2006, all requests received are maintained in individual files.</p> <p>The procedures are contained in the FIU Operations Manual. Individual files for requests received are maintained and are kept under security.</p>
303	<p><i>Staff need to be trained on AML/CFT issues</i></p> <p>One of the FIU's main aims is to ensure that staff from the different law enforcement and supervisory agencies receives the appropriate training to help them in the fight against ML/CFT. In April 2007, the FIU in collaboration with the US Treasury Office organized a local workshop on "Financial Investigative Techniques for Investigators". Staff from Customs has participated in a workshop on Cross Border a workshop in 2007, Officers from Customs participated in a workshop on Cross Border Transportation of Cash and Other Instruments. Police officers have also participated in AML training overseas as well as local sessions organized by the FIU. Furthermore, since 2007 the Seychelles Institute of Management started including conducting a workshop on AML for financial institutions and other interested parties in the private as well as public sector.</p> <p>In April 2007, SIBA organized a workshop on AML for all offshore practitioners and the FIU Director gave a presentation on AML and the statutory requirements of reporting entities. Staff from the FIU participated in the workshop.</p> <p>Staff of the FIU, Police, AG's office and SIBA has participated in AML/CFT workshops overseas organized by the World Bank, IMF, BIS and US Treasury Office. Furthermore, staff from the FIU has been on short term attachments to the Mauritius FIU.</p> <p>Since the beginning of 2007, an expert from the Office for Technical Assistance (OTA) in the US Treasury Department has been to Seychelles on several occasions to assist and train the staff of the FIU on all aspects of its operations. Additionally, all the staff of the FIU has participated in AML/CFT Workshops organized overseas during 2007 and 2008.</p>

309	<p>Act 2 of 2008 de-criminalizes possession of foreign exchange. Currently the offence which remains is the unauthorized dealing in foreign exchange.</p>
334 & 352, 413, 418 & 482	<p><i>Bureau de Change have not implemented internal AML/CFT procedures and level of awareness is limited</i></p> <p>The FIU conducted an on-site inspection of a Bureau de Change in December 2006 and apart from verifying compliance to the requirements of the AML Act 2006 and Prevention of Terrorism Act 2004, they also verified the existence of internal AML/CFT procedures.</p> <p>Staff of the Bureau has also participated in AML training provided by staff of CBS, the FIU and the IMF Mission between 2004 and 2006. The Director of the Bureau that was inspected previously employed in a senior position with an international bank and received training on AML.</p> <p>A copy of the Guidelines on AML/CFT issued by the FIU in December 2007 was disseminated to the Bureau.</p>
342, 352, 366, 418, 483, 491, 493,536	<p><i>Insurance entities have not implemented AML/CFT measures</i></p> <p>The Securities &amp; Financial Markets Division (S &amp; F M D) has set up procedures to ensure that the insurance entities comply with the requirements of the AML Act 2006 and Insurance Act of 2008. License application forms state that all insurance entities are required to have Compliance and Inspection Officer and the adequate procedures to ensure compliance to the provisions of the AML Act. Also, the compliance checklist enforces such regulatory requirements. The FIU will be conducting training on AML/CFT for the staff of the two insurance companies. This will be followed by onsite inspections by examiners from the FIU to verify compliance to the requirements of the Act.</p> <p>Representatives from the two Insurance companies participated in the AML/CFT training conducted by the IMF Mission in September 2006 whereby they were made aware of their statutory obligations under the AML Act</p>
353	<p><i>No specific provision in AM Act for verification of identity of a trust</i></p> <p>Section 11.3 of the Guidelines on AML/CFT disseminated to Reporting Entities in December 2007 contains procedures for verification of trusts including the ultimate beneficiaries.</p>
339, 478 & 604	<p><i>The FIU has conducted only one on-site inspection</i></p> <p>In August 2006, examiners from the FIU inspected a Domestic Bank and an Offshore bank to verify that the requirements of Sec. 6 of the AML Act are being complied with. As this is prior to the actual Mutual Evaluation It is definitely not a post onsite development</p> <p>Examiners from the FIU have also conducted the inspection of 4 other Domestic banks and 2 MVT operator operators to ensure compliance</p>

	with the requirements on wire transfers.
524	<p><i>FIU staff has little exposure to AML/CFT issues.</i></p> <p>In 2007 two more staff members were recruited bringing the total FIU staff complement to five. All the staff members have received continuous AML/CFT training overseas organized by international organizations like the IMF, World Bank, BIS, US Treasury, ESAAMLG and UNODC. Members of staff have also been on short term attachments at the Mauritius FIU. They have also participated in local training on AML organized by the US Treasury, SIBA as well as in-house training conducted by the Director.</p>
513, 523 & R.25	<p><i>No feedback provided to reporting entities</i></p> <p>Since January 2007, the FIU has been providing feedback to the reporting entities on all STRs submitted. The relevant law enforcement agency to which STRs have been disseminated provide feedback to the FIU on the status of all reports received by them, whether the case is pending in court, dismissed through lack of evidence, still under investigation, pending in court or closed due to the passing away of the suspect. The FIU in turn informs the reporting entity on the feedback received with regards to particular cases reported by them.</p>
531, 532, & 541	<p><i>While there is an express statutory obligation on the reporting entity to train its employees, there has been great reliance on the Central Bank to provide training.</i></p> <p>The one Domestic Bank and one Offshore bank inspected in August 2006 already has an in-house training program and staff members are sent for ongoing training on AML to their regional office overseas. Staff members dealing with customers have to undergo a yearly exam on AML and have to obtain a pass mark of above 90% to be able to handle opening of customer accounts.</p> <p>Following the inspection by the FIU, all the other banks have been organizing in-house training on AML and have sent their staff to AML/CFT workshops organized locally by SIBA and the Seychelles Institute of Management. The FIU disseminates invitations to overseas seminars on AML/CFT to the local banks and some banks have even sent their staff to participate in such seminars.</p>
538	<p><i>The FIU must ensure that all financial institutions establish and maintain AML/CFT policies and procedures.</i></p> <p>During on-site inspections of the banks, examiners from the FIU verify their internal AML/CFT procedures to see whether they comply with the requirements of the AML Act. In instances where it does not fully comply with the requirements, the bank is given a specified time limit of four weeks to incorporate the requirements and submit an amended copy to the FIU.</p>
608 & 611	<p><i>No on-site inspection of money transmission services were conducted</i></p> <p>Prior to the establishment of the FIU in 2006, examiners from the Bank Supervision Division of the CBS conducted inspections of the two money transmission services which covered compliance to the AML Act 1996.</p>

	<p>During 2007, examiners from the FIU conducted an inspection of the two money transmission service providers to verify compliance to the requirements of the AML Act 2006.</p>
R.29	<p><i>Staff have no previous experience in AML/CFT</i></p> <p>The FIU has a complement staff of five, all of whom have received training on AML/CFT overseas. STRs received are analyzed and disseminated to the appropriate law enforcement agencies and the inspection program is ongoing with 5 domestic banks, 1 offshore bank, 1 bureau, 2 MVT operators and 44 CSPs inspected so far. The FIU has also provided training on AML for staff of the reporting entities, law enforcement and supervisory agencies.</p>
644	<p><i>Build up effective AML culture in this area</i></p> <p>The DNFBPs participated in the AML/CFT training conducted by the IMF Mission in September 2006 wherein they were reminded of their statutory obligations under the AML Act 2006.</p> <p>DNFBPs have participated in AML training conducted by SIBA, the Seychelles Institute of Management and the FIU during 2007.</p> <p>The Guidelines on AML/CFT issued by the FIU in December 2007 was disseminated to all DNFBPs.</p>
646	<p><i>Important vulnerability exists in offshore sector which relates to AML/CFT</i></p> <p>Since October 2007, the FIU has commenced an inspection program of reporting entities involved in the offshore sector to ensure that they are complying with the requirements of the AML Act. They have so far completed the inspection of 44 CSPs. Since 2007, SIBA also commenced an on-site inspection of CSPs to ensure compliance to the various pieces of legislation regulating such entities.</p>
648	<p><i>Concerns about FIU to preserve confidentiality</i></p> <p>As regards confidentiality of information transmitted, in 2007 the FIU Director met with a delegation from CSP Association which included its Chairman and had discussions on this issue which have proved to be fruitful to both parties and allayed their concerns.</p>
679	<p><i>FIU to be sufficiently resourced</i></p> <p>In 2007, two new staff members were employed by the FIU making a total complement staff of five which is currently sufficient to allow the FIU to perform its duties of receiving, analyzing and disseminating STRs, and on-site inspection to ensure compliance to the requirements of the AML Act.</p> <p>With the enactment of the Anti Money Laundering (Amendment) Act 2008 on August 18, 2008 which made provisions for the creation of an Assets Recovery Unit, four new members of staff have been recruited.</p>
	<p><i>The authorities in Seychelles must put in place appropriate measures</i></p>

714	<p><i>to ensure that bearer shares are not misused for ML purposes and that the identity of the shareholders is available.</i></p> <p>Amendments have already been drafted to be presented to the relevant authorities to be made law.</p>
755	<p><i>Meetings will be organized between the FIU, the Law Enforcement agencies and the Supervisory agencies to discuss ways to improve co-operation and the regulatory regime.</i></p> <p>The Task Force first met in December 2006 and meetings are organized on a quarterly basis or when such a need arises. It comprises of representatives from the Police, Tax, Customs, Immigration, CBS, the Licensing Authority, SIBA, Attorney General's Office, Ministry of Foreign Affairs, National Drugs Enforcement Agency and the FIU. Issues related to AML/CFT are discussed and the sharing of information on these issues take place and this has led to successful interception of criminals by some agencies.</p>
759 6.1.3 R 31	<p><i>The Task Force has just been set up and no evidence that it is effective</i></p> <p>Since December 2006, the Task Force has been meeting on a quarterly basis to discuss issues of co-operation and sharing of intelligence information, latest trends and typologies in AML/CFT, terrorist freeze lists, international co-operation and methods of improving the fight against ML/FT.</p> <p>The Task Force has proved to be effective because information shared has proved to be vital to some of the participating agencies where criminals involved in drug trafficking have been intercepted at the international airport.</p>
835	<p><i>For the purposes of inquiries on behalf of its foreign counterparts, the FIU has not yet searched its databases, obtained information from reporting entities</i></p> <p>The FIU has requested for information from reporting entities and disseminated same to its foreign counterparts. Since 2007, the FIU has requested information from one jurisdiction and disseminated intelligence information to seven foreign jurisdictions.</p>
861	<p><i>One of the banks visited provided statistics of reports sent to the FIU that did not correlate with the figures provided by the FIU.</i></p> <p>The particular bank in question was engaging in defensive reporting by simply submitting STRs without even making any further enquiries. The bank was informed of this on three occasions by the Bank Supervision Division of CBS and advised to conduct further enquiries prior to submitting STRs. Further enquires by the bank revealed the transactions not to be suspicious but those previously submitted were still considered in the bank's statistics, hence the discrepancy with the FIU's statistics in its database.</p>
	<p><i>There is limited capacity across agencies in Seychelles to address AML/CFT</i></p> <p>Since 2007, a number of agencies have been exposed to training on AML. In March 2007, the US Treasury in collaboration with the FIU organized a one week Workshop on Financial Investigative techniques</p>

<p style="text-align: center;">R 30</p> <p style="text-align: center;">256 &amp; 854</p>	<p>for officers from Law Enforcement agencies that included the Police, Customs, Tax and the FIU.</p> <p>In April, two senior officers from the Customs Division participated in a Workshop on Cross Border Transportation of Cash and Financial Instruments held in Zambia.</p> <p>Staff from the AG's Office, SIBA, the Police and the FIU has participated in AML/CFT Workshops on AML/CFT organized by international organizations in countries such as Tunisia, Zambia, Botswana, Namibia, Kenya, Tanzania, Egypt, Ireland and Switzerland Locally, the FIU has been conducting training on AML for the Police at its Academy.</p> <p><i>The FIU is reliant on CBS for its establishment, Board decisions and budget</i></p> <p>Since its establishment in June 2006, the FIU has been operating freely without any interference from the CBS or its Board of Directors. The FIU Director makes his own decision whether to disseminate any STRs received without any undue influence. The only contact the FIU has with the Board of Directors is the submission of a Report on its Activities during the previous year which is a statutory requirement.</p> <p>With the enactment of the AML (Amendment) Act 2008 on August 18, 2008, the FIU is now an independent entity with its own budget and is no longer responsible to CBS.</p>
<p style="text-align: center;"><b>R 32</b></p>	<p><i>The authorities do not review the effectiveness of their systems to combat AML/CFT</i></p> <p>The various authorities are reviewing the effectiveness of their systems. Since the establishment of the National AML/CFT Task Force in December 2006, all the relevant agencies involved in the fight against money laundering and terrorism financing have been meeting regularly every quarter to share intelligence, latest trends and typologies on these issues. There is now more interaction amongst the different agencies which has led to the interception of foreign and local individuals involved in drug trafficking both at the airport and sea port area.</p> <p>The FIU has commenced an inspection program of the CSPs to ensure that they comply with the requirements of the AML Act. So far, 44 CSPs have been inspected. Once this is completed, it will then conduct inspections of the other reporting entities such as insurance companies, etc.</p> <p>SIBA has also since 2007, commenced an inspection program of the CSPs to ensure that they are complying with the conditions of their licence, the IBC Act and other pieces of legislation pertaining to the offshore sector.</p> <p>SIBA has recently embarked on a comprehensive review of the laws and corresponding guidelines it administers in relation to the business conducted by the ICSPs and ITSPs. SIBA is reviewing the practices of the service providers in relation to their client due diligence and</p>

	<p>verification processes after which under Section 13 of the ICSP Act will issue guidelines to the service providers to improve existing standards.</p> <p><i>Comprehensive statistics are not maintained by all competent authorities</i></p> <p>The FIU has made improvements on its databases for all information received from reporting entities. With the creation of the new Assets Recovery Unit, further improvements to the databases are envisaged.</p> <p>The Police, Immigration and the AG's office are also in the process of making improvements to their databases.</p>
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